



# BOARD REPORT

**TO:** Chair and Directors

**File No:** 0430 20 53

**SUBJECT:** Electoral Areas: Cannabis Legalization Framework for the CSR

**DESCRIPTION:** Report from Jan Thingsted, Planner, April 6, 2018.  
Regulatory and Non-Regulatory Options to address Cannabis Legalization in CSR Electoral Areas

**RECOMMENDATION #1:** THAT: the Board direct staff to proceed with preparing a Cannabis Policy for consideration at a future Board meeting.

**RECOMMENDATION #2:** THAT: the Board direct staff to develop a public consultation plan which corresponds with the Board's chosen approach on a Cannabis Legalization Framework for the CSR.

## SHORT SUMMARY:

Bill C-45, the *Cannabis Act* is expected to come into force as early as August 2018. This federal legislation will legalize the cultivation, processing, and retail sale of recreational cannabis across the country, subject to provincial legislation and local government regulations.

The focus of this report is to present background information and options on how the CSR can prepare itself to address this impending legislative change and the potential issues associated with cannabis legalization.

A powerpoint presentation on cannabis production and retail sale was given by staff to the Electoral Area Directors' Committee (EAD) on February 27<sup>th</sup>, 2018. The presentation generated much discussion and provided some clarity to staff regarding the Committee's preferred approach to addressing cannabis legalization in the CSR Electoral Areas. The powerpoint presentation, and summary of discussion that followed, is found in two documents attached to this report:

- "2018-02-27\_EAD\_cannabis\_legalization\_presentation\_0430\_20\_53.pdf"
- "2018-02-27\_EAD\_meeting\_minutes"

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**VOTING:**      Unweighted       LGA Part 14       Weighted       Stakeholder   
                     Corporate                      (Unweighted)                      Corporate                      (*Weighted*)

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## BACKGROUND:

In February this year, the Federal Minister of Justice announced that the government is unlikely to meet their July 2018 target for legalizing recreational cannabis. While they did not provide a firm date for Royal Assent of Bill C-65, the Minister indicated that if the Senate approved the Bill in June and the Bill proceeded expeditiously, retail sale could commence in August or September 2018. This gives local government and the Province another month or so to consider and prepare companion regulations within our relevant jurisdictions (*see table below for an overview of authority/responsibility*).

ACTIVITY	AUTHORITY RESPONSIBLE		
	FEDERAL	PROVINCIAL	MUNICIPAL
Possession limits **	●		
Trafficking	●		
Advertisement and packaging **	●		
Impaired driving	●	●	
Medical cannabis	●		
Seed-to-sale tracking system	●		
Production (cultivation and processing)	●		
Age limit (federal minimum) **	●	●	
Public health	●	●	
Education	●	●	●
Taxation	●		●
Home cultivation (growing plants at home) **	●		
Workplace safety		●	
Distribution and wholesaling		●	
Retail model		●	
Retail location and rules		●	●
Regulatory compliance	●	●	●
Public consumption		●	●
Land use/zoning		●	●

\*\* Provinces will have the ability to strengthen legislation for these areas under federal jurisdiction.<sup>1</sup>

Source: City of Surrey Cannabis Legalization: *An Evolving Framework for BC Municipalities*

#### Cannabis Production:

Cannabis production includes both cultivation, and any form of subsequent processing and packaging. While the Federal government will be the lead authority regarding most aspects of cannabis production (*see table above and attached powerpoint presentation*), they will not be responsible for regulating any related land use issues. This creates a potential regulatory gap in which local governments can consider developing policy and/or land use regulations to address issues such as production facility locations, and distances from schools etc.

Unfortunately, it remains unclear at this time what the Federal referral process will look like for cannabis production facilities and if the Federal government will require the support of local government before issuing a licence.

It is also unclear if the Agricultural Land Commission (ALC) will treat the production of non-medical cannabis any differently from medical cannabis. Currently, the ALC considers medical marijuana production as a "farm use", as defined in the *Right to Farm Act*, and therefore permits it in the Agricultural Land Reserve.

### Cannabis Retail:

In February, the Province released the *B.C. Cannabis Private Retail Licensing Guide* which provides details on the proposed retail framework. Those over 19 years of age will be able to purchase non-medical cannabis through privately run retail stores or government-operated stores and government online sales. BC's Liquor Distribution Branch (BCLDB) will operate a standalone network of retail stores and the Liquor Control and Licensing Branch (LCLB) will be tasked with licensing private stores and monitoring the retail sector.

The regulations governing public and private retail stores are proposed to be similar to those currently in place for liquor stores. The proposed approaches are as follow:

- **In urban areas**, licensed retailers will only be allowed to sell cannabis and cannabis accessories and will be prohibited from selling other products, such as liquor, food, clothing or gas.
- **In rural areas**, the Province proposes to establish exceptions for recreational cannabis retail, similar to those of liquor sales where a private *rural agency store* can sell a variety of goods and services. The criteria for these rural stores is unconfirmed as of the date of this report.

This spring, the Province will launch an early registration process for individuals/businesses wishing to apply for a cannabis retail licence. Although BC will not cap the number of retail licences, these will not be issued without the support of local governments. According to the Guide, a local government can opt to have no retail sales within their jurisdictions, or create regulations based on the needs of their communities.

Finally, the Province is tasking local governments with undertaking neighbourhood consultation; asking residents in the vicinity of the proposed retail location to comment on how the store would impact the community. The local government must then consider this public input when deciding whether or not to support the application and must notify the LCLB of their decision by way of a Board resolution. Although it has yet to be announced, it is expected that policy regarding local government consultation will be similar to what is currently in place for liquor primary licences. It is also unclear what will happen if a local government decides to provide no response to a cannabis retail store application. In the case of liquor applications, the CSRD has a policy (A-42) which states that the Board will not provide comment on liquor licence referrals concerning an amendment to an existing licence or a new licence. The policy only requests that the CSRD be notified of such applications. With notification, staff review land use regulations and determine if the proposed use is permitted.

The full summary of the retail framework, including frequently asked questions can be found at: [B.C. Cannabis Private Retail Licensing Guide](#)

### Approach Taken by Other Jurisdictions:

Throughout the Province, regional districts and municipalities are taking a wide range of approaches in dealing with cannabis legalization. Thompson Nicola Regional District (TNRD), for example, is considering zoning bylaw amendments to "foreclose recreational cannabis sales for the present." This means that retail sales of recreational cannabis will not be permitted in TNRD Electoral Areas. City of Salmon Arm staff, however, are recommending a "moderately regulated approach" which would involve adopting a locational preference policy for cannabis retail. The locational preference policy would specify locational guidelines including minimum distance requirements between cannabis retail stores and schools, parks or residential areas. The District of Sicamous is considering amendments to their

zoning bylaw which would require a rezoning application to be submitted for any cannabis retail store proposal.

### **POLICY:**

The following table lists the CSRD's 10 zoning bylaws and identifies the extent of their coverage and whether or not they contain cannabis specific regulations.

<b>Electoral Area</b>	<b>Bylaw No</b>	<b>Electoral Area coverage</b>	<b>Cannabis specific regulations</b>
Area A	BL 168	partial	no
Area B	BL 851	full	yes
Area C	BL 701 & 3000	partial	no
Area D	<ul style="list-style-type: none"> <li>• BL 751</li> <li>• BL 2500</li> </ul>	<ul style="list-style-type: none"> <li>full</li> <li>full</li> </ul>	<ul style="list-style-type: none"> <li>yes</li> <li>no</li> </ul>
Area E	BL 2000	partial	no
Area F	BL 825, 650 & 800	partial	no

As shown by the table, the CSRD currently has two zoning bylaws that have cannabis specific regulations:

- *Ranchero /Deep Creek Zoning Bylaw No. 751 (proposed to be adopted April 2018)*
  - home occupation regulations expressly prohibit cannabis related business activities (production and retail sale)
  - only permits cannabis retail sales in the Highway Commercial Zone
  - only permits cannabis production on ALR land (parcels 4 ha or greater)
- *Electoral Area B Zoning Bylaw No. 851 (adopted August 2014)*
  - home occupation regulations expressly prohibit medical marijuana production facilities
  - only permits medical marijuana production facilities on ALR land or in the "Special Industrial Zone"
  - minimum parcel size of 8 ha for facilities on non-ALR land
  - general regulations specify:
    - a 250 m minimum distance between medical marijuana production facilities and day cares, libraries, public assembly facilities, schools and parks
    - a minimum parcel boundary setback of 75 m for all facility buildings and structures
    - landscaping and screening requirements

The eight other CSRD zoning bylaws do not contain specific regulations that directly address cannabis and could potentially permit production facilities in industrial zones or as home occupations (depending

on the proposed scale of the operation). The retail sale of non-medical cannabis would potentially be permitted in any commercial zone that allows retail sales.

However, as outlined by the Province in its 'BC Cannabis Private Retail Licensing Guide' a resolution of support from the Board would be required prior to the Province issuing a cannabis retail licence.

It is also worth noting that many parts of the CSRD do not have zoning bylaws in place. These include: most of Electoral Area A; much of Electoral Area E; Sunnybrae; White Lake; Tappen in Electoral Area C; and Celista, Adams River, and Seymour Arm in Electoral Area F.

### **FINANCIAL:**

The cost to implement cannabis regulations will depend largely on the extent to which the CSRD Board wishes to regulate, and if and how much public consultation is desired by the Board. Developing a standalone policy would be the least expensive option while making major bylaw amendments would require additional costs for advertising and holding public meetings and hearings.

### **KEY ISSUES/CONCEPTS:**

The following options address the issues and concerns raised by Directors at the February 27th, 2018 EAD meeting. These options vary in terms of cost, implementation time, and regulatory force.

### **OPTIONS:**

1. Standalone Cannabis Policy – Develop a CSRD wide policy for Electoral Areas that would establish how the CSRD facilitates and influences the siting, appearance, setbacks, density and any other features of a cannabis production facility or retail store in CSRD. Such a policy would be similar to the CSRD policy for addressing telecommunication facilities. Adopting a cannabis policy would enable the CSRD to establish criteria that could include the following:
  - a. Procedures, process and responsibilities for receiving and reviewing referrals/applications from the Province for retail sales and Health Canada for production facilities
  - b. Process for public consultation
  - c. Locational guidelines
  - d. Minimum distance guidelines between cannabis facilities/stores and other specific land uses such as schools, parks, and other cannabis businesses
  - e. Design guidelines

Although the policy could be tailored to suit the needs of each electoral area, a policy with guidelines and criteria that apply to all electoral areas would be simpler to interpret and administer.

It is noted that the few communities in BC which have adopted proximity regulations / policies reference a wide range of distances from schools, daycares, liquor stores, between stores, etc. The rationale for the varying distances in each community is not clear and appears to be unique to each community's built environment, zoning patterns, community input and/or and political desires.

It should be noted that staff are awaiting confirmation from the LCLB to see if they will accept a policy as the CSRD response to an application instead of a formal resolution.

Option #1 is recommended by staff since it would be the quickest, least expensive, and most effective tool to implement. Although a policy provides only guidelines, it would be sufficient enough to assist the Board in determining if it supports or does not support an application for a cannabis store or production facility. The Province will not issue licences for retail stores without local government support and it's likely that the Federal government will treat applications for cannabis production facilities the same way.

2. Cannabis Policy plus Bylaw Amendments – In addition to establishing a cannabis policy, the CSRD could consider making amendments to its existing zoning bylaws which address cannabis. These regulations could address the same features addressed in the policy but would be enforceable regulations, rather than guidelines. The amendments could also be tailored to suit the needs of each bylaw area.

This approach is not recommended given the significant staff time and resources required to amend eight or more separate bylaws. It is also likely that a standalone policy will be just as effective operationally as making specific bylaw amendments.

3. Cannabis Policy plus Cannabis Bylaw – Another option would involve developing a cannabis policy plus a CSRD wide cannabis bylaw. This approach would establish a single bylaw with cannabis specific regulations for the entire Regional District, including areas where zoning does not currently apply.

This approach would demand significant staff time and resources and is therefore not recommended. The main challenge in this approach would likely be optics of introducing such zoning regulations to areas which do not yet have even basic zoning provisions for non-cannabis related land uses. However, a policy would still be effective in the currently proposed LCLB application process for cannabis retail stores. Cannabis production though would still be permitted where zoning allows it or where no zoning is in place.

#### OTHER CONSIDERATION:

Fees Bylaw Amendment - As public input is required for a Provincial retail licence application, and the CSRD will be responsible for undertaking and coordinating the public input process, a new application form/procedure and an associated fee should be considered to cover advertising, staff resources, and administration costs. Again, at this time it is unclear what exactly the Province expects for public consultation, i.e. letters, website, newspaper advertisements, public meetings. Further, if a policy is adopted by the Board it is not clear whether or not public input is still required.

#### **IMPLEMENTATION:**

The direction chosen by the CSRD Board will determine the next steps taken by staff. A work plan may be required to establish the timeline and resources required to implement the selected option. Staff

will also continue to await additional information to be provided by the province and federal government as the cannabis production and retail distribution framework continues to be unveiled. As new information from the province and federal government becomes available, staff will provide updates to the Board and note any impacts that such information may have on the Board's chosen approach to deal with cannabis related applications.

**COMMUNICATIONS:**

A communication plan will be helpful in framing the method and scope of public engagement. Public input will be sought in the creation of a policy and /or bylaw amendments. Further public engagement and education will also be required once a policy and /or bylaw amendments are implemented.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendations.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendations.*
2. *Deny the Recommendations.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board*

**Report Approval Details**

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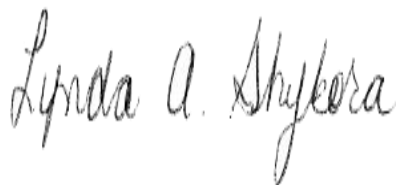
This report and all of its attachments were approved and signed as outlined below:



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