

**LAND USE BYLAW AMENDMENTS
CITYWIDE
MEDICAL MARIHUANA PRODUCTION FACILITY
BYLAW 7P2014**

EXECUTIVE SUMMARY

Health Canada has approved new regulations called Marihuana for Medical Purposes Regulations (MMPR) for the growing of medical marihuana. This effectively ends the ability of patients to grow medical marihuana at their home for their personal needs and limits the licensing, growth and distribution of this product to commercial producers. All residential licences will expire as of 2014 March 31. Health Canada is currently accepting and processing applications for commercial producers, which require relevant municipal approvals before a licence can be issued.

This report proposes a new 1P2007 Land Use Bylaw use definition, "Medical Marihuana Production Facility". The land use bylaw amendments are in response to federal regulatory changes to medical marihuana production. The proposed rules address public and environmental safety issues and also provide opportunities for medical marihuana patients to gain access to federally regulated medication.

ADMINISTRATION RECOMMENDATION(S)

2014 February 13

That Calgary Planning Commission **APPROVE** the proposed amendments to Land Use Bylaw 1P2007.

RECOMMENDATION (S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaw 7P2014; and

1. **ADOPT** the proposed amendments to Land Use Bylaw 1P2007, in accordance with Administration's recommendation; and
2. Give three readings to the proposed Bylaw 7P2014.

REASON(S) FOR RECOMMENDATION:

Since its introduction in 2001, Health Canada's Marihuana Medical Access Program (MMAP) has grown exponentially, from 500 authorized persons to over 28,000 who use the program today. This rapid increase has had unintended consequences for public health, safety and security as a result of allowing individuals to produce marihuana in their homes.

Health Canada approved the "Marihuana for Medical Purposes Regulation" on 2013 June 20, which provides new regulations for the commercial cultivation of medical marihuana. This regulation contains criteria for individuals wishing to apply for and receive a federal licence to establish a commercial facility to produce and distribute marihuana for medical purposes. This new federal regulation removes the current ability for patients to grow marihuana plants at their home (or an offsite location) for medical purposes. All residential licences will expire as of 2014 March 31 and federal regulation will only allow private commercial producers to grow and

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distribute medical marihuana with an appropriate licence. These new regulations respond to health and safety concerns that were associated with the residential medical marihuana licences, such as water cross connection contamination, ventilation, mould, fire hazards and occupant and neighbourhood safety.

Health Canada is currently accepting and processing applications for commercial producers. Municipal approvals are required by Health Canada as part of the federal licensing process. The applicant must demonstrate that the proposed facility meets all municipal land use regulations for the site, such as location, land use, building design and other factors mentioned within each municipality's bylaws.

Currently, there is no use within Land Use Bylaw 1P2007 that adequately represents the activities associated with the production of medical marihuana. Due to the unique nature of this type of activity, a new use called "Medical Marihuana Production Facility" (proposed amending bylaw can be found in APPENDIX I) is proposed. Staff training will provide clarity on how medical marihuana facilities are evaluated by the Development Authority and will ensure consistency and provide the ability for consideration of all issues associated with this use. This will include comments provided through the circulations to Calgary Police Services, Calgary Fire Department, Alberta Health Services and Community Associations, prior to a decision being made on a development permit application.

ATTACHMENT

1. Proposed Bylaw 7P2014

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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

- | | |
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| 1. | Recommend that Council ADOPT , by bylaw, the proposed amendments to Land Use Bylaw 1P2007 (APPENDIX I). |
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Moved by: R. Wright
Absent: S. Keating

Carried: 6 – 0

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PLANNING EVALUATION

Commercial medical marihuana facilities can be associated with odorous emissions and require a large amount of indoor space for growing, cultivating, drying, packaging and distributing the marihuana for medical purposes. Additionally, requirements to provide a secure environment for, not only the producers but for neighbouring properties, necessitate the need for additional siting conditions, specific to this use. The Calgary Police Service's current experiences with the negative health and safety issues that the residential medical marihuana grow operations created, and the absence of experience with commercial medical marihuana developments, were considered when creating this new use.

BACKGROUND

Rules Governing Narcotics

The *Controlled Drug and Substances Act* (CDSA) is federal legislation that controls the use, production and distribution of certain drugs and other substances derived from narcotics. The Marihuana for Medical Purposes regulation was approved under the CDSA to provide rules for commercial production of medical marihuana and rules for access to it for individuals who require dried marihuana for their own medical purposes or for caregivers.

Under the CDSA, producers can store and produce dried marihuana and marihuana seeds. Producers will have to renew their medical marihuana licences every one to three years, depending on the length approved by Health Canada. Individuals who have a licence to produce medical marihuana in their homes will not have their licence renewed in 2014.

What is Medical Marihuana?

Medical Marihuana refers to the use of cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD) to treat disease or alleviate symptoms such as nausea or chronic pain caused by chemotherapy in cancer patients. Other patients use it for conditions such as Multiple Sclerosis, Epilepsy and Glaucoma. Despite lack of scientific data and clinical testing about the safety or efficacy of marihuana for medical purposes, the use of it has been increasing nationally.

Federal Regulations Changes

On 2014 March 31 the federal government will change the way Canadians access medical marihuana through the Marihuana for Medical Purposes Regulations (MMPR). The MMPR creates a system where production, packaging and supply occurs by commercial licenced producers, who distribute to patients who have been prescribed medical marihuana by a health care practitioner (a medical doctor). The licensing of commercial producers will be regulated by Health Canada and will be subject to security requirements, inspections, and good production practices.

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Under previous regulations, Health Canada did not disclose information, on persons authorized to possess and/or licenced to produce marihuana for medical purposes in their homes, to municipalities or fire departments. This created challenges for the Calgary Police Service and the Calgary Fire Department in identifying common hazards and dangers to public safety in both legal and illegal medical marihuana grow operations.

AMENDMENTS TO 1P2007

The goals of the amendments to 1P2007 are intended to:

- a) define a commercial medical marihuana production facility and provide basic rules for the use;
- b) list the medical marihuana use in the appropriate district (Industrial – General (I-G) district) to ensure there are opportunities to develop Medical Marihuana Production Facilities with associated rules to ensure that any potentially adverse impacts on adjacent uses are mitigated; and
- c) identify appropriate rules for Medical Marihuana Production Facilities that:
 - i. protect public safety and welfare through reasonable limitations on medical marijuana cultivation and production in relation to air and water quality, security and other health and safety concerns; and
 - ii. limit impacts on adjacent land uses.

The creation of a new use called “Medical Marihuana Production Facility” is not intended to regulate a product, but rather a manufacturing development that is unique due to its security and servicing requirements.

Medical Marihuana Production Facility is being proposed as a discretionary use in the Industrial - General (I-G) District because Health Canada’s regulations for building and security requirements are more characteristic of what could be expected within an industrial environment. I-G allows for many light and medium industrial uses, where individual uses and parcels function independently from neighbouring parcels. Parcels with this designation are generally located in internal locations, not facing major streets or bordering residential neighbourhoods, which is ideal for a Medical Marihuana Production Facility

ISSUES AND RECOMMENDATIONS

Land Use

The Calgary Police Service states that the new MMPR’s are a better way to ensure medical marihuana is being produced safely without safety code violations and building envelope issues inherent in residential growing. Further, fewer and more centralized and scrutinized commercial growing operations are less likely to be impacted by criminal activities; however, due to experiences with federal enforcement and monitoring of the residential medical marihuana operations, the City consensus is that land use planning and development rules should be used

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to municipally regulate this manufacturing activity in tandem with the federal legislation. Through the development permit process, the technical elements of medical marihuana applications will be evaluated.

Recommendation

The production, processing, packaging and shipping of medical marihuana is unique and has characteristics that are different from other plant production and manufacturing uses. For this reason, it is recommended that a new use specifically for medical marihuana be created. The performance of the new use, called Medical Marihuana Production Facility, can be easily monitored in the short term and amended or consolidated with another plant manufacturing use if it is determined through experience that the development is similar in nature to other commercial indoor plant growing uses.

Site Design

Marihuana has a strong distinctive odor which becomes stronger as the number of plants increases. Health Canada requires that all production of medical marihuana be located indoors and the site be equipped with a system that filters air to prevent the escape of odors and, if present, pollen.

Recommendation

It is recommended that the medical marihuana use be on its own parcel and not within a building containing other uses because marihuana cultivation increases the likelihood of damage to indoor environments. Adjacent uses may be affected by mould, combustion gases, pest activity and increase risk of fires even with the necessary safety precautions in place. Due to higher ventilation, water, wastewater, electricity and security requirements, the use is better situated in a stand-alone building.

This requirement may not be relaxed as it forms part of the use definition. Ventilation systems that prevent odors from escaping the site are being recommended and proposals will be evaluated at the time of a discretionary development permit.

Physical Security

Health Canada sets out physical security requirements that are necessary to secure sites where licenced producers conduct activities with marihuana. However, the regulations do not address storage of dried marihuana, marihuana seeds and cannabis.

Recommendation

Since the medical marihuana products as well as the medical waste need to be secured, it is recommended that all storage of the pre-production, post-production and waste materials containing medical marihuana be stored indoors. Further, loading of finished products should be conducted indoors. Garbage containers containing medical marihuana should be separated from general garbage and should be enclosed within the principle building(s). Due to increased risk of pests from internal garbage storage, an elevated pest control strategy may be needed at the development permit stage to satisfy Alberta Health Services requirements.

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INTERNAL AND EXTERNAL (INDUSTRY AND COMMUNITY) CONSULTATION

A Technical Advisory Committee was established in 2013 November which included representatives from various City departments, Calgary Police Service and the Calgary Fire Department. Between 2013 September and December, impacted external stakeholders (The Federation of Calgary Communities, National Association of Industrial & Office Parks, Alberta Health Services, Urban Development Institute, Building Owners & Managers Association of Calgary, College of Pharmacists and the Alberta College of Surgeons and Physicians) were contacted to inform them that the proposed changes are in response to the changes in federal regulations. Individuals who were interested in establishing a commercial medical marihuana facility in Calgary were also consulted.

Invitations were sent to all Councillors and the Mayor's Office in 2013 November to discuss the options to address commercial medical marihuana developments in Calgary.

Since the federal regulation changes have impacted all Canadian municipalities, planning departments in other Canadian cities were contacted about their approaches to commercial medical marihuana development. Of the eleven Canadian municipalities that have chosen to address commercial medical marihuana operations through land use planning, ten have decided to create a specific use for medical marihuana production with a number of land use rules, or are in the process of creating specific planning rules. The City of Chilliwack has chosen to evaluate commercial medical marihuana applications on a case by case basis, through a process similar to the City of Calgary's Direct Control Districts.

City staff also visited the Rural Municipality of Corman Park, Saskatchewan, where the longest running Canadian commercial medical marihuana producer, Prairie Plant Systems Inc., is located. Meetings were held with the manager of policy planning and chief of police at Corman Park as well as the C.E.O. and head of security at Prairie Plant Systems Inc. in order to gain an understanding of the considerations that go into a commercial medical marihuana operation. The Rural Municipality of Corman Park has accommodated Prairie Plant Systems for the past number of years in an agricultural district.

The visit to Prairie Plant Systems Inc., and conversations with potential Calgary based operators and industry helped to identify that indoor storage/loading, stand-alone buildings, setbacks to residential and smell would need to be considered in the evaluation of these uses. Through consultation with the Technical Advisory Committee, a bylaw was drafted that provided planning rigour, but did not unduly restrict potential applicants from applying the bylaw rules to new medical marihuana facilities.

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PROPOSED AMENDING BYLAW

1. The City of Calgary Land Use Bylaw, being Bylaw 1P2007 of the City of Calgary, is hereby amended as follows:
 - (a) Insert a new subsection 13 (90.1) as follows:

“(90.1) “*medical marihuana*” means a substance used for medical purposes authorized by a licence issued under the federal government’s Marihuana for Medical Purposes Regulations (MMPR) or any subsequent legislation which may be enacted in substitution.”
 - (b) Insert a new subsection 27 (2) (e.1) as follows:

“(e.1) Medical Marihuana Production Facility;”
 - (c) Insert a new subsection 233.1 as follows:

“233.1 “Medical Marihuana Production Facility”

 - (a) means a ***use***:
 - (i) where ***medical marihuana*** is grown, processed, packaged, tested, destroyed, stored or loaded for shipping;
 - (ii) where a licence for all activities associated with ***medical marihuana*** production is issued by Health Canada;
 - ~~(ii)~~ (iii) where all of the processes and functions are fully enclosed within a stand-alone ***building***;
 - ~~(iii)~~ (iv) that must not operate in conjunction with another approved ***use***;
 - ~~(iv)~~ (v) that must not include an outdoor area for storage of goods, materials or supplies;
 - ~~(v)~~ (vi) where all ***loading stalls*** and docks are inside a ***building***; and
 - (b) is a ***use*** within the General Industrial Group in Schedule A to this Bylaw;
 - (c) where an ancillary ***building*** or structure used for security purposes may be located on the ***parcel*** containing the ***use***;

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- (d) must include equipment designed and intended to remove odours from the air where it is discharged from the **building** as part of a ventilation system;
- (e) where garbage containers and waste material must be contained within the **building** containing the **use**;
- (f) must not be within 75.0 metres of a **residential district**, measured from the **building** containing the **use** to the nearest **property line** of a **parcel** designated as a **residential district**;
- (g) must not be located on a **parcel** that is adjacent to a **major street** or expressway;
- (h) where the **Development Authority** may require, as a condition of a **development permit**, a Public Utility and Waste Management Plan, completed by a qualified professional, that includes detail on:
 - (i) the incineration of waste products and airborne emissions, including smell;
 - (ii) the quantity and characteristics of liquid and waste material discharged by the facility; and
 - (iii) the method and location of collection and disposal of liquid and waste material;
- (i) requires a minimum number of **motor vehicle parking stalls** based on a parking study required at the time of **development permit** application;
- (j) does not require **bicycle parking stalls – class 1**; and
- (k) requires a minimum of 1.0 **bicycle parking stalls – class 2** per 2000.0 square metres **gross usable floor area**.”
- (d) Insert a new subsection 908 (2) (m.1) as follows:

“(m.1) **Medical Marihuana Production Facility**;
- (e) Amend Schedule A, General Industrial Group by adding inserting:

Medical Marihuana Production Facility after General Industrial - Medium

2. This bylaw comes into force 2014 April 28.

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APPENDIX II



2011 10th Avenue S.W.
Calgary, AB, T3C 0K4
T.403.807.8733 F.403.452.8910

January 24, 2014

Attn: Salma Mohiuddin

Re: Amendment to City of Calgary Bylaw 1P2007

Dear Salma Mohiuddin,

Bloom Cultivation Ltd. has submitted application to Health Canada to become a licensed producer under Marihuana for Medical Purpose Regulations (MMPR). It is expected that we will be issued a "Ready To Build" Notice in the very near future, which is the final stage in the process of becoming a Licensed Producer in Canada. Currently, we require a development permit from the City of Calgary to allow our proposed facility to undergo retrofitting required to meet federal security regulations.

Having reviewed the City of Calgary's proposed amendments to bylaw 192007, our party shows support for these amendments and feels they ensure the best interests of all stakeholders are protected. The proposed amendments are consistent with Health Canada's MMPR regulations that Licensed Producers are required to comply with. Our party is committed to working with City of Calgary, Calgary Police Service and Calgary Fire Department to operate a facility that meets and/or exceeds all municipal bylaws and federal regulations.

The MMPR program was enacted by Health Canada to supply a rapid growth in the number of authorized users of medical marihuana. Health Canada has forecasted the number of licensed patients to reach 50,000 by the end of 2014 and 450,000 by 2014. As can be inferred, medical marihuana will play an increasingly larger role and garner significant attention in the medical community across Canada for decades to come. Our party is committed to supplying patients across Canada with medical marihuana to improve the lives of individuals in our community at large.

If you require any information pertaining to our operation and/or facility or federal regulations please contact the underside at 403-807-8733. We look forward to cooperating with the City of Calgary on this initiative.

Regards,

A handwritten signature in black ink, appearing to read "S. Dunphy", with a long horizontal flourish extending to the right.

Steven Dunphy, B.Sc.
Bloom Cultivation Ltd.
Senior Person in Charge
403-807-8733