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**TO:** Electoral Area Services Committee      **MEETING:** February 12, 2019  
**FROM:** Nick Redpath  
Planner      **FILE:** 0125-20-Cannabis  
**SUBJECT:** Draft Policy B1.26 Land Use Applications for Cannabis Production

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## **RECOMMENDATION**

That the Board adopt Regional District of Nanaimo Policy B1.26 *Land Use Applications for Cannabis Production*.

## **SUMMARY**

On October 17, 2018, the *Cannabis Act* came into force, effectively legalizing cannabis within Canada. The *Cannabis Act* puts in place a new framework for controlling the production, distribution, sale and possession of cannabis in Canada. Within this framework, Health Canada implemented a new licensing regime that distinguishes between the different aspects of cannabis cultivation, processing, analytical testing and research. These federal changes have resulted in enquiries to produce cannabis on smaller lots within the Regional District of Nanaimo (RDN) on properties not zoned for this use. The new federal licensing requirements are now less onerous, allowing for smaller scale, more economically feasible operations. In recognition of the recent licensing changes made by Health Canada, Draft Policy B1.26 *Land Use Applications for Cannabis Production* (see Attachment 1 – Draft Policy B1.26 *Land Use Applications for Cannabis Production*) is proposed to assist applicants when completing land use applications for cannabis production and to establish a framework for RDN staff and elected officials for reviewing these applications.

## **BACKGROUND**

In anticipation of the *Cannabis Act* and legalization of cannabis, the RDN amended “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” and “Regional District of Nanaimo Zoning and Subdivision Bylaw No. 1285, 2002” to permit the production of cannabis on lands within the Agricultural Land Reserve (ALR) and within the Industrial 1, 2 and 3 zones of Electoral Area F.

Health Canada recently created a new licensing regime that distinguishes between the different aspects of cannabis cultivation, processing, analytical testing and research. These licence classes are further broken down into subclasses including standard cultivation, micro-cultivation, nursery, standard processing and micro-processing. The current RDN definition of cannabis production within Bylaw 500 and Bylaw 1285 encompasses all aspects of the production of cannabis and does not differentiate between the new Health Canada licensing classes and subclasses.

These new licence classes have opened up the potential for smaller scale cannabis production operations that can be accommodated on smaller lots with less stringent financial and security requirements. For example, Health Canada's new Micro-Cultivation Licence now permits small scale "craft" cultivation, stipulating that plant surface area cannot exceed 200 square metres. A Nursery License for the production of cannabis seeds has a maximum surface area of 50 square metres. With the new federal licensing requirements being less onerous and more economical, the RDN has received an influx of enquiries for cannabis production on smaller lots within the RDN on properties that are not currently zoned for this use. In recognition of the recent licensing changes made by Health Canada, Draft Policy B1.26 *Land Use Applications for Cannabis Production* (Draft Policy B1.26) is proposed.

### ***Land Use Management***

Bylaw 500 and Bylaw 1285 were amended in 2017 to address Health Canada's old licensing regime for large scale cannabis production facilities within the RDN. These amendments reflect the change in terminology used by the federal government from "marihuana" production to "cannabis" production and permit the production of cannabis on lands within the ALR and within the Industrial 1, 2 and 3 zones of Electoral Area F. Currently, setbacks for all building and structures associated with the production of cannabis in the ALR are 30 metres from all property lines, 60 metres from all lot lines adjacent to non-ALR residential uses, and 150 metres from any parcel that contains a park or school. Cannabis production in the Industrial 1, 2 and 3 zones of Electoral Area F are subject to setbacks that are 4.5 metres from front and exterior side lot lines and 2 metres from all other lot lines.

In July of 2018, the Province amended Section 2 of the *Agricultural Land Reserve, Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002 (ALC Act)* designating the production of cannabis as a farm use for the purposes of the *Act* if the cannabis is produced outdoors in a field, or inside a structure that has a base consisting entirely of soil (see Attachment 2 – Order in Council No. 380). Recent discussions with potential cannabis producers has indicated that although Health Canada allows for the outdoor or soil based production of cannabis, these methods prove difficult to meet the stringent federal licensing requirements surrounding security, ventilation and quality control. Recent discussions with the Agricultural Land Commission (ALC) have indicated that the approach for determining whether cannabis production operations are deemed a farm use under the *ALC Act* is for applicants to submit a non-farm use application. If the ALC deems the cannabis production operation does not meet their definition of farm use, a subsequent zoning amendment application will need to be submitted to the RDN.

Many of the subject properties where enquiries have been received are not within the ALR or Industrial zones of Electoral Area F but are focused more on rural residential areas, as many interested parties intend on attaining micro licenses to produce cannabis in their backyards.

As the RDN is a very diverse and expansive region, creating an entirely new cannabis production zone, or further opening up cannabis production as a permitted use in certain existing zones would be challenging and may lead to undesired impacts to neighbouring properties and the community in general. Setbacks and other conditions are important to protect neighbouring properties but are difficult to implement on a region wide basis, as each lot is unique and poses its own challenges, and each cannabis production licence application may vary considerably. To address the challenges associated with Health Canada's new cannabis production licence classes, a policy approach is recommended to help guide the case by case

review of future zoning amendment and temporary use permit (TUP) applications for cannabis production within the RDN.

### ***Draft Policy B1.26 Land Use Applications for Cannabis Production***

With the new licensing regime within the *Cannabis Act*, an increase is expected in cannabis related zoning amendment and TUP applications. Draft Policy B1.26 is being proposed to provide a consistent and clear approach in the review of zoning amendment and TUP applications to permit cannabis production on land not currently zoned for this use. This Policy is intended to provide a clear framework to assist property owners when making applications and to provide clarity to RDN staff and elected officials as to the criteria for assessing these applications.

Future site specific zoning amendment applications would add cannabis production as a new permitted use (with specific conditions associated as deemed appropriate) in addition to the existing permitted uses in the zoning associated with the subject property. The RDN Board would consider each application on a case by case basis.

### ***Community Impact Evaluation Criteria***

Draft Policy B1.26 provides criteria to guide future applicants submitting zoning amendment or TUP applications for cannabis production. Some of the identified areas of concern where cannabis production may cause impacts are odour, security, waste disposal and proximity of the cannabis operation to neighbouring properties and sensitive uses. This policy is intended to identify these and other areas of concern that must be addressed in the application to mitigate potential impacts to neighbouring properties and the greater community, while still providing opportunities for economic development to entrepreneurs capitalizing on this new industry.

## **ALTERNATIVES**

1. Adopt Policy B1.26 *Land Use Applications for Cannabis Production*.
2. Do not adopt Policy B1.26 *Land Use Applications for Cannabis Production*.
3. Provide alternate direction.

## **FINANCIAL IMPLICATIONS**

Draft Policy B1.26 can be accommodated within the existing Community Planning budget.

The implications to the Community Planning budget for review of zoning amendment and TUP applications for cannabis production could be significant depending on the number received. Existing zoning amendment fees will help recover only some of the costs associated with review and processing of these applications.

## **STRATEGIC PLAN IMPLICATIONS**

Focus On Economic Health- We Will Foster Economic Development

A focus on Economic Health is one of the strategic priorities in the RDN Strategic Plan 2016 – 2020. In particular, the strategic plan directs that the RDN will foster economic development and support diversification of our regional economy. The production of cannabis is a viable form of

economic development for the region and could provide local business opportunities in this emerging sector and promote economic health through the diversification of the regional economy.



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January 28, 2019

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Attachments

1. Attachment 1 – Draft Policy B1.26 *Land Use Applications for Cannabis Production*
2. Attachment 2 – Order in Council No. 380