

Office of the Chief Administrative Officer

770 Harmston Ave, Courtenay, BC V9N 0G8
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20/CP 1CV 19

February 5, 2020

Sent via email only: jenny.millar@komoks.ca

K'ómoks First Nation
3330 Comox Road
Courtenay BC V9N 3P8

Attention: Jenny Millar - Assistant Band Administrator

Dear Ms. Millar:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

Please note that this is a follow up letter to determine your interest in the above-noted bylaw amendment (see enclosed referral). The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

As of the date of this letter, the Comox Valley Regional District (CVRD) has not yet received your comments. If you have any comments, please forward them by February 21, 2020.

The CVRD is interested in hearing from K'ómoks First Nation regarding this update and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the bylaw amendment in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Carol McColl, Lands Assistant
Scott Smith, General Manager of Planning and Development Services Branch

Jodi MacLean

From: Jodi MacLean
Sent: January 27, 2020 10:43 AM
To: 'lands.manager@komoks.ca'
Cc: Ton Trieu
Subject: RE: cannabis referral
Attachments: 20191002 Smith CP1CV 19 Cannabis KFN Rererral Form.pdf

Mr. Horton,

Attached is the referral form regarding the proposed update to the Official Community Plan regarding cannabis.

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
Phone: 250-334-6041

From: Ton Trieu
Sent: January 27, 2020 10:24 AM
To: Jodi MacLean <jmacLean@comoxvalleyrd.ca>
Subject: FW: cannabis referral

FYI

Ton Trieu, MCIP, RPP
Manager of Planning Services
Planning and Development Services Branch
Comox Valley Regional District
700 Harmston Avenue, Courtenay, BC V9N 0G8
Phone 250-334-6021 Toll free: 1-800-331-6007



From: Monty Horton [<mailto:monty.horton@komoks.ca>]
Sent: January 23, 2020 1:38 PM
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>
Subject: Re: cannabis referral

Hi Tom we have no significant concerns about the proposal

Get [Outlook for iOS](#)

From: Ton Trieu <ttrieu@comoxvalleyrd.ca>
Sent: Thursday, January 23, 2020 1:12:56 PM
To: Monty Horton <monty.horton@komoks.ca>
Subject: RE: cannabis referral

Thanks Monty. I wanted to chat with you about the Cannabis referral and to confirm if KFN was planning to send us comments.

Thanks,
Ton

Ton Trieu, MCIP, RPP
Manager of Planning Services
Planning and Development Services Branch
Comox Valley Regional District
700 Harmston Avenue, Courtenay, BC V9N 0G8
Phone 250-334-6021 Toll free: 1-800-331-6007



From: Monty Horton [<mailto:monty.horton@komoks.ca>]
Sent: January 23, 2020 12:09 PM
To: Ton Trieu <ttrieu@comoxvalleyrd.ca>
Subject: Re: cannabis referral

Hi Tom, I'm not available until Monday. Can you call then?

Get [Outlook for iOS](#)

From: Ton Trieu <ttrieu@comoxvalleyrd.ca>
Sent: Thursday, January 23, 2020 10:35:17 AM
To: Monty Horton <monty.horton@komoks.ca>
Subject: cannabis referral

Hi Monty,

Could you please give me a call. I want to chat with you about this referral.

Thank you,
Ton

Ton Trieu, MCIP, RPP
Manager of Planning Services
Planning and Development Services Branch
Comox Valley Regional District
700 Harmston Avenue, Courtenay, BC V9N 0G8
Phone 250-334-6021 Toll free: 1-800-331-6007



From: Sylvia Stephens
Sent: Wednesday, January 22, 2020 4:12 PM
To: 'Monty Horton'; Jenny Millar
Subject: RE: CVRD Referral CP 1CV 19 Cannabis

Good afternoon Monty.

Thank you for following up.

We have not received any comments from KFN for this referral.

If you would like to send comments that would be greatly appreciated. At Mondays Electoral Area Services Committee the directors were asking if any comments had been received from KFN.

If you need me to resend the referral just let me know.

Sincerely,

Sylvia

[Sylvia Stephens](#)

Branch Assistant, Planning and Development Services
Comox Valley Regional District
770 Harmston Ave
Courtenay BC V9N 0G8
Tel: 250-334-6043; toll free: 1-800-331-6007
Fax: 250-334-4358

From: Monty Horton [mailto:monty.horton@komoks.ca]
Sent: Wednesday, January 22, 2020 3:20 PM
To: Sylvia Stephens <sstephens@comoxvalleyrd.ca>; Jenny Millar <jenny.millar@komoks.ca>
Subject: RE: CVRD Referral CP 1CV 19 Cannabis

Hi Sylvia, I've been away for the past 3 months. Did this referral get addressed?

Monty Horton
Lands Manager
K'omoks First Nation

Disclaimer

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please notify me and follow with its deletion. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the organisation represented. Finally, the recipient should check this email and any attachments for the presence of viruses. The sender accepts no liability for any damage caused by any virus transmitted by this email.

From: Sylvia Stephens <sstephens@comoxvalleyrd.ca>
Sent: November 29, 2019 3:12 PM
To: Jenny Millar <jenny.millar@komoks.ca>
Cc: Monty Horton <monty.horton@komoks.ca>
Subject: CVRD Referral CP 1CV 19 Cannabis

Please see attached for review and comment.

Sincerely,

Sylvia

[Sylvia Stephens](#)

Branch Assistant, Planning and Development Services
Comox Valley Regional District
600 Comox Road
Courtenay, BC V9N 3P6
Tel: 250-334-6043; toll free: 1-800-331-6007
Fax: 250-334-4358

Jodi MacLean

From: Jodi MacLean
Sent: October 7, 2019 2:48 PM
To: 'town@comox.ca'; 'planning@courtenay.ca'; 'info@cumberland.ca'
Cc: Scott Smith
Subject: Referral: OCP amendment (cannabis)

Attached is a referral for your review and comment concerning a proposed amendment to the CVRD Official Community Plan to replace the existing policies regarding “medical marihuana production facilities” with new policies addressing the cultivation, processing and sales of cannabis. After these policies are adopted by bylaw, the CVRD will review the zoning bylaw provisions in relation cannabis.

Please respond by November 7, 2019, with any comments.
Thanks.

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
600 Comox Rd.
Courtenay BC V9N 3P6
Tel: 250-334-6041; toll free: 1-800-331-6007



20191007 Smith
CP1CV 19 Cann...



WEI WAI KUM FIRST NATION

1650 Old Spit Road, Campbell River, BC, Canada V9W-3E8

Tel.: (250) 286-6949

Fax.: (250) 287-8838

TOLL FREE: 1-877-286-6949

December 02, 2019

Russel Dyson
Chief Administrative Officer
Comox Valley Regional District
planning@comoxvalleyrd.ca

3350-20 / CP 1CV 19

R. Dyson

J. MacLean

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing, and Sales

The above application is located within the traditional territory of the Wei Wai Kum Nation as documented by evidence of historical use and the memories of our Elders. As holders of Aboriginal Title to these territories, the Wei Wai Kum First Nation maintains the right to make decisions concerning the use and protection of all lands, waters and resources within our territories.

The Wei Wai Kum Nation has reviewed the above-mentioned application regarding the Official Community Plan Bylaw Update for Comox Valley Regional District. We do not have any comments to provide at this time regarding this application. Please note that this "no comment" letter is specifically intended for this application and is without prejudice to any and all future consultation with our Nation regarding not only this application but any other application or decision within the Wei Wai Kum traditional territory.

The Wei Wai Kum Nation may choose in the future to address the issues of Aboriginal rights and title infringement and compensation through the treaty process, the courts or other dispute resolution process. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

If you have any questions or concerns or would like to set up a meeting please contact me at 250-286-6949.

Regards,

Chief Chris Roberts
Wei Wai Kum First Nation



WEI WAI KUM FIRST NATION

1650 Old Spit Road, Campbell River, BC, Canada V9W-3E8

Tel.: (250) 286-6949

Fax.: (250) 287-8838

TOLL FREE: 1-877-286-6949

December 02, 2019

Russel Dyson
Chief Administrative Officer
Comox Valley Regional District
planning@comoxvalleyrd.ca

3350-20 / CP 1CV 19

R. Dyson

J. MacLean

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing, and Sales

The above application is located within the traditional territory of the Wei Wai Kum Nation as documented by evidence of historical use and the memories of our Elders. As holders of Aboriginal Title to these territories, the Wei Wai Kum First Nation maintains the right to make decisions concerning the use and protection of all lands, waters and resources within our territories.

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If you have any questions or concerns or would like to set up a meeting please contact me at 250-286-6949.

Regards,

Chief Chris Roberts
Wei Wai Kum First Nation

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20/CP 1CV 19

November 29, 2019

Sent via email only: jenny.millar@komoks.ca

K'ómoks First Nation
3330 Comox Road
Courtenay BC V9N 3P8

Attention: Jenny Millar - Assistant Band Administrator

Dear Ms. Millar:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

Please note that this is a follow up letter to determine your interest in the above-noted bylaw amendment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

As of the date of this letter, the Comox Valley Regional District (CVRD) has not yet received your comments. If you have any comments, please forward them by December 31, 2019.

The CVRD is interested in hearing from K'ómoks First Nation regarding this update and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the bylaw amendment in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Monty Horton, Lands Manager, K'ómoks First Nation
Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20/CP 1CV 19

November 29, 2019

Sent via email only: dassu@lkts.ca

Laich-Kwil-Tach Treaty Society
205B-2005 Eagle Drive
Campbell River BC V9H 1V8

Attention: Chief and Council

Dear Chief and Council:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

Please note that this is a follow up letter to determine your interest in the above-noted bylaw amendment. The intent of the update is to delete references to “medical marijuana production facilities” and insert policies relating to cannabis more generally.

As of the date of this letter, the Comox Valley Regional District (CVRD) has not yet received your comments. If you have any comments, please forward them by December 31, 2019.

The CVRD is interested in hearing from you regarding this update and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the bylaw amendment in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20/CP 1CV 19

November 29, 2019

Sent via email only: reception@homalco.com

Homalco Indian Band
1218 Bute Crescent
Campbell River BC V9H 1G5

Attention: Chief Darren Blaney

Dear Chief Blaney:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

Please note that this is a follow up letter to determine your interest in the above-noted bylaw amendment. The intent of the update is to delete references to “medical marijuana production facilities” and insert policies relating to cannabis more generally.

As of the date of this letter, the Comox Valley Regional District (CVRD) has not yet received your comments. If you have any comments, please forward them by December 31, 2019.

The CVRD is interested in hearing from you regarding this update and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the bylaw amendment in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20/CP 1CV 19

November 29, 2019

Sent via email only: tabithadonkers@weiwaikum.ca

Wei Wai Kum First Nation of the Kwiakah Treaty Society
1650 Old Spit Rd
Campbell River BC V9W 3E8

Attention: Tabitha Donkers

Dear Ms. Donkers:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

Please note that this is a follow up letter to determine your interest in the above-noted bylaw amendment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

As of the date of this letter, the Comox Valley Regional District (CVRD) has not yet received your comments. If you have any comments, please forward them by December 31, 2019.

The CVRD is interested in hearing from you regarding this update and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the bylaw amendment in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Jodi MacLean

From: Kelly, Brendan TRAN:EX <Brendan.Kelly@gov.bc.ca>
Sent: November 26, 2019 1:55 PM
To: Jodi MacLean
Subject: CVRD File: 3350-20/ CP 1CCV 19

MoT File 2019-05824

Regarding the above noted referral dated October 7, 2019. The Ministry of Transportation and Infrastructure has no objections to the proposed bylaw.

Brendan Kelly
Senior Development Services Officer
Ministry of Transportation and Infrastructure
Vancouver Island District
250-334-6967



November 7, 2019

Jodi MacLean
Rural Planner
Planning and Development Services Branch
Comox Valley Regional District

Sent by email

Dear Jodi MacLean:

Re: Bylaw Referral File: CP 1CV 19 (Official Community Plan Bylaw No. 337, 2014)

Thank you for providing the opportunity for the Ministry of Agriculture to provide comments on the Bylaw Referral File: CP 1CV 19 – Official Community Plan Bylaw No. 337, 2014 (the “Bylaw”).

- While the Ministry acknowledges that local governments have the ability to regulate the production, processing and sale of cannabis through land use regulations, the Ministry is concerned that some of the proposed changes to the Bylaw are overly restrictive to cannabis producers. For example, Section 21(3) lists a series of five considerations that prospective cannabis producers should consider when submitting an application for cannabis production. With respect to these considerations, the Ministry has the following comments/questions:
 - 1) Given that producers of other agricultural commodities are not required to address these considerations when contemplating commencing a farm operation, it appears that these considerations are specifically targeting the cannabis sector;
 - 2) Section 8 of the Agricultural Land Reserve Use Regulation (the ‘Regulation’) states: *(1) The use of agricultural land for producing cannabis lawfully may not be prohibited as described in section 4 if the cannabis is produced (a) outdoors in a field, or (b) inside a structure that, subject to subsection (2), has a base consisting entirely of soil.* Does a cannabis producer need to address these considerations if they are proposing to produce cannabis lawfully in the Agricultural Land Reserve (ALR)?
 - 3) Specific to Section 21(3) (a)(b) and (c), how does the CVRD expect these requirements to be addressed? Would the cannabis producer be required to commission a report prepared by a professional agrologist and/or cannabis specialist?
 - 4) Specific to Section 21(3) (e), and similar to 3) above, how would a cannabis producer consider the cumulative impacts of all cannabis cultivation and processing in an area? Would they be expected to commission a study to determine this? Additionally, does the CVRD have the legal authority and expertise to evaluate and prohibit an operation based on this parameter?
 - 5) Section 62(2) "Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water." The Ministry is concerned that unless further defined this could eliminate most properties from producing cannabis in the rural areas. Does this only apply to area water delivery systems both public and private? Most of the Comox Valley is made up of watersheds and most rural residents get their water from wells in those watersheds. The Ministry would like to further understand how this might be applied.

- [Agricultural Areas] Section 58(3): Section 303, Agricultural Use, 2. Farm Use Regulations, v) Cannabis Production of Comox Valley Zoning Bylaw No. 520, 2019, requires that cannabis production within the ALR is consistent with the Regulation. As such and for clarity to the reader, the Ministry recommends rewording Section 58(3) of the Bylaw to "New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve **must** be consistent with relevant Agricultural Land Reserve regulations and should consider consistency with bylaw standards as published by the Ministry of Agriculture."
- Section 8(2) of the Regulation allows the Local Government to restrict enclosed cannabis facilities within the Agricultural Land Reserve. Previously the Regional District selected to evaluate new operations through a rezoning application. The Ministry is unsure why this choice to develop prescriptive policies was selected over the rezoning process?
- As a general comment, presently, a substantial amount of cannabis produced in B.C reaches consumers via the illegal supply chain (i.e. the black market), which continues to represent a significant part of the B.C's cannabis market. The Province is committed to transitioning these growers to the legal market, but additional layers of regulation may discourage these growers from this transition. The Ministry notes that while the considerations in Section 21(3) are policies and not actual regulation, having overly restrictive policies may have an impact on transitioning illegal growers into the legal realm within the CVRD.

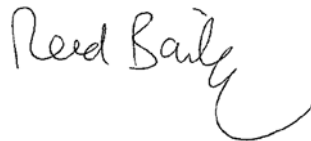
Please contact Ministry staff if you have any questions regarding the above comments.

Thank you for the opportunity to provide comments from an agricultural perspective with respect to this bylaw.

Sincerely,



Jill Hatfield, P.Ag., Regional Agrologist
B.C. Ministry of Agriculture – Courtenay
Office: (250) 897-7518
E-mail: jill.hatfield@gov.bc.ca



Reed Bailey, Land Use Planner
B.C. Ministry of Agriculture
Phone: (778) 698-3455
Email: reed.bailey@gov.bc.ca

Cc: Gord Bednard, Regional Planner, Agricultural Land Commission

Bylaw Referral Form Response Summary

Development Proposal Referral Form
 File: 3350-20 / CP 1CV 19 – Cannabis cultivation, processing and sale
(Planner: J. MacLean)

<input checked="" type="checkbox"/> Approval recommended for reasons outlined below	<input type="checkbox"/> Interests unaffected or general comments related to this development proposal outlined below
<input type="checkbox"/> Approval recommended subject to conditions outlined below	<input type="checkbox"/> Approval NOT recommended due to reasons outlined below

THAT the Council for the Village of Cumberland supports the proposed OCP

Bylaw No. 337, 2014 under File 3350-20/CP 1CV 19.

Signed By: *Ken Rogers* Title: *Ken Rogers*
Manager of Development
Services

Agency: *Village of Cumberland* Date: *Oct 30 2019*

Please return your response by **November 7, 2019** by fax to 250-334-4358
 or by email to planning@comoxvalleyrd.ca

Jodi MacLean

From: Jodi MacLean
Sent: October 7, 2019 2:35 PM
To: 'HBE@VIHA.CA'; 'Nicole.Bittante@sd71.bc.ca'; 'ian.heselgrave@sd71.bc.ca'
Subject: Referral: OCP amendment (cannabis)

Attached is a referral for your review and comment concerning a proposed amendment to the CVRD Official Community Plan to replace the existing policies regarding “medical marihuana production facilities” with new policies addressing the cultivation, processing and sales of cannabis. After these policies are adopted by bylaw, the CVRD will review the zoning bylaw provisions in relation cannabis.

Please respond by November 7, 2019, with any comments.
Thanks.

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
600 Comox Rd.
Courtenay BC V9N 3P6
Tel: 250-334-6041; toll free: 1-800-331-6007



20191007 Smith
CP1CV 19 Cann...

Jodi MacLean

From: Jodi MacLean
Sent: October 7, 2019 1:45 PM
To: 'shipspt1@shaw.ca'; 'gmason@union-bay.ca'
Subject: Referral: OCP amendment (cannabis)

Attached is a referral for your review and comment concerning a proposed amendment to the CVRD Official Community Plan to replace the existing policies regarding “medical marihuana production facilities” with new policies addressing the cultivation, processing and sales of cannabis. After these policies are adopted by bylaw, the CVRD will review the zoning bylaw provisions in relation cannabis.

Please respond by November 7, 2019, with any comments.
Thanks.

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
600 Comox Rd.
Courtenay BC V9N 3P6
Tel: 250-334-6041; toll free: 1-800-331-6007



20191007 Smith
CP1CV 19 Cann...

Jodi MacLean

From: Jodi MacLean
Sent: October 7, 2019 1:29 PM
To: 'Hatfield, Jill AGRI:EX'; 'ALCBurnaby@Victoria1.gov.bc.ca'
Subject: Referral: OCP amendment (cannabis)

Attached is a referral for your review and comment concerning an amendment to the CVRD Official Community Plan to replace the existing policies regarding “medical marihuana production facilities” with new policies addressing the cultivation, processing and sales of cannabis. After these policies are adopted by bylaw, the CVRD will review the zoning bylaw provisions in relation cannabis.

Please respond by November 7, 2019, with any comments.
Thanks.

Jodi MacLean
Rural Planner, Planning and Development Services Branch
Comox Valley Regional District
600 Comox Rd.
Courtenay BC V9N 3P6
Tel: 250-334-6041; toll free: 1-800-331-6007



20191007 Smith
CP1CV 19 Cann...

Bylaw Referral Form
File: 3350-20 / CP 1CV 19
Date Sent: October 7, 2019

Please comment on the attached bylaw for potential effect on your agency's interests. Section 475 of the *Local Government Act* (RSBC 2015 c. 1) (LGA) outlines that a local government must provide one or more opportunities for consultation with persons, organizations and authorities affected by the development of an Official Community Plan (OCP), or the repeal or amendment of an OCP. In keeping with Section 475, the Comox Valley Regional District (CVRD) wishes to ensure that all future consultations with applicable adjacent regional districts and municipalities, First Nations, school and improvement district boards, provincial and federal government agencies is considered early and ongoing as required by the LGA. You will note on the response form a number of choices that describe your agency's interests. All details that support your position are appreciated as are official legislative, governance and policy considerations that may affect the CVRD's consideration of this bylaw.

We would appreciate your response within thirty (30) days of October 7, 2019. If no response is received within that time, it will be assumed that your agency's interests are unaffected. If required, please contact the CVRD to assist you in determining the type of information that would be helpful or to better understand how the proposed bylaw may impact land use and development. Should you have any specific questions regarding the proposed bylaw amendment, please contact Jodi MacLean at 250-334-6041 or by email to planning@comoxvalleyrd.ca.

Purpose of Bylaw:	To replace the OCP policies regarding "Medical Marihuana Production Facilities" with new policies addressing the cultivation, processing and sales of cannabis.
OCP Bylaw:	"Rural Comox Valley Official Community Plan Bylaw No. 337, 2014

Other Information:

The *Cannabis Act* and its regulations came into force on October 17, 2018. Along with the *Cannabis Control and Licensing Act*, the federal/provincial licencing framework allows local governments to regulate the use of cultivation, processing and sale of cannabis through its land use regulations. Currently, the OCP directs production of medical cannabis to the Agricultural and Resource Areas and does not contemplate non-medical cannabis production, while the Zoning Bylaw broadly prohibits the commercial production, cultivation, processing and sale of cannabis in all zones.

Official Community Plan, Bylaw No. 337

Among other objectives, the OCP provides policy direction for the Zoning Bylaw and direction for reviewing planning applications. Section 21(2), concerning "economy and industry – policies (emergent industries)" which currently directs that site-specific rezonings be used to allow for the production of medical cannabis and only in the Agricultural Areas and Resource Areas, will be

deleted and replaced with more specific provisions addressing commercial cannabis production. The draft policy lists considerations for generally regulating or considering site specific rezonings, including impacts affecting adjacent land uses and cumulative impacts affecting a neighbourhood. The draft policy directs that cultivation of cannabis be considered an agricultural or industrial use, meaning that it could be permitted and regulated in the Rural Settlement Areas and other areas where agricultural or industrial uses are permitted. Specific to the Agricultural Areas (e.g. areas within the Agricultural Land Reserve (ALR)) Section 58(3) directs that consideration be given to consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture. Similarly, Policy 62.(2) which is applicable to the Resource Areas only and currently lists those factors recommended to be moved to Section 21 so they apply broadly to all areas, would be replaced with the direction that cannabis cultivation and processing be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.

These draft revisions would direct cannabis retail stores to locate in accordance with the OCP's existing provisions for other commercial uses.

New Draft Policies:

It is proposed that sections 21(2), 58(3) and 62(2) will be deleted and replaced with:

Section 21.(2) "*Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.*"

Section 21(3) "*In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide: (a) information pertaining to liquid and solid waste management systems; (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological function of a property; (c) mitigation of impacts on environmentally sensitive areas and/or features; (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and, (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*"

[Agricultural Areas] Section 58(3) "*New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve should consider consistency with relevant Agricultural Land Reserve regulations and bylaw standards as published by the Ministry of Agriculture.*"

[Resources Areas] Section 62(2) "*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*"

Sincerely,

S. Smith

Scott Smith, RPP, MCIP
General Manager
Planning and Development Services Branch

/jm

At its regularly scheduled meeting of October 1, 2019, the Comox Valley Regional District Board endorsed forwarding the proposed bylaw(s) to the following agencies as listed below. As part of this motion, it was decided to circulate this referral to your office for comments in order to enable you to take the proposed development into consideration as part of the future expansion of your operations.

Agency and First Nations Referral List

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission		BC Assessment
	Ministry of Municipal Affairs and Housing		Ministry of Energy, Mines and Petroleum Resources
	Ministry of Environment and Climate Change Strategy		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Trade and Technology
	Ministry of Tourism, Arts and Culture		Ministry of Indigenous Relations and Reconciliation
<input checked="" type="checkbox"/>	Ministry of Agriculture		Ministry of Labour
	Ministry of Health		

Local Government

<input checked="" type="checkbox"/>	Comox (Town of)		Alberni-Clayoquot Regional District
<input checked="" type="checkbox"/>	Courtenay (City of)		Strathcona Regional District
<input checked="" type="checkbox"/>	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Baynes Sound Denman / Hornby Islands (Electoral Area A) Advisory Planning Commission	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
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<input checked="" type="checkbox"/>	Lazo North (Electoral Area B) Advisory Planning Commission	<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)
<input checked="" type="checkbox"/>	Puntledge – Black Creek (Electoral Area C) Advisory Planning Commission	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Union Bay Improvement District		Fanny Bay Water Works District
<input checked="" type="checkbox"/>	Ships Point Improvement District		

Bylaw Referral Form Response Summary

<p>Development Proposal Referral Form File: 3350-20 / CP 1CV 19 – Cannabis cultivation, processing and sale <i>(Planner: J. MacLean)</i></p>
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- | | |
|---|--|
| <input type="checkbox"/> Approval recommended for reasons outlined below | <input type="checkbox"/> Interests unaffected or general comments related to this development proposal outlined below |
| <input type="checkbox"/> Approval recommended subject to conditions outlined below | <input type="checkbox"/> Approval NOT recommended due to reasons outlined below |

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Signed By: _____ **Title:** _____

Agency: _____ **Date:** _____

Please return your response by **November 7, 2019** by fax to 250-334-4358
or by email to planning@comoxvalleyrd.ca

**WE WAI KAI NATION
CAPE MUDGE BAND
690 Headstart Cres
Campbell River, BC V9H 1V8**



October 3, 2019

3350-20 / CP 1CV 19
J. MacLean

Comox Valley Regional District
600 Comox Road
Courtenay, BC, V9N 3P6

Re: CVRD Referral CP 1CV 19 Cannabis

File: 3350-20 / CP 1CV 19 – Comox Valley Regional District

The We Wai Kai Nation is in receipt of the above-mentioned application regarding CVRD referral CP 1CV 19 Cannabis. This application is located within the We Wai Kai statement of intent area; it is the interest of the We Wai Kai Nation to respectfully maintain our rights and access to resources throughout our territory.

The We Wai Kai Nation has no comment at this time regarding this application being issued. Please note that this “No Comment” letter is specifically for this application and is without prejudice to all future consultation with our nation regarding other applications within our traditional territory including the renewal or any alteration of this application.

The We Wai Kai Nation may choose in the future to address the issues of Aboriginal rights and title infringement and compensation through the treaty process, the courts or other dispute resolution process. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

Should you require any further information, please do not hesitate to contact our office.

Sincerely,

Samantha Chickite
Lands & Referral Clerk
We Wai Kai Nation

**WE WAI KAI NATION
CAPE MUDGE BAND
690 Headstart Cres
Campbell River, BC V9H 1V8**



October 3, 2019

3350-20 / CP 1CV 19
J. MacLean

Comox Valley Regional District
600 Comox Road
Courtenay, BC, V9N 3P6

Re: CVRD Referral CP 1CV 19 Cannabis

File: 3350-20 / CP 1CV 19 – Comox Valley Regional District

The We Wai Kai Nation is in receipt of the above-mentioned application regarding CVRD referral CP 1CV 19 Cannabis. This application is located within the We Wai Kai statement of intent area; it is the interest of the We Wai Kai Nation to respectfully maintain our rights and access to resources throughout our territory.

The We Wai Kai Nation has no comment at this time regarding this application being issued. Please note that this “No Comment” letter is specifically for this application and is without prejudice to all future consultation with our nation regarding other applications within our traditional territory including the renewal or any alteration of this application.

The We Wai Kai Nation may choose in the future to address the issues of Aboriginal rights and title infringement and compensation through the treaty process, the courts or other dispute resolution process. We also reserve the right to raise objections if any cultural use, archaeological sites or environmental impacts are identified when the above development is being carried out or if we discover impacts on our rights or interest that we had not foreseen.

Should you require any further information, please do not hesitate to contact our office.

Sincerely,

Samantha Chickite
Lands & Referral Clerk
We Wai Kai Nation

Memo

File: 3360-20/CP 1CV 19

DATE: October 3, 2019

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

FROM: Planning and Development Services Branch

RE: Official Community Plan Amendment
Cannabis Cultivation, Processing and Sales

The attached Official Community Plan Amendment is for commission members' review and comment.

The Official Community Plan is being updated to address how the cultivation, processing and sales of cannabis is being licensed by the federal and provincial governments. The update will replace the three policies [21(2), 58(3) and 62(2)] that speak to "medical marihuana production facilities" with the following:

Section 21.(2) "*Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.*"

Section 21(3) "*In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide: (a) information pertaining to liquid and solid waste management systems; (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological function of a property; (c) mitigation of impacts on environmentally sensitive areas and/or features; (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and, (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*"

[Agricultural Areas] Section 58(3) "*New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve should consider consistency with relevant Agricultural Land Reserve regulations and bylaw standards as published by the Ministry of Agriculture.*"

[Resources Areas] Section 62(2) "*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*"

For more information, please refer to the attached staff reports dated May 6 and September 4, 2019, which were considered by the Comox Valley Regional District Board on May 28 and October 1, 2019.

Sincerely,

T. Trieu

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

/jm

Attachment: Staff Report Dated May 6, 2019
Staff Report Dated September 4, 2019

DATE: May 6, 2019

FILE: 3350-20 / CP 1CV 19

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

The purpose of this report is to recommend the initiation of a review and update of the policies of the Official Community Plan (OCP) and the provisions of the Planning Procedures and Fees Bylaw and the Building Bylaw regarding cannabis.

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).

Executive Summary

- The new federal *Cannabis Act* creates licencing categories that include cultivation, processing and sales (medical) and the provincial *Cannabis Control and Licensing Act* creates licencing for cannabis retail stores.
- Currently, the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” only considers “medical marihuana production facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*. An update to the OCP will provide direction for zoning regulations and considerations for applications relating to the newly legalized cannabis uses.
- As the new provincial licensing process for retail stores requires the local government to gather the views of residents and allows for the imposition of a fee to cover associated costs, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, should be updated to impose that fee and specify a minimum level of consultation prior to consideration of a cannabis retail sales application.
- The Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, can be reviewed regarding how it relates to a cultivation of cannabis use.
- Staff recommends updating these bylaws as they relate to cannabis.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, MCIP, RPP
Acting General Manager of
Planning and Development
Services Branch**Background/Current Situation**

On May 14, 2018, during consideration of a zoning amendment bylaw to prohibit cannabis cultivation, processing and sale, the Electoral Areas Services Committee adopted the following resolution:

“THAT staff report back to the Electoral Areas Services Committee with a fulsome analysis of options regarding regulations once the Cannabis Act and related regulations have been approved and made available to the public.”

The *Cannabis Act* and its regulations came into force on October 17, 2018. They require a person to hold a licence issued by Health Canada in order to work with cannabis. The licence can be issued under one of the following categories:

- Cultivation (standard)
- Cultivation (micro-cultivation)
- Cultivation (nursery)
- Processing (standard)
- Processing (micro-processing)
- Sale (medical)
- Analytical testing
- Research
- Cannabis drug licence

The province, under the *Cannabis Control and Licensing Act*, issues the licencing for:

- Cannabis retail stores

Before submitting an application for a licence under a cultivation, processing or sale category, Section 7 of the *Cannabis Regulations* requires the applicant to notify the local government, the local fire authority and the local police detachment (licencing for analytical testing, research and cannabis drugs do not involve local governments). If the proposed cultivation, processing or sale of cannabis is not consistent with the local government’s Zoning Bylaw, then the licence may not be approved.

Context

Since legalization of cannabis by the federal government, Comox Valley Regional District (CVRD) staff have received numerous enquiries from members of the public assessing the feasibility of cultivation and sale in the rural areas. Because the Zoning Bylaw prohibits such activity, an application for a zoning amendment or Temporary Use Permit (TUP) is required for any property owner before they can apply for a federal or provincial cannabis licence. To date, two such applications (all TUP applications) have been submitted, all for “micro-cultivation” which is a cultivation licence limited to a maximum surface area of 200 square metres. In reviewing applications staff takes direction from the objectives and policies of the OCP. Because the OCP contemplated cannabis only in the form of “medical marihuana production facilities” (MMPFs), which were large, secure facilities (though none were constructed in the Comox Valley), there is

uncertainty in how smaller-scale proposals will be received in areas where the larger-scale production facilities were not permitted. Updating the OCP bylaw will provide a policy basis for future zoning regulations and clarity for the public regarding how applications will be reviewed.

Official Community Plan

The OCP was adopted in 2014 at a time when cannabis production and distribution was regulated by the *Maribwana for Medical Purposes Regulations*, and consequently, the OCP only speaks to MMPFs (equivalent to the new “standard cultivation” category) without consideration to micro-cultivation, processing or sale of cannabis. Policy 21.(2) of the OCP currently directs MMPFs to be considered only through a rezoning process and only in the Agricultural Areas and Resource Areas. The Agricultural Areas is a designation that overlaps with the *Agricultural Land Reserve (ALR)* and the Resource Areas is a designation that generally covers the areas used for forestry, primarily west of the Inland Highway. Policies 58.(3) and 62.(2) are the corresponding Agricultural Areas and Resource Areas policies that state the considerations for how a rezoning proposal will be reviewed.

The new framework, with allowances for smaller cultivation facilities with less requisite investments, makes operating such facilities feasible as accessory buildings in rural neighbourhoods, expanding existing legal (operated under a personal medical licence) facilities, or bringing illegal existing facilities into compliance.

Retail sales and processing of cannabis is consistent with the OCP’s policies for commercial and industrial uses. Applications can be processed under those existing policies. While the OCP generally discourages the creation of new commercial and industrial areas outside of the Settlement Nodes, there are numerous existing commercial and industrial zoned properties where these uses may occur.

Agricultural Areas and Agricultural Land Reserve

Under the new framework, the ALR Regulations now allow cannabis cultivation, regardless of scale, but has conditions regarding buildings in which it is grown: they must have a base consisting entirely of soil or be a pre-existing, unaltered buildings constructed for the purpose of growing crops inside. BC Assessment currently does not accept cannabis production as a qualifying agricultural use for the purposes of evaluating farm status under the *Assessment Act*. However, within the ALR, cannabis cultivation is a “farm operation” as defined by the *Farm Practices Protection (Right to Farm) Act* for which nuisance (e.g. odour, noise) complaints are reviewed by the BC Farm Industry Review Board (BC FIRB) and exempted from local government nuisance bylaws. In 2018 the BC FIRB accepted two cases involving odour from a cannabis operation and are currently studying normal farm practices in that industry.

If the proposal is not consistent with the ALR Regulation then a non-farm use application is required. This type of application is reviewed by the CVRD Board in order to provide comments and recommendations to the Agricultural Land Commission (ALC), though the board has the option of refusing to forward the application to the ALC. Staff review of ALR applications are based on OCP policies, including Policies 21.(2) and (3) noted above and those listed in the Agricultural Areas section.

Building Bylaw

In the past, the CVRD has received numerous nuisance complaints regarding existing cannabis cultivation operations, mostly regarding sub-standard building construction and odour. Mandatory building permits for new buildings, or buildings whose use has changed, help address this concern. The proposed review would also include consideration of how a cultivation of cannabis use would be affected by the Building Bylaw, Bylaw No. 142, and its provisions for farm buildings.

Planning Procedures and Fees Bylaw

Regarding sales of recreational cannabis, should an applicant apply to the province for a cannabis retail store licence, Section 33 of the *Cannabis Control and Licensing Act* requires the province to refer the application to the local government and not approve it until the local government provides a “*recommendation that the licence be issued*”.

This Act, combined with Section 13 of the *Cannabis Licensing Regulation*, requires the local government take into consideration a proposed store’s location and how it may affect nearby residents, and must use one or more of the following methods to gather the views of residents of an area:

- “(a) by receiving written comments in response to a public notice of the application;*
- (b) by conducting a public hearing in respect of the application;*
- (c) by holding a referendum;*
- (d) by using another method the local government...considers appropriate.”*

Section 35 allows the local government to impose fees, by bylaw, on an applicant in order to recover the costs incurred in assessing the application.

The proposed review of the Planning Procedures and Fees Bylaw would give consideration to the appropriate methods of gathering the views of residents and, based on those methods, the appropriate fee.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, first nations, boards of education, improvement district boards, and provincial and federal governments and their agencies.

Options

The board may choose to:

1. Initiate a review and update of the Official Community Plan, Planning Fees and Procedures Bylaw and Building Bylaw as they relate to cannabis, or
2. Not initiate a process at this time.

Staff recommends option 1. Should the board choose to initiate the review process, staff will report back to the board with a recommended update and communication plan.

Financial Factors

These costs of the review process will be covered by the electoral areas planning function.

Legal Factors

The proposed review process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, the *Cannabis Distribution Act* and the *Agricultural Land Commission Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. Any proposed bylaw amendment must be consistent with this direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

Should the board choose to initiate the review process, staff will provide the board with a communication plan that include a list of agencies and First Nations which may be referred to for comment.

Interdepartmental Involvement

The review process includes referrals to relevant CVRD departments and their responses are incorporated into the considerations.

Citizen/Public Relations

Should the board choose to initiate the review process, staff will report back to the board with a recommended communication plan.

DATE: September 4, 2019**FILE:** 3350-20 / CP 1CV 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE:** Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

To provide recommendations to the Comox Valley Regional District (CVRD) Board (the board) regarding a communication plan (Appendix A) an update to the Official Community Plan (Appendix B), and updates to the Planning Procedures and Fees Bylaw (Appendix C) and Building Bylaw (Appendix D) as the bylaws relate to cannabis cultivation, processing and sales.

Recommendations from the Chief Administrative Officer:

1. THAT the Comox Valley Regional District Board endorse the communication plan as outlined in Appendix A and the recommended bylaw update information outlined in Appendix B of staff report dated September 4, 2019, and direct staff to start the external agency referral process for making provisions regarding cannabis in Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (CP 1CV 19);

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

2. THAT the board consider first, second and third readings of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3” (CP 1CV 19), which inserts a procedure and fee relating to cannabis retail referrals (Appendix C).
3. THAT the board consider first, second and third readings of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2014, Amendment No. 4” (CP 1CV 19), regarding the applicability of the bylaw to cannabis cultivation within farm buildings (Appendix D).

Executive Summary

- The recommended amendment to the Official Community Plan, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), would delete the existing policies referencing “Medical Marihuana Production Facilities” and replace them with a list of policy considerations for considering cannabis cultivation (Appendix B).
- Policies relating to the sale and processing of cannabis would remain integrated in the OCP’s existing policies for commercial and industrial uses.
- The recommended communication plan includes referrals to First Nations, provincial and local government agencies, a webpage on the CVRD Website, memos to all Advisory Planning Commissions, newspaper notices and a public hearing (Appendix A).

- The recommended amendment to the Planning Procedures and Fees Bylaw, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, would insert a \$1,000 fee payable by an applicant of a cannabis retail license and require public notification in order to fulfill the CVRD’s role of gathering the views of residents as required in the *Cannabis Control and Licensing Act* (Appendix C).
- The recommended amendment to the Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, would clarify that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” which would be exempt from Building Permits (Appendix D).
- Staff recommends consultation outlined in the communication plan (Appendix B) be initiated based on the policy updates to the OCP outlined in Appendix A, and that first, second and third readings to the updates to the Planning Procedures and Fees Bylaw and the Building Bylaw be given.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

On May 28, 2019, in response to the role created for local government in regulating the cultivation, processing and sale of cannabis, the CVRD Board adopted the following resolution:

“THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).”

The *Cannabis Act* and its regulations came into force on October 17, 2018. Along with the *Cannabis Control and Licensing Act*, the federal/provincial licencing framework allows local governments to regulate the use of cultivation, processing and sale of cannabis through its land use regulations. Currently, the OCP directs production of medical cannabis to the Agricultural and Resource Areas and does not contemplate non-medical cannabis production, while the Zoning Bylaw broadly prohibits the commercial production, cultivation, processing and sale of cannabis in all zones.

Official Community Plan, Bylaw No. 337

Among other objectives, the OCP provides policy direction for the Zoning Bylaw and direction for reviewing planning applications. Section 21(2), concerning “economy and industry – policies (emergent industries)” which currently directs that site-specific rezonings be used to allow for the production of medical cannabis and only in the Agricultural Areas and Resource Areas, will be deleted and replaced with more specific provisions addressing commercial cannabis production. The draft policy (Appendix B) lists considerations for generally regulating or considering site-specific

rezonings, including impacts affecting adjacent land uses and cumulative impacts affecting a neighbourhood. The draft policy directs that cultivation of cannabis be considered an agricultural or industrial use, meaning that it could be permitted and regulated in the Rural Settlement Areas and other areas where agricultural or industrial uses are permitted. Specific to the Agricultural Areas (e.g. areas within the *Agricultural Land Reserve (ALR)*) Section 58(3) directs that consideration be given to consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture. Similarly, Policy 62.(2) which is applicable to the Resource Areas only and currently lists those factors recommended to be moved to Section 21 so they apply broadly to all areas, would be replaced with the direction that cannabis cultivation and processing be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.

These draft revisions would direct cannabis retail stores to locate in accordance with the OCP's existing provisions for other commercial uses.

Planning Procedures and Fees Bylaw, Bylaw No. 328

Sections 33 to 35 of the *Cannabis Control and Licensing Act* state that the province must not issue a licence to sell cannabis unless the local government provides a “*recommendation that the licence be issued*” and that if the local government opts to provide comments and recommendations, it must gather the views of residents beforehand. That Act also states that the local government may impose fees, by bylaw, on the applicant in order to recover the costs incurred in assessing the application.

The draft bylaw amendment inserts a fee of \$1,000 payable by the applicant of a cannabis retail license and inserts a requirement that the CVRD gather the views of residents via a mailed notice (Appendix C). The notification radius is the same as planning applications, specified in Schedule A, Section 1(h) of the bylaw.

After the board reviews the referral and responses to the notification, the board may provide comments and recommendations to the province regarding the referral. Alternately, should the board seek to gather further views of residents, the bylaw allows the board to order a public information session (applicant incurs an additional \$1,000 fee) or statutory public hearing (applicant incurs additional \$1,500 fee) or an alternate notification area.

Building Bylaw

Building Bylaw, Bylaw No. 142, requires an owner to obtain a Building Permit prior to constructing, altering, or changing the occupancy of a building but exempts “*low human occupancy farm buildings located on land classified as ‘farm’ under the Assessment Act*”. The draft amendment to the Building Bylaw clarifies that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” (Appendix D).

Communication Plan

The communication plan (Appendix A) includes the following means of outreach to notify members of the public of the proposed amendments:

- Forward referrals to First Nations, provincial and local government agencies
- Webpage at www.comoxvalleyrd.ca/cannabis
- Memos to all Advisory Planning Commissions
- Newspaper notices
- Public hearing

If the communication plan is adopted as presented, the referrals would be sent and the webpage posted as soon as possible. The October meetings of the Advisory Planning Commissions would

include a memo regarding these proposed amendments. Based on the recommendations and feedback, first and second readings of the bylaws could occur in December and a public hearing in January.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, First Nations, boards of education, improvement district boards, and provincial and federal governments and their agencies (Appendix A).

Section 33 of the *Cannabis Control and Licensing Act* requires the local government to gather the views of residents of an area prior to the province issuing a retail store licence. Section 35 authorizes the local government to impose fees on the applicant in order to recover the costs incurred in assessing an application for a cannabis retail store.

Options

Regarding the update to the OCP, the board may choose to:

1. Initiate a bylaw amendment process by adopting the communication plan, or
2. Not initiate a process at this time.

Regarding the update to the Planning Procedures and Fees Bylaw, Bylaw No. 218, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Regarding the update to the Building Bylaw, Bylaw No. 142, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Staff recommends options 1, to proceed with initiating the OCP bylaw amendment process with the proposed communication plan as presented, and providing first, second and third readings to the Planning Procedures and Fees Bylaw and Building Bylaw.

Financial Factors

Costs associated with this bylaw amendment process will include the cost of holding a public hearing, statutory advertising, and community engagement. These costs will be covered by the electoral areas planning function.

Legal Factors

The proposed bylaw amendment process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, and the *Cannabis Distribution Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. The proposed bylaw amendments are consistent with this

direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

The proposed communication plan (Appendix A) and the bylaw amendment process includes a list of agencies and First Nation organizations which may be referred to for comment.

Interdepartmental Involvement

An internal referral to relevant CVRD departments has been issued and the initial responses incorporated into this process. Further comments will be incorporated into future reports during the bylaw amendment process.

Citizen/Public Relations

The proposed communication plan (Appendix A) includes provisions for public engagement, a public hearing, and referrals to all Advisory Planning Commissions.

- Attachments:
- Appendix A – “Communication Plan (CP 1CV 19)”
 - Appendix B – “Summary of recommended OCP bylaw amendments relating to cannabis”
 - Appendix C – “Planning Procedures and Fees Bylaw Amendment”
 - Appendix D – “Building Bylaw Amendment”



Subject: <u>Official Community Plan Bylaw Update (Cannabis)</u>	File: CP 1CV 19
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Purpose

To outline a consultation process relating to draft amendments to the Official Community Plan (OCP) Bylaw regarding cannabis.

Target Audiences:

- Residents within Electoral Area A (excluding Denman/Hornby Islands), B and C
- Comox Valley Regional District (CVRD) Board
- CVRD Electoral Areas Services Committee

Project Background:

- The federal *Cannabis Act* and provincial *Cannabis Control and Licensing Act* includes a role for local governments in regulating the location of cannabis licences for cultivation, processing or sales.
- Currently the OCP only considers “Medical Marijuana Production Facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*.
- As new federal and provincial regulations have changed industry standards and the role of local government, the OCP Bylaw is being updated to reflect these changes.
- Amendments to the OCP will include new policy considerations for regulating cannabis cultivation.

Spokesperson: Jodi MacLean, Rural Planner

Communication Objectives:

1. To increase awareness on how the OCP Bylaw will relate to cannabis cultivation, processing and sales.
2. To provide detailed information to the Electoral Areas Services Committee (EASC) and CVRD Board to assist with the decision-making process.
3. To receive feedback regarding policy changes.
4. To accept comments and recommendations from external agencies relating to draft bylaw amendments.

Budget: \$1,500

Communication/Engagement Strategies:

Elements	Description	Responsibility	IAP2 Spectrum	Budget	Due Date
Webpage	Maintain the webpage with information and process timeline. www.comoxvalleyrd.ca/cannabis	Content: Jodi Update/ Publish: Jennifer	Inform	Staff time	September 2019
First Nations	Mail/email referrals in accordance with the referrals management program and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Provincial and local government agencies	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Improvement districts, and school district	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Advisory Planning Commissions (APCs)	Review background information and recommendations	Jodi	Inform	APCs operate under planning budget	October 2019
EASC	1st and 2nd reading	Jodi	Consult	Staff time	December 2019 or January 2020
Public Hearing Ads	Statutory advertisements required during OCP amendments.	Content: Jodi Design/Book/ Distribute: Beverly	Inform	\$1,000	To be determined after scheduling of public hearing

Public Hearing	Statutory process to to receive feedback from the public.	Jodi Display Design: Beverly (content by Planning)	Consult	Staff time + \$500 materials (e.g. poster displays, etc.)	To be scheduled by EASC
CVRD Board	Present feedback from public hearing to EASC. Consideration of 3 rd Reading and adoption.	Jodi	Consult	Staff time	To be determined

Approval History

Created by: Jodi MacLean	April 2, 2019
Amended:	

Agency and First Nations Referral List

Pursuant to Section 475(2) and (4) of the *Local Government Act* (RSBC, 2015, c. 1), this list specifically considers whether consultation is required with the listed agencies. Those denoted with an will receive a referral of the proposal prior to a public hearing.

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwa) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission		BC Assessment
	Ministry of Municipal Affairs and Housing		Ministry of Energy, Mines and Petroleum Resources
	Ministry of Environment and Climate Change Strategy		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Trade and Technology
	Ministry of Tourism, Arts and Culture		Ministry of Indigenous Relations and Reconciliation
<input checked="" type="checkbox"/>	Ministry of Agriculture		Ministry of Labour
	Ministry of Health		

Local Government

<input checked="" type="checkbox"/>	Comox (Town of)		Alberni-Clayoquot Regional District
<input checked="" type="checkbox"/>	Courtenay (City of)		Strathcona Regional District
<input checked="" type="checkbox"/>	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Baynes Sound Denman / Hornby Islands (Electoral Area A) Advisory Planning Commission	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	Lazo North (Electoral Area B) Advisory Planning Commission	<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)
<input checked="" type="checkbox"/>	Puntledge – Black Creek (Electoral Area C) Advisory Planning Commission	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Union Bay Improvement District		Fanny Bay Water Works District
<input checked="" type="checkbox"/>	Ships Point Improvement District		



Summary of Recommended Bylaw Amendments Relating to Cannabis

Official Community Plan, Bylaw No. 337

- Delete Section 21.(2) *“Consider medical marihuana production facilities licensed pursuant to the marihuana for medical purposes regulations through a rezoning within the agriculture area and resource area designations subject to the conditions included in part 3 of this OCP.”*
- Insert Section 21.(2) *“Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.”*
- Insert Section 21.(3) *“In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide:*
 - (a) information pertaining to liquid and solid waste management systems;*
 - (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological regime of a property;*
 - (c) mitigation of impacts on environmentally sensitive areas and/or features;*
 - (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and,*
 - (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*
- Delete Section 58.(3) *“Consider a site specific rezoning application to permit medical marihuana production licensed pursuant to the marihuana for medical purposes regulations within the agriculture area designation subject to the following conditions:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the building(s) and lot;*
 - (c) mitigation of potential impacts to agricultural capability of the lot, including, but not limited to: building footprint, soil classification, building location and building clustering;*
 - (d) provision of security measures in accordance with federal government requirements, while respecting integration with the proposed siting and surrounding community;*
 - (e) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (f) provision of adequate water supply and waste management systems;*
 - (g) mitigation of potential traffic generation impacts;*
 - (h) provision of adequate highway access and parking;*
 - (i) provision for the disposal of all waste cannabis material in accordance with federal government requirements;*
 - (j) mitigation of potential negative impacts on environmentally sensitive areas and/or features and the productive potential of adjacent resource lands; and*

- (k) *consideration of whether siting for the component parts or medical marihuana production activities should be collectively or separately, in one location or on multiple sites, including the form and character, use, community integration and environmental implications.”*
- Insert Section 58.(3) with “*New or modified cannabis cultivation, processing and sales within the ALR should consider consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture.*”
 - Delete Section 62.(2) “*Consider medical marihuana production licensed pursuant to the marihuana for medical purposes regulations through a site specific rezoning within the resource areas designation subject to consideration of the following:*
 - (a) *mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) *size and configuration of the proposed building(s) and lot;*
 - (c) *mitigation of potential negative impacts on environmentally sensitive areas including the security, quality and quantity of drinking water;*
 - (d) *provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (e) *provision of adequate water supply and waste management systems;*
 - (f) *mitigation of potential traffic generation impacts;*
 - (g) *provision of adequate highway access and parking,*
 - (h) *mitigation of potential negative impacts on environmentally sensitive areas and/or features.”*
 - Insert Section 62.(2) with “*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*”
 - Cannabis retail sales deemed to be a commercial use and may be considered in accordance with the OCP’s existing provisions for other commercial uses.

Other Bylaw Amendments

1. Planning Procedures and Fees Bylaw, Bylaw No. 328

- Insert requirement that CVRD mail notices using notification radius used for planning applications.
- Insert referral fee of \$1,000.

2. Building Bylaw, Bylaw No. 142

- Add the following underlined portion to Section 5.(2) “*(e) low human occupancy farm buildings located on land classified as “farm” under the Assessment Act on the date on which the application for permit was made, except buildings and structures used for activities subject to a cultivation or processing licence under the Cannabis Act.*”


 Appendix C:
 Bylaw Status Report

BYLAW NO. 584	
Bylaw Name:	Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Planning Procedures and Fees Bylaw in order to insert a fee and procedure regarding referrals of cannabis retail stores.
Amends Bylaw:	328
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 584

A Bylaw to Amend the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” in order to insert a fee and procedure regarding referrals of cannabis retail stores.

WHEREAS Section 33 of the *Cannabis Control and Licensing Act* requires the local government for the area in which a prescribed class of licence relating to the sale of cannabis is proposed to be located be given a notice of the application and requires the local government to gather the views of residents of the relevant area prior to giving comments and recommendations responding to the notice;

AND WHEREAS Section 35 of the *Cannabis Control and Licensing Act* allows a local government that, under Section 33, gives comments and recommendations may, by bylaw, impose fees on the applicant in order to recover the costs incurred in assessing the application;

NOW THEREFORE the board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Planning Procedures and Fees” being Bylaw No. 328:

Amendment

1. Schedule A of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(j) Cannabis licensing

 - (i) When a notice of application is received in accordance with Division 3 of the *Cannabis Control and Licensing Act*, the views of residents shall be obtained by mailing a notice to owners and tenants. An additional method to gather the views of residents may be used when deemed appropriate by the board.”

2. Schedule B of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(19) Cannabis licensing referral	\$1,000”
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Citation

This Bylaw No. 584 may be cited as the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.

Adopted this

day of

20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3,” as adopted by the board of the Comox Valley Regional District on the ____ day of _____ 20XX.

Corporate Legislative Officer


 Appendix D:
 Bylaw Status Report

BYLAW NO. 585	
Bylaw Name:	Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Building Bylaw in order to clarify the applicability of the bylaw to cannabis cultivation within farm buildings.
Amends Bylaw:	142
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	N/A
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 585

**A Bylaw to Amend the “Comox Valley Regional District Building Bylaw No. 142, 2011”
in order to clarify the applicability of the bylaw to cannabis cultivation within farm
buildings.**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Building Bylaw” being Bylaw No. 142:

Amendment

In Section 5(2) deleting the following:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made;”

and adding the following in its place:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made, except buildings and structures used for activities subject to a cultivation or processing licence under the *Cannabis Act*;”

Citation

This Bylaw No. 585 may be cited as the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.
Adopted this	day of	20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4,” as adopted by the board of the Comox Valley Regional District on the ___ day of _____ 20XX.

Corporate Legislative Officer

Memo

File: 3360-20/CP 1CV 19

DATE: October 3, 2019

TO: Advisory Planning Commission
Lazo North (Electoral Area B)

FROM: Planning and Development Services Branch

RE: Official Community Plan Amendment
Cannabis Cultivation, Processing and Sales

The attached Official Community Plan Amendment is for commission members' review and comment.

The Official Community Plan is being updated to address how the cultivation, processing and sales of cannabis is being licensed by the federal and provincial governments. The update will replace the three policies [21(2), 58(3) and 62(2)] that speak to "medical marihuana production facilities" with the following:

Section 21.(2) "*Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.*"

Section 21(3) "*In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide: (a) information pertaining to liquid and solid waste management systems; (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological function of a property; (c) mitigation of impacts on environmentally sensitive areas and/or features; (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and, (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*"

[Agricultural Areas] Section 58(3) "*New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve should consider consistency with relevant Agricultural Land Reserve regulations and bylaw standards as published by the Ministry of Agriculture.*"

[Resources Areas] Section 62(2) "*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*"

For more information, please refer to the attached staff reports dated May 6 and September 4, 2019, which were considered by the Comox Valley Regional District Board on May 28 and October 1, 2019.

Sincerely,

T. Trieu

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

/jm

Attachment: Staff Report Dated May 6, 2019
Staff Report Dated September 4, 2019

DATE: May 6, 2019**FILE:** 3350-20 / CP 1CV 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer**R. Dyson****RE:** Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

The purpose of this report is to recommend the initiation of a review and update of the policies of the Official Community Plan (OCP) and the provisions of the Planning Procedures and Fees Bylaw and the Building Bylaw regarding cannabis.

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).

Executive Summary

- The new federal *Cannabis Act* creates licencing categories that include cultivation, processing and sales (medical) and the provincial *Cannabis Control and Licensing Act* creates licencing for cannabis retail stores.
- Currently, the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” only considers “medical marihuana production facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*. An update to the OCP will provide direction for zoning regulations and considerations for applications relating to the newly legalized cannabis uses.
- As the new provincial licensing process for retail stores requires the local government to gather the views of residents and allows for the imposition of a fee to cover associated costs, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, should be updated to impose that fee and specify a minimum level of consultation prior to consideration of a cannabis retail sales application.
- The Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, can be reviewed regarding how it relates to a cultivation of cannabis use.
- Staff recommends updating these bylaws as they relate to cannabis.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, MCIP, RPP
Acting General Manager of
Planning and Development
Services Branch**Background/Current Situation**

On May 14, 2018, during consideration of a zoning amendment bylaw to prohibit cannabis cultivation, processing and sale, the Electoral Areas Services Committee adopted the following resolution:

“THAT staff report back to the Electoral Areas Services Committee with a fulsome analysis of options regarding regulations once the Cannabis Act and related regulations have been approved and made available to the public.”

The *Cannabis Act* and its regulations came into force on October 17, 2018. They require a person to hold a licence issued by Health Canada in order to work with cannabis. The licence can be issued under one of the following categories:

- Cultivation (standard)
- Cultivation (micro-cultivation)
- Cultivation (nursery)
- Processing (standard)
- Processing (micro-processing)
- Sale (medical)
- Analytical testing
- Research
- Cannabis drug licence

The province, under the *Cannabis Control and Licensing Act*, issues the licencing for:

- Cannabis retail stores

Before submitting an application for a licence under a cultivation, processing or sale category, Section 7 of the *Cannabis Regulations* requires the applicant to notify the local government, the local fire authority and the local police detachment (licencing for analytical testing, research and cannabis drugs do not involve local governments). If the proposed cultivation, processing or sale of cannabis is not consistent with the local government’s Zoning Bylaw, then the licence may not be approved.

Context

Since legalization of cannabis by the federal government, Comox Valley Regional District (CVRD) staff have received numerous enquiries from members of the public assessing the feasibility of cultivation and sale in the rural areas. Because the Zoning Bylaw prohibits such activity, an application for a zoning amendment or Temporary Use Permit (TUP) is required for any property owner before they can apply for a federal or provincial cannabis licence. To date, two such applications (all TUP applications) have been submitted, all for “micro-cultivation” which is a cultivation licence limited to a maximum surface area of 200 square metres. In reviewing applications staff takes direction from the objectives and policies of the OCP. Because the OCP contemplated cannabis only in the form of “medical marihuana production facilities” (MMPFs), which were large, secure facilities (though none were constructed in the Comox Valley), there is

uncertainty in how smaller-scale proposals will be received in areas where the larger-scale production facilities were not permitted. Updating the OCP bylaw will provide a policy basis for future zoning regulations and clarity for the public regarding how applications will be reviewed.

Official Community Plan

The OCP was adopted in 2014 at a time when cannabis production and distribution was regulated by the *Maribwana for Medical Purposes Regulations*, and consequently, the OCP only speaks to MMPFs (equivalent to the new “standard cultivation” category) without consideration to micro-cultivation, processing or sale of cannabis. Policy 21.(2) of the OCP currently directs MMPFs to be considered only through a rezoning process and only in the Agricultural Areas and Resource Areas. The Agricultural Areas is a designation that overlaps with the *Agricultural Land Reserve (ALR)* and the Resource Areas is a designation that generally covers the areas used for forestry, primarily west of the Inland Highway. Policies 58.(3) and 62.(2) are the corresponding Agricultural Areas and Resource Areas policies that state the considerations for how a rezoning proposal will be reviewed.

The new framework, with allowances for smaller cultivation facilities with less requisite investments, makes operating such facilities feasible as accessory buildings in rural neighbourhoods, expanding existing legal (operated under a personal medical licence) facilities, or bringing illegal existing facilities into compliance.

Retail sales and processing of cannabis is consistent with the OCP’s policies for commercial and industrial uses. Applications can be processed under those existing policies. While the OCP generally discourages the creation of new commercial and industrial areas outside of the Settlement Nodes, there are numerous existing commercial and industrial zoned properties where these uses may occur.

Agricultural Areas and Agricultural Land Reserve

Under the new framework, the ALR Regulations now allow cannabis cultivation, regardless of scale, but has conditions regarding buildings in which it is grown: they must have a base consisting entirely of soil or be a pre-existing, unaltered buildings constructed for the purpose of growing crops inside. BC Assessment currently does not accept cannabis production as a qualifying agricultural use for the purposes of evaluating farm status under the *Assessment Act*. However, within the ALR, cannabis cultivation is a “farm operation” as defined by the *Farm Practices Protection (Right to Farm) Act* for which nuisance (e.g. odour, noise) complaints are reviewed by the BC Farm Industry Review Board (BC FIRB) and exempted from local government nuisance bylaws. In 2018 the BC FIRB accepted two cases involving odour from a cannabis operation and are currently studying normal farm practices in that industry.

If the proposal is not consistent with the ALR Regulation then a non-farm use application is required. This type of application is reviewed by the CVRD Board in order to provide comments and recommendations to the Agricultural Land Commission (ALC), though the board has the option of refusing to forward the application to the ALC. Staff review of ALR applications are based on OCP policies, including Policies 21.(2) and (3) noted above and those listed in the Agricultural Areas section.

Building Bylaw

In the past, the CVRD has received numerous nuisance complaints regarding existing cannabis cultivation operations, mostly regarding sub-standard building construction and odour. Mandatory building permits for new buildings, or buildings whose use has changed, help address this concern. The proposed review would also include consideration of how a cultivation of cannabis use would be affected by the Building Bylaw, Bylaw No. 142, and its provisions for farm buildings.

Planning Procedures and Fees Bylaw

Regarding sales of recreational cannabis, should an applicant apply to the province for a cannabis retail store licence, Section 33 of the *Cannabis Control and Licensing Act* requires the province to refer the application to the local government and not approve it until the local government provides a “*recommendation that the licence be issued*”.

This Act, combined with Section 13 of the *Cannabis Licensing Regulation*, requires the local government take into consideration a proposed store’s location and how it may affect nearby residents, and must use one or more of the following methods to gather the views of residents of an area:

- “(a) by receiving written comments in response to a public notice of the application;*
- (b) by conducting a public hearing in respect of the application;*
- (c) by holding a referendum;*
- (d) by using another method the local government...considers appropriate.”*

Section 35 allows the local government to impose fees, by bylaw, on an applicant in order to recover the costs incurred in assessing the application.

The proposed review of the Planning Procedures and Fees Bylaw would give consideration to the appropriate methods of gathering the views of residents and, based on those methods, the appropriate fee.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, first nations, boards of education, improvement district boards, and provincial and federal governments and their agencies.

Options

The board may choose to:

1. Initiate a review and update of the Official Community Plan, Planning Fees and Procedures Bylaw and Building Bylaw as they relate to cannabis, or
2. Not initiate a process at this time.

Staff recommends option 1. Should the board choose to initiate the review process, staff will report back to the board with a recommended update and communication plan.

Financial Factors

These costs of the review process will be covered by the electoral areas planning function.

Legal Factors

The proposed review process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, the *Cannabis Distribution Act* and the *Agricultural Land Commission Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. Any proposed bylaw amendment must be consistent with this direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

Should the board choose to initiate the review process, staff will provide the board with a communication plan that include a list of agencies and First Nations which may be referred to for comment.

Interdepartmental Involvement

The review process includes referrals to relevant CVRD departments and their responses are incorporated into the considerations.

Citizen/Public Relations

Should the board choose to initiate the review process, staff will report back to the board with a recommended communication plan.

DATE: September 4, 2019**FILE:** 3350-20 / CP 1CV 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE:** Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

To provide recommendations to the Comox Valley Regional District (CVRD) Board (the board) regarding a communication plan (Appendix A) an update to the Official Community Plan (Appendix B), and updates to the Planning Procedures and Fees Bylaw (Appendix C) and Building Bylaw (Appendix D) as the bylaws relate to cannabis cultivation, processing and sales.

Recommendations from the Chief Administrative Officer:

1. THAT the Comox Valley Regional District Board endorse the communication plan as outlined in Appendix A and the recommended bylaw update information outlined in Appendix B of staff report dated September 4, 2019, and direct staff to start the external agency referral process for making provisions regarding cannabis in Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (CP 1CV 19);

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

2. THAT the board consider first, second and third readings of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3” (CP 1CV 19), which inserts a procedure and fee relating to cannabis retail referrals (Appendix C).
3. THAT the board consider first, second and third readings of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2014, Amendment No. 4” (CP 1CV 19), regarding the applicability of the bylaw to cannabis cultivation within farm buildings (Appendix D).

Executive Summary

- The recommended amendment to the Official Community Plan, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), would delete the existing policies referencing “Medical Marihuana Production Facilities” and replace them with a list of policy considerations for considering cannabis cultivation (Appendix B).
- Policies relating to the sale and processing of cannabis would remain integrated in the OCP’s existing policies for commercial and industrial uses.
- The recommended communication plan includes referrals to First Nations, provincial and local government agencies, a webpage on the CVRD Website, memos to all Advisory Planning Commissions, newspaper notices and a public hearing (Appendix A).

- The recommended amendment to the Planning Procedures and Fees Bylaw, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, would insert a \$1,000 fee payable by an applicant of a cannabis retail license and require public notification in order to fulfill the CVRD’s role of gathering the views of residents as required in the *Cannabis Control and Licensing Act* (Appendix C).
- The recommended amendment to the Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, would clarify that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” which would be exempt from Building Permits (Appendix D).
- Staff recommends consultation outlined in the communication plan (Appendix B) be initiated based on the policy updates to the OCP outlined in Appendix A, and that first, second and third readings to the updates to the Planning Procedures and Fees Bylaw and the Building Bylaw be given.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

On May 28, 2019, in response to the role created for local government in regulating the cultivation, processing and sale of cannabis, the CVRD Board adopted the following resolution:

“THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).”

The *Cannabis Act* and its regulations came into force on October 17, 2018. Along with the *Cannabis Control and Licensing Act*, the federal/provincial licencing framework allows local governments to regulate the use of cultivation, processing and sale of cannabis through its land use regulations. Currently, the OCP directs production of medical cannabis to the Agricultural and Resource Areas and does not contemplate non-medical cannabis production, while the Zoning Bylaw broadly prohibits the commercial production, cultivation, processing and sale of cannabis in all zones.

Official Community Plan, Bylaw No. 337

Among other objectives, the OCP provides policy direction for the Zoning Bylaw and direction for reviewing planning applications. Section 21(2), concerning “economy and industry – policies (emergent industries)” which currently directs that site-specific rezonings be used to allow for the production of medical cannabis and only in the Agricultural Areas and Resource Areas, will be deleted and replaced with more specific provisions addressing commercial cannabis production. The draft policy (Appendix B) lists considerations for generally regulating or considering site-specific

rezonings, including impacts affecting adjacent land uses and cumulative impacts affecting a neighbourhood. The draft policy directs that cultivation of cannabis be considered an agricultural or industrial use, meaning that it could be permitted and regulated in the Rural Settlement Areas and other areas where agricultural or industrial uses are permitted. Specific to the Agricultural Areas (e.g. areas within the *Agricultural Land Reserve (ALR)*) Section 58(3) directs that consideration be given to consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture. Similarly, Policy 62.(2) which is applicable to the Resource Areas only and currently lists those factors recommended to be moved to Section 21 so they apply broadly to all areas, would be replaced with the direction that cannabis cultivation and processing be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.

These draft revisions would direct cannabis retail stores to locate in accordance with the OCP's existing provisions for other commercial uses.

Planning Procedures and Fees Bylaw, Bylaw No. 328

Sections 33 to 35 of the *Cannabis Control and Licensing Act* state that the province must not issue a licence to sell cannabis unless the local government provides a “*recommendation that the licence be issued*” and that if the local government opts to provide comments and recommendations, it must gather the views of residents beforehand. That Act also states that the local government may impose fees, by bylaw, on the applicant in order to recover the costs incurred in assessing the application.

The draft bylaw amendment inserts a fee of \$1,000 payable by the applicant of a cannabis retail license and inserts a requirement that the CVRD gather the views of residents via a mailed notice (Appendix C). The notification radius is the same as planning applications, specified in Schedule A, Section 1(h) of the bylaw.

After the board reviews the referral and responses to the notification, the board may provide comments and recommendations to the province regarding the referral. Alternately, should the board seek to gather further views of residents, the bylaw allows the board to order a public information session (applicant incurs an additional \$1,000 fee) or statutory public hearing (applicant incurs additional \$1,500 fee) or an alternate notification area.

Building Bylaw

Building Bylaw, Bylaw No. 142, requires an owner to obtain a Building Permit prior to constructing, altering, or changing the occupancy of a building but exempts “*low human occupancy farm buildings located on land classified as ‘farm’ under the Assessment Act*”. The draft amendment to the Building Bylaw clarifies that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” (Appendix D).

Communication Plan

The communication plan (Appendix A) includes the following means of outreach to notify members of the public of the proposed amendments:

- Forward referrals to First Nations, provincial and local government agencies
- Webpage at www.comoxvalleyrd.ca/cannabis
- Memos to all Advisory Planning Commissions
- Newspaper notices
- Public hearing

If the communication plan is adopted as presented, the referrals would be sent and the webpage posted as soon as possible. The October meetings of the Advisory Planning Commissions would

include a memo regarding these proposed amendments. Based on the recommendations and feedback, first and second readings of the bylaws could occur in December and a public hearing in January.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, First Nations, boards of education, improvement district boards, and provincial and federal governments and their agencies (Appendix A).

Section 33 of the *Cannabis Control and Licensing Act* requires the local government to gather the views of residents of an area prior to the province issuing a retail store licence. Section 35 authorizes the local government to impose fees on the applicant in order to recover the costs incurred in assessing an application for a cannabis retail store.

Options

Regarding the update to the OCP, the board may choose to:

1. Initiate a bylaw amendment process by adopting the communication plan, or
2. Not initiate a process at this time.

Regarding the update to the Planning Procedures and Fees Bylaw, Bylaw No. 218, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Regarding the update to the Building Bylaw, Bylaw No. 142, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Staff recommends options 1, to proceed with initiating the OCP bylaw amendment process with the proposed communication plan as presented, and providing first, second and third readings to the Planning Procedures and Fees Bylaw and Building Bylaw.

Financial Factors

Costs associated with this bylaw amendment process will include the cost of holding a public hearing, statutory advertising, and community engagement. These costs will be covered by the electoral areas planning function.

Legal Factors

The proposed bylaw amendment process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, and the *Cannabis Distribution Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. The proposed bylaw amendments are consistent with this

direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

The proposed communication plan (Appendix A) and the bylaw amendment process includes a list of agencies and First Nation organizations which may be referred to for comment.

Interdepartmental Involvement

An internal referral to relevant CVRD departments has been issued and the initial responses incorporated into this process. Further comments will be incorporated into future reports during the bylaw amendment process.

Citizen/Public Relations

The proposed communication plan (Appendix A) includes provisions for public engagement, a public hearing, and referrals to all Advisory Planning Commissions.

- Attachments:
- Appendix A – “Communication Plan (CP 1CV 19)”
 - Appendix B – “Summary of recommended OCP bylaw amendments relating to cannabis”
 - Appendix C – “Planning Procedures and Fees Bylaw Amendment”
 - Appendix D – “Building Bylaw Amendment”



Subject: <u>Official Community Plan Bylaw Update (Cannabis)</u>	File: CP 1CV 19
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Purpose

To outline a consultation process relating to draft amendments to the Official Community Plan (OCP) Bylaw regarding cannabis.

Target Audiences:

- Residents within Electoral Area A (excluding Denman/Hornby Islands), B and C
- Comox Valley Regional District (CVRD) Board
- CVRD Electoral Areas Services Committee

Project Background:

- The federal *Cannabis Act* and provincial *Cannabis Control and Licensing Act* includes a role for local governments in regulating the location of cannabis licences for cultivation, processing or sales.
- Currently the OCP only considers “Medical Marijuana Production Facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*.
- As new federal and provincial regulations have changed industry standards and the role of local government, the OCP Bylaw is being updated to reflect these changes.
- Amendments to the OCP will include new policy considerations for regulating cannabis cultivation.

Spokesperson: Jodi MacLean, Rural Planner

Communication Objectives:

1. To increase awareness on how the OCP Bylaw will relate to cannabis cultivation, processing and sales.
2. To provide detailed information to the Electoral Areas Services Committee (EASC) and CVRD Board to assist with the decision-making process.
3. To receive feedback regarding policy changes.
4. To accept comments and recommendations from external agencies relating to draft bylaw amendments.

Budget: \$1,500

Communication/Engagement Strategies:

Elements	Description	Responsibility	IAP2 Spectrum	Budget	Due Date
Webpage	Maintain the webpage with information and process timeline. www.comoxvalleyrd.ca/cannabis	Content: Jodi Update/ Publish: Jennifer	Inform	Staff time	September 2019
First Nations	Mail/email referrals in accordance with the referrals management program and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Provincial and local government agencies	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Improvement districts, and school district	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Advisory Planning Commissions (APCs)	Review background information and recommendations	Jodi	Inform	APCs operate under planning budget	October 2019
EASC	1st and 2nd reading	Jodi	Consult	Staff time	December 2019 or January 2020
Public Hearing Ads	Statutory advertisements required during OCP amendments.	Content: Jodi Design/Book/ Distribute: Beverly	Inform	\$1,000	To be determined after scheduling of public hearing

Public Hearing	Statutory process to to receive feedback from the public.	Jodi Display Design: Beverly (content by Planning)	Consult	Staff time + \$500 materials (e.g. poster displays, etc.)	To be scheduled by EASC
CVRD Board	Present feedback from public hearing to EASC. Consideration of 3 rd Reading and adoption.	Jodi	Consult	Staff time	To be determined

Approval History

Created by: Jodi MacLean	April 2, 2019
Amended:	

Agency and First Nations Referral List

Pursuant to Section 475(2) and (4) of the *Local Government Act* (RSBC, 2015, c. 1), this list specifically considers whether consultation is required with the listed agencies. Those denoted with an will receive a referral of the proposal prior to a public hearing.

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwa) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission		BC Assessment
	Ministry of Municipal Affairs and Housing		Ministry of Energy, Mines and Petroleum Resources
	Ministry of Environment and Climate Change Strategy		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Trade and Technology
	Ministry of Tourism, Arts and Culture		Ministry of Indigenous Relations and Reconciliation
<input checked="" type="checkbox"/>	Ministry of Agriculture		Ministry of Labour
	Ministry of Health		

Local Government

<input checked="" type="checkbox"/>	Comox (Town of)		Alberni-Clayoquot Regional District
<input checked="" type="checkbox"/>	Courtenay (City of)		Strathcona Regional District
<input checked="" type="checkbox"/>	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Baynes Sound Denman / Hornby Islands (Electoral Area A) Advisory Planning Commission	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	Lazo North (Electoral Area B) Advisory Planning Commission	<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)
<input checked="" type="checkbox"/>	Puntledge – Black Creek (Electoral Area C) Advisory Planning Commission	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Union Bay Improvement District		Fanny Bay Water Works District
<input checked="" type="checkbox"/>	Ships Point Improvement District		



Summary of Recommended Bylaw Amendments Relating to Cannabis

Official Community Plan, Bylaw No. 337

- Delete Section 21.(2) *“Consider medical marihuana production facilities licensed pursuant to the marihuana for medical purposes regulations through a rezoning within the agriculture area and resource area designations subject to the conditions included in part 3 of this OCP.”*
- Insert Section 21.(2) *“Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.”*
- Insert Section 21.(3) *“In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide:*
 - (a) information pertaining to liquid and solid waste management systems;*
 - (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological regime of a property;*
 - (c) mitigation of impacts on environmentally sensitive areas and/or features;*
 - (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and,*
 - (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*
- Delete Section 58.(3) *“Consider a site specific rezoning application to permit medical marihuana production licensed pursuant to the marihuana for medical purposes regulations within the agriculture area designation subject to the following conditions:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the building(s) and lot;*
 - (c) mitigation of potential impacts to agricultural capability of the lot, including, but not limited to: building footprint, soil classification, building location and building clustering;*
 - (d) provision of security measures in accordance with federal government requirements, while respecting integration with the proposed siting and surrounding community;*
 - (e) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (f) provision of adequate water supply and waste management systems;*
 - (g) mitigation of potential traffic generation impacts;*
 - (h) provision of adequate highway access and parking;*
 - (i) provision for the disposal of all waste cannabis material in accordance with federal government requirements;*
 - (j) mitigation of potential negative impacts on environmentally sensitive areas and/or features and the productive potential of adjacent resource lands; and*

- (k) consideration of whether siting for the component parts or medical marihuana production activities should be collectively or separately, in one location or on multiple sites, including the form and character, use, community integration and environmental implications.”*
- Insert Section 58.(3) with “*New or modified cannabis cultivation, processing and sales within the ALR should consider consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture.*”
 - Delete Section 62.(2) “*Consider medical marihuana production licensed pursuant to the marihuana for medical purposes regulations through a site specific rezoning within the resource areas designation subject to consideration of the following:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the proposed building(s) and lot;*
 - (c) mitigation of potential negative impacts on environmentally sensitive areas including the security, quality and quantity of drinking water;*
 - (d) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (e) provision of adequate water supply and waste management systems;*
 - (f) mitigation of potential traffic generation impacts;*
 - (g) provision of adequate highway access and parking,*
 - (h) mitigation of potential negative impacts on environmentally sensitive areas and/or features.”*
 - Insert Section 62.(2) with “*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*”
 - Cannabis retail sales deemed to be a commercial use and may be considered in accordance with the OCP’s existing provisions for other commercial uses.

Other Bylaw Amendments

1. Planning Procedures and Fees Bylaw, Bylaw No. 328

- Insert requirement that CVRD mail notices using notification radius used for planning applications.
- Insert referral fee of \$1,000.

2. Building Bylaw, Bylaw No. 142

- Add the following underlined portion to Section 5.(2) “*(e) low human occupancy farm buildings located on land classified as “farm” under the Assessment Act on the date on which the application for permit was made, except buildings and structures used for activities subject to a cultivation or processing licence under the Cannabis Act.*”


 Appendix C:
 Bylaw Status Report

BYLAW NO. 584	
Bylaw Name:	Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Planning Procedures and Fees Bylaw in order to insert a fee and procedure regarding referrals of cannabis retail stores.
Amends Bylaw:	328
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 584

A Bylaw to Amend the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” in order to insert a fee and procedure regarding referrals of cannabis retail stores.

WHEREAS Section 33 of the *Cannabis Control and Licensing Act* requires the local government for the area in which a prescribed class of licence relating to the sale of cannabis is proposed to be located be given a notice of the application and requires the local government to gather the views of residents of the relevant area prior to giving comments and recommendations responding to the notice;

AND WHEREAS Section 35 of the *Cannabis Control and Licensing Act* allows a local government that, under Section 33, gives comments and recommendations may, by bylaw, impose fees on the applicant in order to recover the costs incurred in assessing the application;

NOW THEREFORE the board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Planning Procedures and Fees” being Bylaw No. 328:

Amendment

1. Schedule A of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(j) Cannabis licensing

 - (i) When a notice of application is received in accordance with Division 3 of the *Cannabis Control and Licensing Act*, the views of residents shall be obtained by mailing a notice to owners and tenants. An additional method to gather the views of residents may be used when deemed appropriate by the board.”

2. Schedule B of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(19) Cannabis licensing referral	\$1,000”
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Citation

This Bylaw No. 584 may be cited as the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.

Adopted this

day of

20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3,” as adopted by the board of the Comox Valley Regional District on the ____ day of _____ 20XX.

Corporate Legislative Officer


 Appendix D:
 Bylaw Status Report

BYLAW NO. 585	
Bylaw Name:	Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Building Bylaw in order to clarify the applicability of the bylaw to cannabis cultivation within farm buildings.
Amends Bylaw:	142
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	N/A
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 585

**A Bylaw to Amend the “Comox Valley Regional District Building Bylaw No. 142, 2011”
in order to clarify the applicability of the bylaw to cannabis cultivation within farm
buildings.**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Building Bylaw” being Bylaw No. 142:

Amendment

In Section 5(2) deleting the following:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made;”

and adding the following in its place:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made, except buildings and structures used for activities subject to a cultivation or processing licence under the *Cannabis Act*;”

Citation

This Bylaw No. 585 may be cited as the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.
Adopted this	day of	20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4,” as adopted by the board of the Comox Valley Regional District on the ___ day of _____ 20XX.

Corporate Legislative Officer

Memo

File: 3360-20/CP 1CV 19

DATE: October 3, 2019

TO: Advisory Planning Commission
Baynes Sound – Denman / Hornby Islands (Electoral Area A)

FROM: Planning and Development Services Branch

RE: Official Community Plan Amendment
Cannabis Cultivation, Processing and Sales

The attached Official Community Plan Amendment is for commission members' review and comment.

The Official Community Plan is being updated to address how the cultivation, processing and sales of cannabis is being licensed by the federal and provincial governments. The update will replace the three policies [21(2), 58(3) and 62(2)] that speak to "medical marihuana production facilities" with the following:

Section 21.(2) "*Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.*"

Section 21(3) "*In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide: (a) information pertaining to liquid and solid waste management systems; (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological function of a property; (c) mitigation of impacts on environmentally sensitive areas and/or features; (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and, (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*"

[Agricultural Areas] Section 58(3) "*New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve should consider consistency with relevant Agricultural Land Reserve regulations and bylaw standards as published by the Ministry of Agriculture.*"

[Resources Areas] Section 62(2) "*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*"

For more information, please refer to the attached staff reports dated May 6 and September 4, 2019, which were considered by the Comox Valley Regional District Board on May 28 and October 1, 2019.

Sincerely,

T. Trieu

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

/jm

Attachment: Staff Report Dated May 6, 2019
Staff Report Dated September 4, 2019

DATE: May 6, 2019

FILE: 3350-20 / CP 1CV 19

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

The purpose of this report is to recommend the initiation of a review and update of the policies of the Official Community Plan (OCP) and the provisions of the Planning Procedures and Fees Bylaw and the Building Bylaw regarding cannabis.

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).

Executive Summary

- The new federal *Cannabis Act* creates licencing categories that include cultivation, processing and sales (medical) and the provincial *Cannabis Control and Licensing Act* creates licencing for cannabis retail stores.
- Currently, the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” only considers “medical marihuana production facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*. An update to the OCP will provide direction for zoning regulations and considerations for applications relating to the newly legalized cannabis uses.
- As the new provincial licensing process for retail stores requires the local government to gather the views of residents and allows for the imposition of a fee to cover associated costs, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, should be updated to impose that fee and specify a minimum level of consultation prior to consideration of a cannabis retail sales application.
- The Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, can be reviewed regarding how it relates to a cultivation of cannabis use.
- Staff recommends updating these bylaws as they relate to cannabis.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, MCIP, RPP
Acting General Manager of
Planning and Development
Services Branch**Background/Current Situation**

On May 14, 2018, during consideration of a zoning amendment bylaw to prohibit cannabis cultivation, processing and sale, the Electoral Areas Services Committee adopted the following resolution:

“THAT staff report back to the Electoral Areas Services Committee with a fulsome analysis of options regarding regulations once the Cannabis Act and related regulations have been approved and made available to the public.”

The *Cannabis Act* and its regulations came into force on October 17, 2018. They require a person to hold a licence issued by Health Canada in order to work with cannabis. The licence can be issued under one of the following categories:

- Cultivation (standard)
- Cultivation (micro-cultivation)
- Cultivation (nursery)
- Processing (standard)
- Processing (micro-processing)
- Sale (medical)
- Analytical testing
- Research
- Cannabis drug licence

The province, under the *Cannabis Control and Licensing Act*, issues the licencing for:

- Cannabis retail stores

Before submitting an application for a licence under a cultivation, processing or sale category, Section 7 of the *Cannabis Regulations* requires the applicant to notify the local government, the local fire authority and the local police detachment (licencing for analytical testing, research and cannabis drugs do not involve local governments). If the proposed cultivation, processing or sale of cannabis is not consistent with the local government’s Zoning Bylaw, then the licence may not be approved.

Context

Since legalization of cannabis by the federal government, Comox Valley Regional District (CVRD) staff have received numerous enquiries from members of the public assessing the feasibility of cultivation and sale in the rural areas. Because the Zoning Bylaw prohibits such activity, an application for a zoning amendment or Temporary Use Permit (TUP) is required for any property owner before they can apply for a federal or provincial cannabis licence. To date, two such applications (all TUP applications) have been submitted, all for “micro-cultivation” which is a cultivation licence limited to a maximum surface area of 200 square metres. In reviewing applications staff takes direction from the objectives and policies of the OCP. Because the OCP contemplated cannabis only in the form of “medical marihuana production facilities” (MMPFs), which were large, secure facilities (though none were constructed in the Comox Valley), there is

uncertainty in how smaller-scale proposals will be received in areas where the larger-scale production facilities were not permitted. Updating the OCP bylaw will provide a policy basis for future zoning regulations and clarity for the public regarding how applications will be reviewed.

Official Community Plan

The OCP was adopted in 2014 at a time when cannabis production and distribution was regulated by the *Maribwana for Medical Purposes Regulations*, and consequently, the OCP only speaks to MMPFs (equivalent to the new “standard cultivation” category) without consideration to micro-cultivation, processing or sale of cannabis. Policy 21.(2) of the OCP currently directs MMPFs to be considered only through a rezoning process and only in the Agricultural Areas and Resource Areas. The Agricultural Areas is a designation that overlaps with the *Agricultural Land Reserve (ALR)* and the Resource Areas is a designation that generally covers the areas used for forestry, primarily west of the Inland Highway. Policies 58.(3) and 62.(2) are the corresponding Agricultural Areas and Resource Areas policies that state the considerations for how a rezoning proposal will be reviewed.

The new framework, with allowances for smaller cultivation facilities with less requisite investments, makes operating such facilities feasible as accessory buildings in rural neighbourhoods, expanding existing legal (operated under a personal medical licence) facilities, or bringing illegal existing facilities into compliance.

Retail sales and processing of cannabis is consistent with the OCP’s policies for commercial and industrial uses. Applications can be processed under those existing policies. While the OCP generally discourages the creation of new commercial and industrial areas outside of the Settlement Nodes, there are numerous existing commercial and industrial zoned properties where these uses may occur.

Agricultural Areas and Agricultural Land Reserve

Under the new framework, the ALR Regulations now allow cannabis cultivation, regardless of scale, but has conditions regarding buildings in which it is grown: they must have a base consisting entirely of soil or be a pre-existing, unaltered buildings constructed for the purpose of growing crops inside. BC Assessment currently does not accept cannabis production as a qualifying agricultural use for the purposes of evaluating farm status under the *Assessment Act*. However, within the ALR, cannabis cultivation is a “farm operation” as defined by the *Farm Practices Protection (Right to Farm) Act* for which nuisance (e.g. odour, noise) complaints are reviewed by the BC Farm Industry Review Board (BC FIRB) and exempted from local government nuisance bylaws. In 2018 the BC FIRB accepted two cases involving odour from a cannabis operation and are currently studying normal farm practices in that industry.

If the proposal is not consistent with the ALR Regulation then a non-farm use application is required. This type of application is reviewed by the CVRD Board in order to provide comments and recommendations to the Agricultural Land Commission (ALC), though the board has the option of refusing to forward the application to the ALC. Staff review of ALR applications are based on OCP policies, including Policies 21.(2) and (3) noted above and those listed in the Agricultural Areas section.

Building Bylaw

In the past, the CVRD has received numerous nuisance complaints regarding existing cannabis cultivation operations, mostly regarding sub-standard building construction and odour. Mandatory building permits for new buildings, or buildings whose use has changed, help address this concern. The proposed review would also include consideration of how a cultivation of cannabis use would be affected by the Building Bylaw, Bylaw No. 142, and its provisions for farm buildings.

Planning Procedures and Fees Bylaw

Regarding sales of recreational cannabis, should an applicant apply to the province for a cannabis retail store licence, Section 33 of the *Cannabis Control and Licensing Act* requires the province to refer the application to the local government and not approve it until the local government provides a “*recommendation that the licence be issued*”.

This Act, combined with Section 13 of the *Cannabis Licensing Regulation*, requires the local government take into consideration a proposed store’s location and how it may affect nearby residents, and must use one or more of the following methods to gather the views of residents of an area:

- “(a) by receiving written comments in response to a public notice of the application;*
- (b) by conducting a public hearing in respect of the application;*
- (c) by holding a referendum;*
- (d) by using another method the local government...considers appropriate.”*

Section 35 allows the local government to impose fees, by bylaw, on an applicant in order to recover the costs incurred in assessing the application.

The proposed review of the Planning Procedures and Fees Bylaw would give consideration to the appropriate methods of gathering the views of residents and, based on those methods, the appropriate fee.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, first nations, boards of education, improvement district boards, and provincial and federal governments and their agencies.

Options

The board may choose to:

1. Initiate a review and update of the Official Community Plan, Planning Fees and Procedures Bylaw and Building Bylaw as they relate to cannabis, or
2. Not initiate a process at this time.

Staff recommends option 1. Should the board choose to initiate the review process, staff will report back to the board with a recommended update and communication plan.

Financial Factors

These costs of the review process will be covered by the electoral areas planning function.

Legal Factors

The proposed review process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, the *Cannabis Distribution Act* and the *Agricultural Land Commission Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. Any proposed bylaw amendment must be consistent with this direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

Should the board choose to initiate the review process, staff will provide the board with a communication plan that include a list of agencies and First Nations which may be referred to for comment.

Interdepartmental Involvement

The review process includes referrals to relevant CVRD departments and their responses are incorporated into the considerations.

Citizen/Public Relations

Should the board choose to initiate the review process, staff will report back to the board with a recommended communication plan.

DATE: September 4, 2019**FILE:** 3350-20 / CP 1CV 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE:** Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

To provide recommendations to the Comox Valley Regional District (CVRD) Board (the board) regarding a communication plan (Appendix A) an update to the Official Community Plan (Appendix B), and updates to the Planning Procedures and Fees Bylaw (Appendix C) and Building Bylaw (Appendix D) as the bylaws relate to cannabis cultivation, processing and sales.

Recommendations from the Chief Administrative Officer:

1. THAT the Comox Valley Regional District Board endorse the communication plan as outlined in Appendix A and the recommended bylaw update information outlined in Appendix B of staff report dated September 4, 2019, and direct staff to start the external agency referral process for making provisions regarding cannabis in Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (CP 1CV 19);

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

2. THAT the board consider first, second and third readings of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3” (CP 1CV 19), which inserts a procedure and fee relating to cannabis retail referrals (Appendix C).
3. THAT the board consider first, second and third readings of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2014, Amendment No. 4” (CP 1CV 19), regarding the applicability of the bylaw to cannabis cultivation within farm buildings (Appendix D).

Executive Summary

- The recommended amendment to the Official Community Plan, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), would delete the existing policies referencing “Medical Marihuana Production Facilities” and replace them with a list of policy considerations for considering cannabis cultivation (Appendix B).
- Policies relating to the sale and processing of cannabis would remain integrated in the OCP’s existing policies for commercial and industrial uses.
- The recommended communication plan includes referrals to First Nations, provincial and local government agencies, a webpage on the CVRD Website, memos to all Advisory Planning Commissions, newspaper notices and a public hearing (Appendix A).

- The recommended amendment to the Planning Procedures and Fees Bylaw, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, would insert a \$1,000 fee payable by an applicant of a cannabis retail license and require public notification in order to fulfill the CVRD’s role of gathering the views of residents as required in the *Cannabis Control and Licensing Act* (Appendix C).
- The recommended amendment to the Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, would clarify that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” which would be exempt from Building Permits (Appendix D).
- Staff recommends consultation outlined in the communication plan (Appendix B) be initiated based on the policy updates to the OCP outlined in Appendix A, and that first, second and third readings to the updates to the Planning Procedures and Fees Bylaw and the Building Bylaw be given.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

On May 28, 2019, in response to the role created for local government in regulating the cultivation, processing and sale of cannabis, the CVRD Board adopted the following resolution:

“THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).”

The *Cannabis Act* and its regulations came into force on October 17, 2018. Along with the *Cannabis Control and Licensing Act*, the federal/provincial licencing framework allows local governments to regulate the use of cultivation, processing and sale of cannabis through its land use regulations. Currently, the OCP directs production of medical cannabis to the Agricultural and Resource Areas and does not contemplate non-medical cannabis production, while the Zoning Bylaw broadly prohibits the commercial production, cultivation, processing and sale of cannabis in all zones.

Official Community Plan, Bylaw No. 337

Among other objectives, the OCP provides policy direction for the Zoning Bylaw and direction for reviewing planning applications. Section 21(2), concerning “economy and industry – policies (emergent industries)” which currently directs that site-specific rezonings be used to allow for the production of medical cannabis and only in the Agricultural Areas and Resource Areas, will be deleted and replaced with more specific provisions addressing commercial cannabis production. The draft policy (Appendix B) lists considerations for generally regulating or considering site-specific

rezonings, including impacts affecting adjacent land uses and cumulative impacts affecting a neighbourhood. The draft policy directs that cultivation of cannabis be considered an agricultural or industrial use, meaning that it could be permitted and regulated in the Rural Settlement Areas and other areas where agricultural or industrial uses are permitted. Specific to the Agricultural Areas (e.g. areas within the *Agricultural Land Reserve (ALR)*) Section 58(3) directs that consideration be given to consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture. Similarly, Policy 62.(2) which is applicable to the Resource Areas only and currently lists those factors recommended to be moved to Section 21 so they apply broadly to all areas, would be replaced with the direction that cannabis cultivation and processing be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.

These draft revisions would direct cannabis retail stores to locate in accordance with the OCP's existing provisions for other commercial uses.

Planning Procedures and Fees Bylaw, Bylaw No. 328

Sections 33 to 35 of the *Cannabis Control and Licensing Act* state that the province must not issue a licence to sell cannabis unless the local government provides a “*recommendation that the licence be issued*” and that if the local government opts to provide comments and recommendations, it must gather the views of residents beforehand. That Act also states that the local government may impose fees, by bylaw, on the applicant in order to recover the costs incurred in assessing the application.

The draft bylaw amendment inserts a fee of \$1,000 payable by the applicant of a cannabis retail license and inserts a requirement that the CVRD gather the views of residents via a mailed notice (Appendix C). The notification radius is the same as planning applications, specified in Schedule A, Section 1(h) of the bylaw.

After the board reviews the referral and responses to the notification, the board may provide comments and recommendations to the province regarding the referral. Alternately, should the board seek to gather further views of residents, the bylaw allows the board to order a public information session (applicant incurs an additional \$1,000 fee) or statutory public hearing (applicant incurs additional \$1,500 fee) or an alternate notification area.

Building Bylaw

Building Bylaw, Bylaw No. 142, requires an owner to obtain a Building Permit prior to constructing, altering, or changing the occupancy of a building but exempts “*low human occupancy farm buildings located on land classified as ‘farm’ under the Assessment Act*”. The draft amendment to the Building Bylaw clarifies that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” (Appendix D).

Communication Plan

The communication plan (Appendix A) includes the following means of outreach to notify members of the public of the proposed amendments:

- Forward referrals to First Nations, provincial and local government agencies
- Webpage at www.comoxvalleyrd.ca/cannabis
- Memos to all Advisory Planning Commissions
- Newspaper notices
- Public hearing

If the communication plan is adopted as presented, the referrals would be sent and the webpage posted as soon as possible. The October meetings of the Advisory Planning Commissions would

include a memo regarding these proposed amendments. Based on the recommendations and feedback, first and second readings of the bylaws could occur in December and a public hearing in January.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, First Nations, boards of education, improvement district boards, and provincial and federal governments and their agencies (Appendix A).

Section 33 of the *Cannabis Control and Licensing Act* requires the local government to gather the views of residents of an area prior to the province issuing a retail store licence. Section 35 authorizes the local government to impose fees on the applicant in order to recover the costs incurred in assessing an application for a cannabis retail store.

Options

Regarding the update to the OCP, the board may choose to:

1. Initiate a bylaw amendment process by adopting the communication plan, or
2. Not initiate a process at this time.

Regarding the update to the Planning Procedures and Fees Bylaw, Bylaw No. 218, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Regarding the update to the Building Bylaw, Bylaw No. 142, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Staff recommends options 1, to proceed with initiating the OCP bylaw amendment process with the proposed communication plan as presented, and providing first, second and third readings to the Planning Procedures and Fees Bylaw and Building Bylaw.

Financial Factors

Costs associated with this bylaw amendment process will include the cost of holding a public hearing, statutory advertising, and community engagement. These costs will be covered by the electoral areas planning function.

Legal Factors

The proposed bylaw amendment process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, and the *Cannabis Distribution Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. The proposed bylaw amendments are consistent with this

direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

The proposed communication plan (Appendix A) and the bylaw amendment process includes a list of agencies and First Nation organizations which may be referred to for comment.

Interdepartmental Involvement

An internal referral to relevant CVRD departments has been issued and the initial responses incorporated into this process. Further comments will be incorporated into future reports during the bylaw amendment process.

Citizen/Public Relations

The proposed communication plan (Appendix A) includes provisions for public engagement, a public hearing, and referrals to all Advisory Planning Commissions.

- Attachments:
- Appendix A – “Communication Plan (CP 1CV 19)”
 - Appendix B – “Summary of recommended OCP bylaw amendments relating to cannabis”
 - Appendix C – “Planning Procedures and Fees Bylaw Amendment”
 - Appendix D – “Building Bylaw Amendment”



Subject: <u>Official Community Plan Bylaw Update (Cannabis)</u>	File: CP 1CV 19
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Purpose

To outline a consultation process relating to draft amendments to the Official Community Plan (OCP) Bylaw regarding cannabis.

Target Audiences:

- Residents within Electoral Area A (excluding Denman/Hornby Islands), B and C
- Comox Valley Regional District (CVRD) Board
- CVRD Electoral Areas Services Committee

Project Background:

- The federal *Cannabis Act* and provincial *Cannabis Control and Licensing Act* includes a role for local governments in regulating the location of cannabis licences for cultivation, processing or sales.
- Currently the OCP only considers “Medical Marijuana Production Facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*.
- As new federal and provincial regulations have changed industry standards and the role of local government, the OCP Bylaw is being updated to reflect these changes.
- Amendments to the OCP will include new policy considerations for regulating cannabis cultivation.

Spokesperson: Jodi MacLean, Rural Planner

Communication Objectives:

1. To increase awareness on how the OCP Bylaw will relate to cannabis cultivation, processing and sales.
2. To provide detailed information to the Electoral Areas Services Committee (EASC) and CVRD Board to assist with the decision-making process.
3. To receive feedback regarding policy changes.
4. To accept comments and recommendations from external agencies relating to draft bylaw amendments.

Budget: \$1,500

Communication/Engagement Strategies:

Elements	Description	Responsibility	IAP2 Spectrum	Budget	Due Date
Webpage	Maintain the webpage with information and process timeline. www.comoxvalleyrd.ca/cannabis	Content: Jodi Update/ Publish: Jennifer	Inform	Staff time	September 2019
First Nations	Mail/email referrals in accordance with the referrals management program and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Provincial and local government agencies	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Improvement districts, and school district	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Advisory Planning Commissions (APCs)	Review background information and recommendations	Jodi	Inform	APCs operate under planning budget	October 2019
EASC	1st and 2nd reading	Jodi	Consult	Staff time	December 2019 or January 2020
Public Hearing Ads	Statutory advertisements required during OCP amendments.	Content: Jodi Design/Book/ Distribute: Beverly	Inform	\$1,000	To be determined after scheduling of public hearing

Public Hearing	Statutory process to to receive feedback from the public.	Jodi Display Design: Beverly (content by Planning)	Consult	Staff time + \$500 materials (e.g. poster displays, etc.)	To be scheduled by EASC
CVRD Board	Present feedback from public hearing to EASC. Consideration of 3 rd Reading and adoption.	Jodi	Consult	Staff time	To be determined

Approval History

Created by: Jodi MacLean	April 2, 2019
Amended:	

Agency and First Nations Referral List

Pursuant to Section 475(2) and (4) of the *Local Government Act* (RSBC, 2015, c. 1), this list specifically considers whether consultation is required with the listed agencies. Those denoted with an will receive a referral of the proposal prior to a public hearing.

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwa) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission		BC Assessment
	Ministry of Municipal Affairs and Housing		Ministry of Energy, Mines and Petroleum Resources
	Ministry of Environment and Climate Change Strategy		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Trade and Technology
	Ministry of Tourism, Arts and Culture		Ministry of Indigenous Relations and Reconciliation
<input checked="" type="checkbox"/>	Ministry of Agriculture		Ministry of Labour
	Ministry of Health		

Local Government

<input checked="" type="checkbox"/>	Comox (Town of)		Alberni-Clayoquot Regional District
<input checked="" type="checkbox"/>	Courtenay (City of)		Strathcona Regional District
<input checked="" type="checkbox"/>	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Baynes Sound Denman / Hornby Islands (Electoral Area A) Advisory Planning Commission	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	Lazo North (Electoral Area B) Advisory Planning Commission	<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)
<input checked="" type="checkbox"/>	Puntledge – Black Creek (Electoral Area C) Advisory Planning Commission	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Union Bay Improvement District		Fanny Bay Water Works District
<input checked="" type="checkbox"/>	Ships Point Improvement District		



Summary of Recommended Bylaw Amendments Relating to Cannabis

Official Community Plan, Bylaw No. 337

- Delete Section 21.(2) *“Consider medical marihuana production facilities licensed pursuant to the marihuana for medical purposes regulations through a rezoning within the agriculture area and resource area designations subject to the conditions included in part 3 of this OCP.”*
- Insert Section 21.(2) *“Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.”*
- Insert Section 21.(3) *“In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide:*
 - (a) information pertaining to liquid and solid waste management systems;*
 - (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological regime of a property;*
 - (c) mitigation of impacts on environmentally sensitive areas and/or features;*
 - (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and,*
 - (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*
- Delete Section 58.(3) *“Consider a site specific rezoning application to permit medical marihuana production licensed pursuant to the marihuana for medical purposes regulations within the agriculture area designation subject to the following conditions:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the building(s) and lot;*
 - (c) mitigation of potential impacts to agricultural capability of the lot, including, but not limited to: building footprint, soil classification, building location and building clustering;*
 - (d) provision of security measures in accordance with federal government requirements, while respecting integration with the proposed siting and surrounding community;*
 - (e) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (f) provision of adequate water supply and waste management systems;*
 - (g) mitigation of potential traffic generation impacts;*
 - (h) provision of adequate highway access and parking;*
 - (i) provision for the disposal of all waste cannabis material in accordance with federal government requirements;*
 - (j) mitigation of potential negative impacts on environmentally sensitive areas and/or features and the productive potential of adjacent resource lands; and*

- (k) consideration of whether siting for the component parts or medical marihuana production activities should be collectively or separately, in one location or on multiple sites, including the form and character, use, community integration and environmental implications.”*
- Insert Section 58.(3) with “*New or modified cannabis cultivation, processing and sales within the ALR should consider consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture.*”
 - Delete Section 62.(2) “*Consider medical marihuana production licensed pursuant to the marihuana for medical purposes regulations through a site specific rezoning within the resource areas designation subject to consideration of the following:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the proposed building(s) and lot;*
 - (c) mitigation of potential negative impacts on environmentally sensitive areas including the security, quality and quantity of drinking water;*
 - (d) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (e) provision of adequate water supply and waste management systems;*
 - (f) mitigation of potential traffic generation impacts;*
 - (g) provision of adequate highway access and parking,*
 - (h) mitigation of potential negative impacts on environmentally sensitive areas and/or features.”*
 - Insert Section 62.(2) with “*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*”
 - Cannabis retail sales deemed to be a commercial use and may be considered in accordance with the OCP’s existing provisions for other commercial uses.

Other Bylaw Amendments

1. Planning Procedures and Fees Bylaw, Bylaw No. 328

- Insert requirement that CVRD mail notices using notification radius used for planning applications.
- Insert referral fee of \$1,000.

2. Building Bylaw, Bylaw No. 142

- Add the following underlined portion to Section 5.(2) “*(e) low human occupancy farm buildings located on land classified as “farm” under the Assessment Act on the date on which the application for permit was made, except buildings and structures used for activities subject to a cultivation or processing licence under the Cannabis Act.*”


 Appendix C:
 Bylaw Status Report

BYLAW NO. 584	
Bylaw Name:	Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Planning Procedures and Fees Bylaw in order to insert a fee and procedure regarding referrals of cannabis retail stores.
Amends Bylaw:	328
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 584

A Bylaw to Amend the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” in order to insert a fee and procedure regarding referrals of cannabis retail stores.

WHEREAS Section 33 of the *Cannabis Control and Licensing Act* requires the local government for the area in which a prescribed class of licence relating to the sale of cannabis is proposed to be located be given a notice of the application and requires the local government to gather the views of residents of the relevant area prior to giving comments and recommendations responding to the notice;

AND WHEREAS Section 35 of the *Cannabis Control and Licensing Act* allows a local government that, under Section 33, gives comments and recommendations may, by bylaw, impose fees on the applicant in order to recover the costs incurred in assessing the application;

NOW THEREFORE the board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Planning Procedures and Fees” being Bylaw No. 328:

Amendment

1. Schedule A of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(j) Cannabis licensing

 - (i) When a notice of application is received in accordance with Division 3 of the *Cannabis Control and Licensing Act*, the views of residents shall be obtained by mailing a notice to owners and tenants. An additional method to gather the views of residents may be used when deemed appropriate by the board.”

2. Schedule B of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(19) Cannabis licensing referral	\$1,000”
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Citation

This Bylaw No. 584 may be cited as the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.

Adopted this

day of

20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3,” as adopted by the board of the Comox Valley Regional District on the ____ day of _____ 20XX.

Corporate Legislative Officer


 Appendix D:
 Bylaw Status Report

BYLAW NO. 585	
Bylaw Name:	Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Building Bylaw in order to clarify the applicability of the bylaw to cannabis cultivation within farm buildings.
Amends Bylaw:	142
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	N/A
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 585

**A Bylaw to Amend the “Comox Valley Regional District Building Bylaw No. 142, 2011”
in order to clarify the applicability of the bylaw to cannabis cultivation within farm
buildings.**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Building Bylaw” being Bylaw No. 142:

Amendment

In Section 5(2) deleting the following:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made;”

and adding the following in its place:

“(e) ***low human occupancy farm buildings*** located on land classified as “farm” under the *Assessment Act* on the date on which the application for ***permit*** was made, except buildings and structures used for activities subject to a cultivation or processing licence under the *Cannabis Act*;”

Citation

This Bylaw No. 585 may be cited as the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.
Adopted this	day of	20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4,” as adopted by the board of the Comox Valley Regional District on the ___ day of _____ 20XX.

Corporate Legislative Officer

Memo

File: 3360-20/CP 1CV 19

DATE: October 3, 2019

TO: Advisory Planning Commission
Agricultural Advisory Planning Commission

FROM: Planning and Development Services Branch

RE: Official Community Plan Amendment
Cannabis Cultivation, Processing and Sales

The attached Official Community Plan Amendment is for commission members' review and comment.

The Official Community Plan is being updated to address how the cultivation, processing and sales of cannabis is being licensed by the federal and provincial governments. The update will replace the three policies [21(2), 58(3) and 62(2)] that speak to "medical marihuana production facilities" with the following:

Section 21.(2) "*Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.*"

Section 21(3) "*In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide: (a) information pertaining to liquid and solid waste management systems; (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological function of a property; (c) mitigation of impacts on environmentally sensitive areas and/or features; (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and, (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*"

[Agricultural Areas] Section 58(3) "*New or modified cannabis cultivation, processing and sales within the Agricultural Land Reserve should consider consistency with relevant Agricultural Land Reserve regulations and bylaw standards as published by the Ministry of Agriculture.*"

[Resources Areas] Section 62(2) "*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*"

For more information, please refer to the attached staff reports dated May 6 and September 4, 2019, which were considered by the Comox Valley Regional District Board on May 28 and October 1, 2019.

Sincerely,

T. Trieu

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

/jm

Attachment: Staff Report Dated May 6, 2019
Staff Report Dated September 4, 2019

DATE: May 6, 2019**FILE:** 3350-20 / CP 1CV 19**TO:** Chair and Directors
Electoral Areas Services Committee**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE:** Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

The purpose of this report is to recommend the initiation of a review and update of the policies of the Official Community Plan (OCP) and the provisions of the Planning Procedures and Fees Bylaw and the Building Bylaw regarding cannabis.

Recommendation from the Chief Administrative Officer:

THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).

Executive Summary

- The new federal *Cannabis Act* creates licencing categories that include cultivation, processing and sales (medical) and the provincial *Cannabis Control and Licensing Act* creates licencing for cannabis retail stores.
- Currently, the OCP, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” only considers “medical marihuana production facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*. An update to the OCP will provide direction for zoning regulations and considerations for applications relating to the newly legalized cannabis uses.
- As the new provincial licensing process for retail stores requires the local government to gather the views of residents and allows for the imposition of a fee to cover associated costs, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, should be updated to impose that fee and specify a minimum level of consultation prior to consideration of a cannabis retail sales application.
- The Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, can be reviewed regarding how it relates to a cultivation of cannabis use.
- Staff recommends updating these bylaws as they relate to cannabis.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

A. Mullaly

Alana Mullaly, MCIP, RPP
Acting General Manager of
Planning and Development
Services Branch**Background/Current Situation**

On May 14, 2018, during consideration of a zoning amendment bylaw to prohibit cannabis cultivation, processing and sale, the Electoral Areas Services Committee adopted the following resolution:

“THAT staff report back to the Electoral Areas Services Committee with a fulsome analysis of options regarding regulations once the Cannabis Act and related regulations have been approved and made available to the public.”

The *Cannabis Act* and its regulations came into force on October 17, 2018. They require a person to hold a licence issued by Health Canada in order to work with cannabis. The licence can be issued under one of the following categories:

- Cultivation (standard)
- Cultivation (micro-cultivation)
- Cultivation (nursery)
- Processing (standard)
- Processing (micro-processing)
- Sale (medical)
- Analytical testing
- Research
- Cannabis drug licence

The province, under the *Cannabis Control and Licensing Act*, issues the licencing for:

- Cannabis retail stores

Before submitting an application for a licence under a cultivation, processing or sale category, Section 7 of the *Cannabis Regulations* requires the applicant to notify the local government, the local fire authority and the local police detachment (licencing for analytical testing, research and cannabis drugs do not involve local governments). If the proposed cultivation, processing or sale of cannabis is not consistent with the local government’s Zoning Bylaw, then the licence may not be approved.

Context

Since legalization of cannabis by the federal government, Comox Valley Regional District (CVRD) staff have received numerous enquiries from members of the public assessing the feasibility of cultivation and sale in the rural areas. Because the Zoning Bylaw prohibits such activity, an application for a zoning amendment or Temporary Use Permit (TUP) is required for any property owner before they can apply for a federal or provincial cannabis licence. To date, two such applications (all TUP applications) have been submitted, all for “micro-cultivation” which is a cultivation licence limited to a maximum surface area of 200 square metres. In reviewing applications staff takes direction from the objectives and policies of the OCP. Because the OCP contemplated cannabis only in the form of “medical marihuana production facilities” (MMPFs), which were large, secure facilities (though none were constructed in the Comox Valley), there is

uncertainty in how smaller-scale proposals will be received in areas where the larger-scale production facilities were not permitted. Updating the OCP bylaw will provide a policy basis for future zoning regulations and clarity for the public regarding how applications will be reviewed.

Official Community Plan

The OCP was adopted in 2014 at a time when cannabis production and distribution was regulated by the *Maribwana for Medical Purposes Regulations*, and consequently, the OCP only speaks to MMPFs (equivalent to the new “standard cultivation” category) without consideration to micro-cultivation, processing or sale of cannabis. Policy 21.(2) of the OCP currently directs MMPFs to be considered only through a rezoning process and only in the Agricultural Areas and Resource Areas. The Agricultural Areas is a designation that overlaps with the *Agricultural Land Reserve (ALR)* and the Resource Areas is a designation that generally covers the areas used for forestry, primarily west of the Inland Highway. Policies 58.(3) and 62.(2) are the corresponding Agricultural Areas and Resource Areas policies that state the considerations for how a rezoning proposal will be reviewed.

The new framework, with allowances for smaller cultivation facilities with less requisite investments, makes operating such facilities feasible as accessory buildings in rural neighbourhoods, expanding existing legal (operated under a personal medical licence) facilities, or bringing illegal existing facilities into compliance.

Retail sales and processing of cannabis is consistent with the OCP’s policies for commercial and industrial uses. Applications can be processed under those existing policies. While the OCP generally discourages the creation of new commercial and industrial areas outside of the Settlement Nodes, there are numerous existing commercial and industrial zoned properties where these uses may occur.

Agricultural Areas and Agricultural Land Reserve

Under the new framework, the ALR Regulations now allow cannabis cultivation, regardless of scale, but has conditions regarding buildings in which it is grown: they must have a base consisting entirely of soil or be a pre-existing, unaltered buildings constructed for the purpose of growing crops inside. BC Assessment currently does not accept cannabis production as a qualifying agricultural use for the purposes of evaluating farm status under the *Assessment Act*. However, within the ALR, cannabis cultivation is a “farm operation” as defined by the *Farm Practices Protection (Right to Farm) Act* for which nuisance (e.g. odour, noise) complaints are reviewed by the BC Farm Industry Review Board (BC FIRB) and exempted from local government nuisance bylaws. In 2018 the BC FIRB accepted two cases involving odour from a cannabis operation and are currently studying normal farm practices in that industry.

If the proposal is not consistent with the ALR Regulation then a non-farm use application is required. This type of application is reviewed by the CVRD Board in order to provide comments and recommendations to the Agricultural Land Commission (ALC), though the board has the option of refusing to forward the application to the ALC. Staff review of ALR applications are based on OCP policies, including Policies 21.(2) and (3) noted above and those listed in the Agricultural Areas section.

Building Bylaw

In the past, the CVRD has received numerous nuisance complaints regarding existing cannabis cultivation operations, mostly regarding sub-standard building construction and odour. Mandatory building permits for new buildings, or buildings whose use has changed, help address this concern. The proposed review would also include consideration of how a cultivation of cannabis use would be affected by the Building Bylaw, Bylaw No. 142, and its provisions for farm buildings.

Planning Procedures and Fees Bylaw

Regarding sales of recreational cannabis, should an applicant apply to the province for a cannabis retail store licence, Section 33 of the *Cannabis Control and Licensing Act* requires the province to refer the application to the local government and not approve it until the local government provides a “*recommendation that the licence be issued*”.

This Act, combined with Section 13 of the *Cannabis Licensing Regulation*, requires the local government take into consideration a proposed store’s location and how it may affect nearby residents, and must use one or more of the following methods to gather the views of residents of an area:

- “(a) by receiving written comments in response to a public notice of the application;*
- (b) by conducting a public hearing in respect of the application;*
- (c) by holding a referendum;*
- (d) by using another method the local government...considers appropriate.”*

Section 35 allows the local government to impose fees, by bylaw, on an applicant in order to recover the costs incurred in assessing the application.

The proposed review of the Planning Procedures and Fees Bylaw would give consideration to the appropriate methods of gathering the views of residents and, based on those methods, the appropriate fee.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, first nations, boards of education, improvement district boards, and provincial and federal governments and their agencies.

Options

The board may choose to:

1. Initiate a review and update of the Official Community Plan, Planning Fees and Procedures Bylaw and Building Bylaw as they relate to cannabis, or
2. Not initiate a process at this time.

Staff recommends option 1. Should the board choose to initiate the review process, staff will report back to the board with a recommended update and communication plan.

Financial Factors

These costs of the review process will be covered by the electoral areas planning function.

Legal Factors

The proposed review process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, the *Cannabis Distribution Act* and the *Agricultural Land Commission Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. Any proposed bylaw amendment must be consistent with this direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

Should the board choose to initiate the review process, staff will provide the board with a communication plan that include a list of agencies and First Nations which may be referred to for comment.

Interdepartmental Involvement

The review process includes referrals to relevant CVRD departments and their responses are incorporated into the considerations.

Citizen/Public Relations

Should the board choose to initiate the review process, staff will report back to the board with a recommended communication plan.

DATE: September 4, 2019

FILE: 3350-20 / CP 1CV 19

TO: Chair and Directors
Electoral Areas Services Committee

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Bylaw Updates Relating to Cannabis Cultivation, Processing and Sales

Purpose

To provide recommendations to the Comox Valley Regional District (CVRD) Board (the board) regarding a communication plan (Appendix A) an update to the Official Community Plan (Appendix B), and updates to the Planning Procedures and Fees Bylaw (Appendix C) and Building Bylaw (Appendix D) as the bylaws relate to cannabis cultivation, processing and sales.

Recommendations from the Chief Administrative Officer:

1. THAT the Comox Valley Regional District Board endorse the communication plan as outlined in Appendix A and the recommended bylaw update information outlined in Appendix B of staff report dated September 4, 2019, and direct staff to start the external agency referral process for making provisions regarding cannabis in Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (CP 1CV 19);

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

2. THAT the board consider first, second and third readings of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3” (CP 1CV 19), which inserts a procedure and fee relating to cannabis retail referrals (Appendix C).
3. THAT the board consider first, second and third readings of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2014, Amendment No. 4” (CP 1CV 19), regarding the applicability of the bylaw to cannabis cultivation within farm buildings (Appendix D).

Executive Summary

- The recommended amendment to the Official Community Plan, Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014” (OCP), would delete the existing policies referencing “Medical Marihuana Production Facilities” and replace them with a list of policy considerations for considering cannabis cultivation (Appendix B).
- Policies relating to the sale and processing of cannabis would remain integrated in the OCP’s existing policies for commercial and industrial uses.
- The recommended communication plan includes referrals to First Nations, provincial and local government agencies, a webpage on the CVRD Website, memos to all Advisory Planning Commissions, newspaper notices and a public hearing (Appendix A).

- The recommended amendment to the Planning Procedures and Fees Bylaw, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”, would insert a \$1,000 fee payable by an applicant of a cannabis retail license and require public notification in order to fulfill the CVRD’s role of gathering the views of residents as required in the *Cannabis Control and Licensing Act* (Appendix C).
- The recommended amendment to the Building Bylaw, Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, would clarify that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” which would be exempt from Building Permits (Appendix D).
- Staff recommends consultation outlined in the communication plan (Appendix B) be initiated based on the policy updates to the OCP outlined in Appendix A, and that first, second and third readings to the updates to the Planning Procedures and Fees Bylaw and the Building Bylaw be given.

Prepared by:

J. MacLean

Jodi MacLean, MCIP, RPP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, MCIP, RPP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, MCIP, RPP
General Manager of Planning
and Development Services
Branch

Stakeholder Distribution (Upon Agenda Publication)

None	
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Background/Current Situation

On May 28, 2019, in response to the role created for local government in regulating the cultivation, processing and sale of cannabis, the CVRD Board adopted the following resolution:

“THAT the Comox Valley Regional District Board direct staff to report back to the board with a recommended bylaw update and communication plan for updating Bylaw No. 337 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014”, Bylaw No. 328 being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” and Bylaw No. 142 being the “Comox Valley Regional District Building Bylaw No. 142, 2011”, as the bylaws relate to cannabis (CP 1CV 19).”

The *Cannabis Act* and its regulations came into force on October 17, 2018. Along with the *Cannabis Control and Licensing Act*, the federal/provincial licencing framework allows local governments to regulate the use of cultivation, processing and sale of cannabis through its land use regulations. Currently, the OCP directs production of medical cannabis to the Agricultural and Resource Areas and does not contemplate non-medical cannabis production, while the Zoning Bylaw broadly prohibits the commercial production, cultivation, processing and sale of cannabis in all zones.

Official Community Plan, Bylaw No. 337

Among other objectives, the OCP provides policy direction for the Zoning Bylaw and direction for reviewing planning applications. Section 21(2), concerning “economy and industry – policies (emergent industries)” which currently directs that site-specific rezonings be used to allow for the production of medical cannabis and only in the Agricultural Areas and Resource Areas, will be deleted and replaced with more specific provisions addressing commercial cannabis production. The draft policy (Appendix B) lists considerations for generally regulating or considering site-specific

rezonings, including impacts affecting adjacent land uses and cumulative impacts affecting a neighbourhood. The draft policy directs that cultivation of cannabis be considered an agricultural or industrial use, meaning that it could be permitted and regulated in the Rural Settlement Areas and other areas where agricultural or industrial uses are permitted. Specific to the Agricultural Areas (e.g. areas within the *Agricultural Land Reserve (ALR)*) Section 58(3) directs that consideration be given to consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture. Similarly, Policy 62.(2) which is applicable to the Resource Areas only and currently lists those factors recommended to be moved to Section 21 so they apply broadly to all areas, would be replaced with the direction that cannabis cultivation and processing be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.

These draft revisions would direct cannabis retail stores to locate in accordance with the OCP's existing provisions for other commercial uses.

Planning Procedures and Fees Bylaw, Bylaw No. 328

Sections 33 to 35 of the *Cannabis Control and Licensing Act* state that the province must not issue a licence to sell cannabis unless the local government provides a “*recommendation that the licence be issued*” and that if the local government opts to provide comments and recommendations, it must gather the views of residents beforehand. That Act also states that the local government may impose fees, by bylaw, on the applicant in order to recover the costs incurred in assessing the application.

The draft bylaw amendment inserts a fee of \$1,000 payable by the applicant of a cannabis retail license and inserts a requirement that the CVRD gather the views of residents via a mailed notice (Appendix C). The notification radius is the same as planning applications, specified in Schedule A, Section 1(h) of the bylaw.

After the board reviews the referral and responses to the notification, the board may provide comments and recommendations to the province regarding the referral. Alternately, should the board seek to gather further views of residents, the bylaw allows the board to order a public information session (applicant incurs an additional \$1,000 fee) or statutory public hearing (applicant incurs additional \$1,500 fee) or an alternate notification area.

Building Bylaw

Building Bylaw, Bylaw No. 142, requires an owner to obtain a Building Permit prior to constructing, altering, or changing the occupancy of a building but exempts “*low human occupancy farm buildings located on land classified as ‘farm’ under the Assessment Act*”. The draft amendment to the Building Bylaw clarifies that buildings being used for cannabis cultivation do not qualify as “low human occupancy farm buildings” (Appendix D).

Communication Plan

The communication plan (Appendix A) includes the following means of outreach to notify members of the public of the proposed amendments:

- Forward referrals to First Nations, provincial and local government agencies
- Webpage at www.comoxvalleyrd.ca/cannabis
- Memos to all Advisory Planning Commissions
- Newspaper notices
- Public hearing

If the communication plan is adopted as presented, the referrals would be sent and the webpage posted as soon as possible. The October meetings of the Advisory Planning Commissions would

include a memo regarding these proposed amendments. Based on the recommendations and feedback, first and second readings of the bylaws could occur in December and a public hearing in January.

Policy Analysis

Section 471 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) authorizes a local government to establish an OCP for the purposes of stating objectives and policies to guide decisions on planning and land use management. Section 478 of the LGA requires subsequent zoning amendments to be consistent with the OCP. Section 475 requires the local government to consider opportunities for consultation, and specifically consider whether consultation is required with adjacent regional districts, municipalities, First Nations, boards of education, improvement district boards, and provincial and federal governments and their agencies (Appendix A).

Section 33 of the *Cannabis Control and Licensing Act* requires the local government to gather the views of residents of an area prior to the province issuing a retail store licence. Section 35 authorizes the local government to impose fees on the applicant in order to recover the costs incurred in assessing an application for a cannabis retail store.

Options

Regarding the update to the OCP, the board may choose to:

1. Initiate a bylaw amendment process by adopting the communication plan, or
2. Not initiate a process at this time.

Regarding the update to the Planning Procedures and Fees Bylaw, Bylaw No. 218, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Regarding the update to the Building Bylaw, Bylaw No. 142, the board may choose to:

1. Provide first, second and third readings of the bylaw as presented, or
2. Not update the bylaw at this time.

Staff recommends options 1, to proceed with initiating the OCP bylaw amendment process with the proposed communication plan as presented, and providing first, second and third readings to the Planning Procedures and Fees Bylaw and Building Bylaw.

Financial Factors

Costs associated with this bylaw amendment process will include the cost of holding a public hearing, statutory advertising, and community engagement. These costs will be covered by the electoral areas planning function.

Legal Factors

The proposed bylaw amendment process is intended to ensure consistency of CVRD policies and regulations with relevant legislation that affects cannabis, including the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act*, and the *Cannabis Distribution Act*.

Regional Growth Strategy Implications

The Regional Growth Strategy includes goals and policies related to maintaining a high quality of life for residents, encouraging responsible expansion of the economic base of the Comox Valley, and promoting environmental best practices. The proposed bylaw amendments are consistent with this

direction. The proposed bylaw amendment process includes referrals to the municipalities of Courtenay, Comox and Cumberland.

Intergovernmental Factors

The proposed communication plan (Appendix A) and the bylaw amendment process includes a list of agencies and First Nation organizations which may be referred to for comment.

Interdepartmental Involvement

An internal referral to relevant CVRD departments has been issued and the initial responses incorporated into this process. Further comments will be incorporated into future reports during the bylaw amendment process.

Citizen/Public Relations

The proposed communication plan (Appendix A) includes provisions for public engagement, a public hearing, and referrals to all Advisory Planning Commissions.

- Attachments:
- Appendix A – “Communication Plan (CP 1CV 19)”
 - Appendix B – “Summary of recommended OCP bylaw amendments relating to cannabis”
 - Appendix C – “Planning Procedures and Fees Bylaw Amendment”
 - Appendix D – “Building Bylaw Amendment”



Subject: <u>Official Community Plan Bylaw Update (Cannabis)</u>	File: CP 1CV 19
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Purpose

To outline a consultation process relating to draft amendments to the Official Community Plan (OCP) Bylaw regarding cannabis.

Target Audiences:

- Residents within Electoral Area A (excluding Denman/Hornby Islands), B and C
- Comox Valley Regional District (CVRD) Board
- CVRD Electoral Areas Services Committee

Project Background:

- The federal *Cannabis Act* and provincial *Cannabis Control and Licensing Act* includes a role for local governments in regulating the location of cannabis licences for cultivation, processing or sales.
- Currently the OCP only considers “Medical Marijuana Production Facilities” as it was defined under the now-repealed *Marihuana for Medical Purposes Regulations*.
- As new federal and provincial regulations have changed industry standards and the role of local government, the OCP Bylaw is being updated to reflect these changes.
- Amendments to the OCP will include new policy considerations for regulating cannabis cultivation.

Spokesperson: Jodi MacLean, Rural Planner

Communication Objectives:

1. To increase awareness on how the OCP Bylaw will relate to cannabis cultivation, processing and sales.
2. To provide detailed information to the Electoral Areas Services Committee (EASC) and CVRD Board to assist with the decision-making process.
3. To receive feedback regarding policy changes.
4. To accept comments and recommendations from external agencies relating to draft bylaw amendments.

Budget: \$1,500

Communication/Engagement Strategies:

Elements	Description	Responsibility	IAP2 Spectrum	Budget	Due Date
Webpage	Maintain the webpage with information and process timeline. www.comoxvalleyrd.ca/cannabis	Content: Jodi Update/ Publish: Jennifer	Inform	Staff time	September 2019
First Nations	Mail/email referrals in accordance with the referrals management program and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Provincial and local government agencies	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Improvement districts, and school district	Mail/ email information with draft bylaws and the bylaw referral form and integrate responses into future EASC report.	Jodi	Consult	Staff time	October 2019
Advisory Planning Commissions (APCs)	Review background information and recommendations	Jodi	Inform	APCs operate under planning budget	October 2019
EASC	1st and 2nd reading	Jodi	Consult	Staff time	December 2019 or January 2020
Public Hearing Ads	Statutory advertisements required during OCP amendments.	Content: Jodi Design/Book/ Distribute: Beverly	Inform	\$1,000	To be determined after scheduling of public hearing

Public Hearing	Statutory process to to receive feedback from the public.	Jodi Display Design: Beverly (content by Planning)	Consult	Staff time + \$500 materials (e.g. poster displays, etc.)	To be scheduled by EASC
CVRD Board	Present feedback from public hearing to EASC. Consideration of 3 rd Reading and adoption.	Jodi	Consult	Staff time	To be determined

Approval History

Created by: Jodi MacLean	April 2, 2019
Amended:	

Agency and First Nations Referral List

Pursuant to Section 475(2) and (4) of the *Local Government Act* (RSBC, 2015, c. 1), this list specifically considers whether consultation is required with the listed agencies. Those denoted with an will receive a referral of the proposal prior to a public hearing.

First Nations

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Homalco (Xwemalhkwa) Indian Band
<input checked="" type="checkbox"/>	We Wai Kai First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	Laich-Kwil-Tach Treaty Society		

Provincial Ministries and Agencies

<input checked="" type="checkbox"/>	Agricultural Land Commission		BC Assessment
	Ministry of Municipal Affairs and Housing		Ministry of Energy, Mines and Petroleum Resources
	Ministry of Environment and Climate Change Strategy		Ministry of Forests, Lands and Natural Resource Operations and Rural Development
	BC Parks	<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure
	BC Transit		Ministry of Jobs, Trade and Technology
	Ministry of Tourism, Arts and Culture		Ministry of Indigenous Relations and Reconciliation
<input checked="" type="checkbox"/>	Ministry of Agriculture		Ministry of Labour
	Ministry of Health		

Local Government

<input checked="" type="checkbox"/>	Comox (Town of)		Alberni-Clayoquot Regional District
<input checked="" type="checkbox"/>	Courtenay (City of)		Strathcona Regional District
<input checked="" type="checkbox"/>	Cumberland (Village of)		Regional District of Mount Waddington
	Islands Trust		Regional District of Nanaimo

Other

<input checked="" type="checkbox"/>	Baynes Sound Denman / Hornby Islands (Electoral Area A) Advisory Planning Commission	<input checked="" type="checkbox"/>	Agricultural Advisory Planning Commission
<input checked="" type="checkbox"/>	Lazo North (Electoral Area B) Advisory Planning Commission	<input checked="" type="checkbox"/>	School District No. 71 (Comox Valley)
<input checked="" type="checkbox"/>	Puntledge – Black Creek (Electoral Area C) Advisory Planning Commission	<input checked="" type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Union Bay Improvement District		Fanny Bay Water Works District
<input checked="" type="checkbox"/>	Ships Point Improvement District		



Summary of Recommended Bylaw Amendments Relating to Cannabis

Official Community Plan, Bylaw No. 337

- Delete Section 21.(2) *“Consider medical marihuana production facilities licensed pursuant to the marihuana for medical purposes regulations through a rezoning within the agriculture area and resource area designations subject to the conditions included in part 3 of this OCP.”*
- Insert Section 21.(2) *“Cannabis cultivation may be permitted as an agricultural or industrial use where the size and configuration of the building(s) do not detract from the rural character of the surrounding area and there are measures to mitigate potential noise, glare, odour, and emissions relative to adjacent land uses.”*
- Insert Section 21.(3) *“In addition to the considerations of Section 21.(2), applications involving cannabis cultivation should also provide:*
 - (a) information pertaining to liquid and solid waste management systems;*
 - (b) information pertaining to the provision of rainwater management that maintains or restores the natural hydrological regime of a property;*
 - (c) mitigation of impacts on environmentally sensitive areas and/or features;*
 - (d) consideration of the effect on any adjacent land uses including residential uses and working landscapes; and,*
 - (e) consideration of the cumulative impacts of all cannabis cultivation and processing in an area.*
- Delete Section 58.(3) *“Consider a site specific rezoning application to permit medical marihuana production licensed pursuant to the marihuana for medical purposes regulations within the agriculture area designation subject to the following conditions:*
 - (a) mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) size and configuration of the building(s) and lot;*
 - (c) mitigation of potential impacts to agricultural capability of the lot, including, but not limited to: building footprint, soil classification, building location and building clustering;*
 - (d) provision of security measures in accordance with federal government requirements, while respecting integration with the proposed siting and surrounding community;*
 - (e) provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (f) provision of adequate water supply and waste management systems;*
 - (g) mitigation of potential traffic generation impacts;*
 - (h) provision of adequate highway access and parking;*
 - (i) provision for the disposal of all waste cannabis material in accordance with federal government requirements;*
 - (j) mitigation of potential negative impacts on environmentally sensitive areas and/or features and the productive potential of adjacent resource lands; and*

- (k) *consideration of whether siting for the component parts or medical marihuana production activities should be collectively or separately, in one location or on multiple sites, including the form and character, use, community integration and environmental implications.”*
- Insert Section 58.(3) with “*New or modified cannabis cultivation, processing and sales within the ALR should consider consistency with relevant ALR Regulations and bylaw standards as published by the Ministry of Agriculture.*”
 - Delete Section 62.(2) “*Consider medical marihuana production licensed pursuant to the marihuana for medical purposes regulations through a site specific rezoning within the resource areas designation subject to consideration of the following:*
 - (a) *mitigation of potential noise, odour, glare and emissions relative to adjacent land uses through strategies, including, but not limited to: buffering, screening, building setbacks and building ventilation;*
 - (b) *size and configuration of the proposed building(s) and lot;*
 - (c) *mitigation of potential negative impacts on environmentally sensitive areas including the security, quality and quantity of drinking water;*
 - (d) *provision of adequate rainwater management to ensure that post-development peak flows do not exceed predevelopment peak flows;*
 - (e) *provision of adequate water supply and waste management systems;*
 - (f) *mitigation of potential traffic generation impacts;*
 - (g) *provision of adequate highway access and parking;*
 - (h) *mitigation of potential negative impacts on environmentally sensitive areas and/or features.”*
 - Insert Section 62.(2) with “*Cannabis cultivation and processing should be directed away from the Comox Lake watershed and other watersheds relied upon for drinking water.*”
 - Cannabis retail sales deemed to be a commercial use and may be considered in accordance with the OCP’s existing provisions for other commercial uses.

Other Bylaw Amendments

1. Planning Procedures and Fees Bylaw, Bylaw No. 328

- Insert requirement that CVRD mail notices using notification radius used for planning applications.
- Insert referral fee of \$1,000.

2. Building Bylaw, Bylaw No. 142

- Add the following underlined portion to Section 5.(2) “*(e) low human occupancy farm buildings located on land classified as “farm” under the Assessment Act on the date on which the application for permit was made, except buildings and structures used for activities subject to a cultivation or processing licence under the Cannabis Act.*”


 Appendix C:
 Bylaw Status Report

BYLAW NO. 584	
Bylaw Name:	Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Planning Procedures and Fees Bylaw in order to insert a fee and procedure regarding referrals of cannabis retail stores.
Amends Bylaw:	328
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 584

A Bylaw to Amend the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” in order to insert a fee and procedure regarding referrals of cannabis retail stores.

WHEREAS Section 33 of the *Cannabis Control and Licensing Act* requires the local government for the area in which a prescribed class of licence relating to the sale of cannabis is proposed to be located be given a notice of the application and requires the local government to gather the views of residents of the relevant area prior to giving comments and recommendations responding to the notice;

AND WHEREAS Section 35 of the *Cannabis Control and Licensing Act* allows a local government that, under Section 33, gives comments and recommendations may, by bylaw, impose fees on the applicant in order to recover the costs incurred in assessing the application;

NOW THEREFORE the board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Planning Procedures and Fees” being Bylaw No. 328:

Amendment

1. Schedule A of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(j) Cannabis licensing

 - (i) When a notice of application is received in accordance with Division 3 of the *Cannabis Control and Licensing Act*, the views of residents shall be obtained by mailing a notice to owners and tenants. An additional method to gather the views of residents may be used when deemed appropriate by the board.”

2. Schedule B of Bylaw No. 328, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014” is hereby amended by:
 - a. Inserting the following:

“(19) Cannabis licensing referral	\$1,000”
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Citation

This Bylaw No. 584 may be cited as the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.

Adopted this

day of

20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 584, being the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014, Amendment No. 3,” as adopted by the board of the Comox Valley Regional District on the ____ day of _____ 20XX.

Corporate Legislative Officer


 Appendix D:
 Bylaw Status Report

BYLAW NO. 585	
Bylaw Name:	Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4
Applicant:	
Electoral Area:	All Electoral Areas
File Number:	CP 1CV 19
Participants:	All Electoral Areas
Purpose:	To amend the Building Bylaw in order to clarify the applicability of the bylaw to cannabis cultivation within farm buildings.
Amends Bylaw:	142
Repeals Bylaw:	N/A
Staff Contact:	Jodi MacLean

STATUS	
Application Received	N/A
Electoral Areas Services Committee Approval:	Date Recommendation:
Comox Valley Regional District Board:	1st Reading:
Comox Valley Regional District Board:	2nd Reading:
Public Hearing:	
Comox Valley Regional District Board:	3rd Reading:
Ministry of Municipal Affairs and Housing:	Required: No Date Sent: Date Approved:
Comox Valley Regional District Board:	Final Adoption:

Comox Valley Regional District
Bylaw No. 585

**A Bylaw to Amend the “Comox Valley Regional District Building Bylaw No. 142, 2011”
in order to clarify the applicability of the bylaw to cannabis cultivation within farm
buildings.**

The board of the Comox Valley Regional District, in open meeting assembled, enacts the following amendments to the “Comox Valley Regional District Building Bylaw” being Bylaw No. 142:

Amendment

In Section 5(2) deleting the following:

“(e) *low human occupancy farm buildings* located on land classified as “farm” under the *Assessment Act* on the date on which the application for *permit* was made;”

and adding the following in its place:

“(e) *low human occupancy farm buildings* located on land classified as “farm” under the *Assessment Act* on the date on which the application for *permit* was made, except buildings and structures used for activities subject to a cultivation or processing licence under the *Cannabis Act*;”

Citation

This Bylaw No. 585 may be cited as the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4.”

Read a first time this	day of	20XX.
Read a second time this	day of	20XX.
Read a third time this	day of	20XX.
Adopted this	day of	20XX.

Chair

Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 585, being the “Comox Valley Regional District Building Bylaw No. 142, 2011, Amendment No. 4,” as adopted by the board of the Comox Valley Regional District on the ___ day of _____ 20XX.

Corporate Legislative Officer

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20 / CP 1CV 19

October 2, 2019

Sent via email only: samantha.chickite@wewaikai.com

We Wai Kai First Nation
690 Headstart Cres
Campbell River BC V9H 1P9

Attention: Merci Brown

Dear Ms. Brown:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

The attached referral regarding an update to the Official Community Plan (OCP) addressing the cultivation, processing and sales of cannabis within the rural areas of the Comox Valley Regional District (CVRD) is for your review and comment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

In accordance with our referral agreement program, if We Wai Kai First Nation has an interest in the proposed OCP update please respond by November 8, 2019. A formal referral package is enclosed for your review and comments. The CVRD is interested in hearing from you regarding this proposal and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the rezoning application in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20 / CP 1CV 19

October 2, 2019

Sent via email only: tabithadonkers@weiwaikum.ca

Wei Wai Kum First Nation of the Kwiakah Treaty Society
1650 Old Spit Rd
Campbell River BC V9W 3E8

Attention: Tabitha Donkers

Dear Ms. Donkers:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

The attached referral regarding an update to the Official Community Plan (OCP) addressing the cultivation, processing and sales of cannabis within the rural areas of the Comox Valley Regional District (CVRD) is for your review and comment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

In accordance with our referral agreement program, if Wei Wai Kum First Nation of the Kwiakah Treaty Society has an interest in the proposed OCP update please respond by November 8, 2019. A formal referral package is enclosed for your review and comments. The CVRD is interested in hearing from you regarding this proposal and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the rezoning application in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20 / CP 1CV 19

October 2, 2019

Sent via email only: reception@homalco.com

Homalco Indian Band
1218 Bute Crescent
Campbell River BC V9H 1G5

Attention: Chief Darren Blaney

Dear Chief Blaney:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

The attached referral regarding an update to the Official Community Plan (OCP) addressing the cultivation, processing and sales of cannabis within the rural areas of the Comox Valley Regional District (CVRD) is for your review and comment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

In accordance with our referral agreement program, if Homalco Indian Band has an interest in the proposed OCP update please respond by November 8, 2019. A formal referral package is enclosed for your review and comments. The CVRD is interested in hearing from you regarding this proposal and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the rezoning application in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20 / CP 1CV 19

October 2, 2019

Sent via email only: dassu@lkts.ca

Laich-Kwil-Tach Treaty Society
205B-2005 Eagle Drive
Campbell River BC V9H 1V8

Attention: Chief and Council

Dear Chief and Council:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

The attached referral regarding an update to the Official Community Plan (OCP) addressing the cultivation, processing and sales of cannabis within the rural areas of the Comox Valley Regional District (CVRD) is for your review and comment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

In accordance with our referral agreement program, if Laich-Kwil-Tach Treaty Society has an interest in the proposed OCP update please respond by November 8, 2019. A formal referral package is enclosed for your review and comments. The CVRD is interested in hearing from you regarding this proposal and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the rezoning application in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Scott Smith, General Manager of Planning and Development Services Branch

Office of the Chief Administrative Officer

600 Comox Road, Courtenay, BC V9N 3P6
Tel: 250-334-6000 Fax: 250-334-4358
Toll free: 1-800-331-6007
www.comoxvalleyrd.ca



File: 3350-20 / CP 1CV 19

October 2, 2019

Sent via email only: tina.mclean@komoks.ca

K'ómoks First Nation
3330 Comox Road
Courtenay BC V9N 3P8

Attention: Tina McLean – Band Administrator

Dear Ms. McLean:

Re: Official Community Plan Bylaw Update Relating to Cannabis Cultivation, Processing and Sales

The attached referral regarding an update to the Official Community Plan (OCP) addressing the cultivation, processing and sales of cannabis within the rural areas of the Comox Valley Regional District (CVRD) is for your review and comment. The intent of the update is to delete references to “medical marihuana production facilities” and insert policies relating to cannabis more generally.

In accordance with our Referrals Management Program, if K'ómoks First Nation has an interest in the proposed OCP update please respond by November 8, 2019. A formal referral package is enclosed for your review and comments. The CVRD is interested in hearing from you regarding this proposal and understanding your interests. In addition, the CVRD is available to meet with you at your convenience to discuss the proposed OCP update in more detail. Please contact Scott Smith at 250-334-6077 or by email to planning@comoxvalleyrd.ca to coordinate this meeting. Thank you.

Sincerely,

R. Dyson

Russell Dyson
Chief Administrative Officer

Enclosure

cc: Jenny Millar, Assistant Band Administrator, K'ómoks First Nation
Monty Horton, Lands Manager, K'ómoks First Nation
Scott Smith, General Manager of Planning and Development Services Branch