

## ***EXECUTIVE SUMMARY***

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### ***PLANNING FOR POT: INCORPORATING THE PRODUCTION OF MEDICAL MARIHUANA INTO THE ZONING BYLAW OF THE DISTRICT OF WEST KELOWNA***

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In June 2013, Health Canada enacted the *Marihuana for Medical Purposes Regulations* (MMPR), legislation that changed the way medical marihuana is grown and distributed. This was in response to problems that arose from the previous legislation allowing the home production of medical marihuana. Under the new MMPR legislation medical marihuana producers must declare themselves to local authorities and local government. Most importantly, medical marihuana production is now prohibited from occurring in a dwelling place. As MMPR legislation is federal, all Canadian municipalities must allow medical marihuana production facilities or be prepared to prove that residents still have reasonable access to medical marihuana. This research was aimed at determining how best to incorporate a medical marihuana land use into the zoning bylaw of the District of West Kelowna, British Columbia. Three questions were posed:

1. In which zone, if any, is the production of medical marihuana most appropriate?;
2. If an existing zone is not appropriate, what would a new zone for the production of medical marihuana include?; and,
3. Within the District of West Kelowna, which areas would be most appropriate to be included in this new medical marihuana zone?.

### ***FUNCTIONAL LAND USE REVIEW***

Medical marihuana production facilities require two major inputs: water and electricity. Both are for the propagation and growth of the marihuana. Waste products include the dried cannabis flower, which is the intended product, along with the decomposing marihuana plant and wastewater. The use has several accessory activities such as testing, storage, and packaging, however, these uses require minimal space and do not produce any negative externalities. The production of medical marihuana does produce two major negative externalities. One is odour

pollution, which is required by MMPR to be mitigated through air filtration systems. Another is the attraction of criminal activity due to the high cash value of the medical marihuana crop.

These facilities are typically large, approximately 10,000 m<sup>2</sup>, with considerable variation. Setbacks should be a minimum of 30.0 m on all sides to mitigate negative externalities, assuming proper air filtration can mitigate odour. On-site parking is required for employees, however, a facility that is 10,000 m<sup>2</sup> would require only approximately 50 spaces. The facility requires only one loading bay for the loading and unloading of inputs and outputs.

This new land use has several compatible adjacent activities and land uses. Examples include light industrial uses such as warehouses, processing facilities, light manufacturing, wholesale distribution, and some office parks. They have similar built form and will not be seriously affected by medical marihuana production's negative externalities. Incompatible adjacent activities and land uses *do not* have similar built form to medical marihuana facilities and have the potential to be affected by their negative externalities. Examples include residential zones and commercial zones, particularly in central business districts.

### ***FINDINGS***

Zoning Bylaw No. 0154 has 41 zones, nine of which have purposes consistent with the production of medical marihuana, permit its use, and meet the stipulations set forth by the MMPR legislation. These nine zones are highlighted in Chart 1-Comparative Zoning of the DWK.

Some of the nine zones are more appropriate than others. The A1-Agriculture zone is appropriate because medical marihuana production has been deemed a farm practice according to the *Right to Farm Act* and contravening provincial policy could create potential issues later. However, medical marihuana production is not compatible with this zone. Often the necessary utilities are not available while adjacent land uses are not always compatible.

The rural zones (RU1-RU5) are not appropriate because they often lack the necessary utilities.

**Chart 1-Comparative Zoning of the DWK.** This chart shows all zones in the DWK. It shows whether medical marihuana production meets the purpose of the zone, it is a permitted use, and if the zone meets MMRP legislation.

Zone	Zoning Bylaw No. 871			MMPR Regulations
	Zone	Meet Zone Purpose	Permitted Use†	MMPR Permitted
<b>WATER ZONE</b>				
Recreational Water Use Zone	W1	No	No	No
Intensive Water Use Zone	W2	No	No	No
Commercial Water Use Zone	W3	No	No	No
<b>FOREST RESOURCE ZONES</b>				
Forest Resource Zone	F1	No	No	No
<b>AGRICULTURAL ZONES</b>				
Agricultural Zone**	A1	Yes	Yes	Yes
<b>RURAL ZONES</b>				
Country Residential Zone	RU1	Yes	Yes	Yes
Rural Residential Small Parcel Zone	RU2	Yes	Yes	Yes
Rural Residential Medium Parcel Zone	RU3	Yes	Yes	Yes
Rural Residential Large Parcel Zone	RU4	Yes	Yes	Yes
Rural Resource Zone	RU5	Yes	Yes	Yes
<b>RESIDENTIAL ZONES</b>				
Westbank Centre Compact Residential Zone	RC1	No	No	No
Boucherie Centre Compact Residential Zone	RC2	No	No	No
Compact Single Detached Residential Zone	RC3	No	No	No
Single Detached	R1	No	No	No
Manufactured Home Residential Zone	R1M	No	No	No
Large Parcel Single Detached Residential Zone	R1L	No	No	No
Manufactured Home Park	RMP	No	No	No
Duplex Residential Zone	R2	No	No	No

Zone	Zoning Bylaw No. 871			MMPR Regulations
	Zone	Meet Zone Purpose	Permitted Use	MMPR Permitted
Low Density Multiple Residential	R3	No	No	No
Medium Density Multiple Residential Zone	R4	No	No	No
Westbank Centre Multiple Residential Zone	R5	No	No	No
<b>COMMERCIAL ZONES</b>				
Urban Centre Commercial Zone	C1	No	No	Yes
Neighbourhood Commercial Zone	C2	No	No	Yes
Gasoline Service Station Commercial Zone	C3	No	No	Yes
Service Commercial Zone	C4	Yes	Yes	Yes
Campground, Cabin and Motel Commercial Zone	C5	No	No	Yes
Tourist and Resort Commercial Zone	C6	No	No	Yes
<b>INDUSTRIAL ZONES</b>				
Light Industrial Zone*	I1	Yes	Yes	Yes
Heavy Industrial Zone	I2	No	No	Yes
Timber Processing and Manufacturing Zone	I3	No	No	Yes
Gravel Extraction Zone	I4	No	No	Yes
Gravel Extraction with Asphalt	I5	No	No	Yes
Rural Industrial Zone*	I6	Yes	Yes	Yes
<b>PARKS AND INSTITUTIONAL ZONES</b>				
Parks and Open Space Zone	P1	No	No	Yes
Institutional and Assembly Zone	P2	No	No	Yes
<b>COMPREHENSIVE DEVELOPMENT ZONES</b>				
Comprehensive Development Zone (Westlake)	CD1	No	No	Yes
Comprehensive Development Zone (The Cove Resort)	CD2	No	No	Yes
Comprehensive Development Zone (Mission Ridge Estates)	CD3	No	No	Yes
Comprehensive Development Zone (The Pines of Mission Hill)	CD4	No	No	Yes
Comprehensive Development Zone (IHA Health Centre)	CD5	No	Yes	Yes
Comprehensive Development	CD6	No	No	Yes

†Medical marihuana production permitted in zone under agriculture, general or greenhouse or plant nursery

\*Recommended zones

\*\*Recommended with restrictions

The C4-Service Commercial zone is not appropriate because of its generally small size (minimum parcel size of 500 m<sup>2</sup>), the risk of impacting neighbouring businesses with negative externalities, and the fact that uses in this zone typically have customers arriving on-site to conduct business, while medical marihuana facilities must ship their product to their customers.

The two industrial zones, I1-Light Industrial and I6-Rural Industrial, are both appropriate. The land use is consistent with the built form of these zones, while negative externalities are mitigated due to the similar uses occurring in the zone. Finally, the I1-Light Industrial zone is often serviced with the required utilities, however, that may not be the case for the I6-Rural Industrial zone.

District Council can choose to amend the existing zones within Zoning Bylaw No. 0154 or they can introduce a new specialized zone for medical marihuana. Such a zone would require a purpose, as simple as “to accommodate the production of medical marihuana and its associated uses”. Siting requirements are necessary. Minimum parcel sizes of 5,000 m<sup>2</sup> to accommodate the generally large facilities, with setbacks of at least 30.0 m on all sides to mitigate negative externalities. Maximum height of 12.0 m is appropriate as most facilities are single storey, while multi-tenant buildings should be prohibited as they increase the likelihood of impacting neighbours with negative externalities.

This specialized zone should be located on relatively flat parcels, with minimum grade due to the large size of the facilities. They should be located on parcels that are serviced with municipal utilities such as water and sewer. Finally, the zone should be located on parcels that help mitigate negative externalities such as odour pollution yet be on or near transportation routes to facilitate the movement of the product.

### ***RECOMMENDATIONS***

Based on the findings from the research four recommendations were made to efficiently and effectively incorporate a medical marihuana land use into the urban fabric of the District of West Kelowna. Recommendations include:

***RECOMMENDATION 1:*** Amend Zoning Bylaw No. 0154 to include a definition for ‘medical marihuana production’ similar to this: “a facility, licensed by the Federal

Government, used solely for the production, manufacturing, processing, testing, packaging, and shipping of marihuana and marihuana products for medical purposes as authorized under the *Controlled Drugs and Substances Act (Canada)*". Medical marihuana is currently permitted under the uses of *agriculture, general and greenhouse or plant nursery*, creating issues with consistency as a land use. A specific definition for this land use will avoid issues of consistency.

**RECOMMENDATION 2:** Amend Zoning Bylaw No. 0154 to permit medical marihuana production on all Agricultural Land Reserve parcels to avoid contravening the *Farm Practices Protection (Right to Farm) Act*.

**RECOMMENDATION 3:** Amend Zoning Bylaw No. 0154 to permit medical marihuana production and its associated uses in the most appropriate zones which are: A1-Agriculture (with increased setbacks as this zone is often adjacent to residential zones, an incompatible land use), I1- Light Industrial and I6-Rural Industrial.

**RECOMMENDATION 4:** Amend Zoning Bylaw No. 0154 to permit medical marihuana production as a permitted use within established zones as opposed to using site specific amendments for each proposal for a medical marihuana production facility is made to the District.

## **CONCLUSION**

This report examined the most appropriate way to incorporate the medical marihuana production land use into the urban fabric of the District of West Kelowna, using three research questions. The findings of this research were used to offer recommendations to make the incorporation as efficient and effective as possible.

Despite limitations, this research was able to utilize the lack of best practice and availability of 'other' practice to examine the options available to incorporate the production of medical marihuana into the District of West Kelowna's Zoning Bylaw No. 0154.

Planning for medical marihuana production would benefit from future research that focusses on including more case studies and the development of best practices to offer a standard for the incorporation of this land use into a zoning bylaw.