

Cannabis: SCRD Land Use Regulations

Infrastructure Services Committee Presentation
June 2018



Direction

- THAT staff prepare a workshop for Rural Area Directors with regards to current Land Use regulations around Cannabis Commercial Production, retail sales, medical marihuana and personal use and provide options for bylaw amendments to prevent legal non-conforming situations that negatively impact neighborhoods.



Overview/Outline

1. Cannabis Act
2. Production
3. Retail
4. Use
5. Further Considerations
6. Summary



Objectives of Cannabis Act

- Restrict youth access to cannabis
- Regulate promotion or enticements to use cannabis
- Enhance public awareness of health risks associated with cannabis
- Impose criminal penalties for those breaking the law, especially those who provide cannabis to youth
- Establish strict product safety and quality requirements
- Provide for legal production of cannabis
- Allow adults to possess and access regulated, quality-controlled, legal cannabis
- Reduce the burden on the criminal justice system



Legislation - Current Status

- Cannabis Act - awaiting royal assent; notion of lead time to come into force.
- In BC, Bill 30 – Cannabis Control and Licensing Act has received first reading. No regulations released.
- Access to Cannabis for Medical Purposes Regulation (ACMPR) remains in effect.



Jurisdiction (Source University of Calgary/Mike McKinnon)

Who is responsible for regulating what?



Federal government

- Criminal offenses
- Advertising
- Medical cannabis
- Production

Provincial government

- Workplace safety
- Distribution
- Retail model

Municipal government

- Land use and zoning

- Possession
- Impaired driving
- Public health
- Taxation
- Age limits
- Home cultivation

- Public consumption
- Retail locations and rules



PRODUCTION

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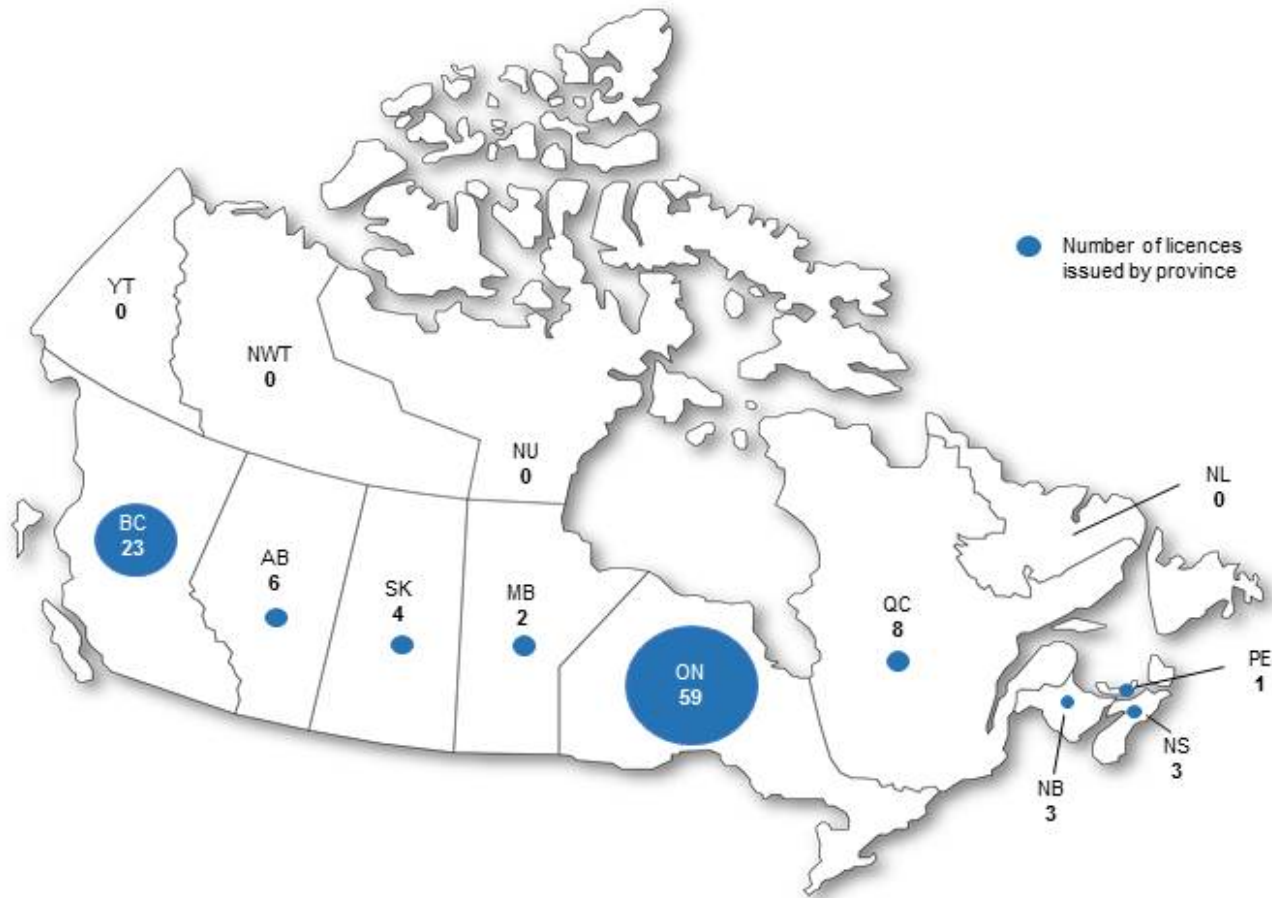
Production – Medical

- Personal production for registered individual
- Designated production for registered individual
 - Grow for two registered persons
 - Up to four registrations at the same location
- Licenced producer
 - Those licenced for commercial medical cannabis production will be deemed to hold licences for the production of non-medical cannabis
 - Expected to comply with local bylaws
- Recognized as farm use within ALR



Licensed Producers – Medical

(Source Health Canada)



Production – Non-Medical

- Up to 4 plants within a dwelling (includes adjacent yard or garden)
- Cannot be visible from street / public areas off the property
- Not permitted in dwellings used as a daycare
- Building owners and strata corporations will be able to restrict or prohibit home cultivation



Production – Non-Medical

- Commercial Scale production facilities
 - need to be federally licensed to operate
- Licensed producers of medical cannabis also able to produce non-medical



Land Use Regulations – Production Facilities

- Require licence from Health Canada
- Production facilities permitted in some zones, including:
 - i. I7 (Hillside area)
 - ii. RU2, RU3 and Ag. Zone on parcels greater than 8 hectares
 - iii. Site specific zones I1 (Hillside) and I5B (Twin Creeks)
- Marijuana Production Facility does not distinguish between medical and non-medical



Potential Bylaw Options – Production Facilities

- Maintain existing zoning
- Create more detail to distinguish between large and small scale production
- Include further refinements as part of Zoning Bylaw 310 review
- Add specific list of prohibited uses into bylaws to provide certainty. For example, specifically exclude cannabis from definition of horticulture, or from retail sales



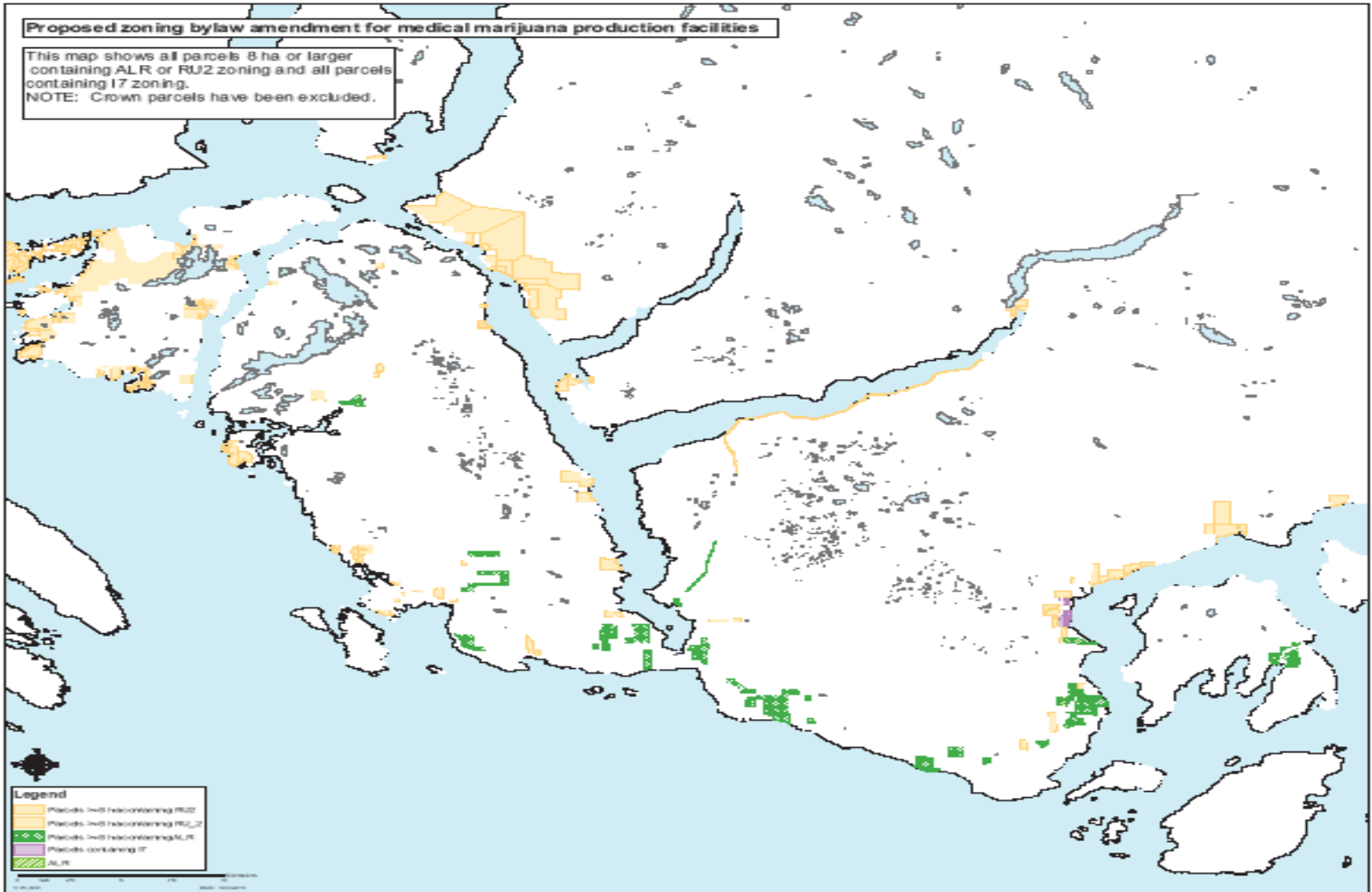
ZONING MAPS

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Proposed zoning bylaw amendment for medical marijuana production facilities

This map shows all parcels 8 ha or larger containing ALR or RU2 zoning and all parcels containing I7 zoning.
NOTE: Crown parcels have been excluded.

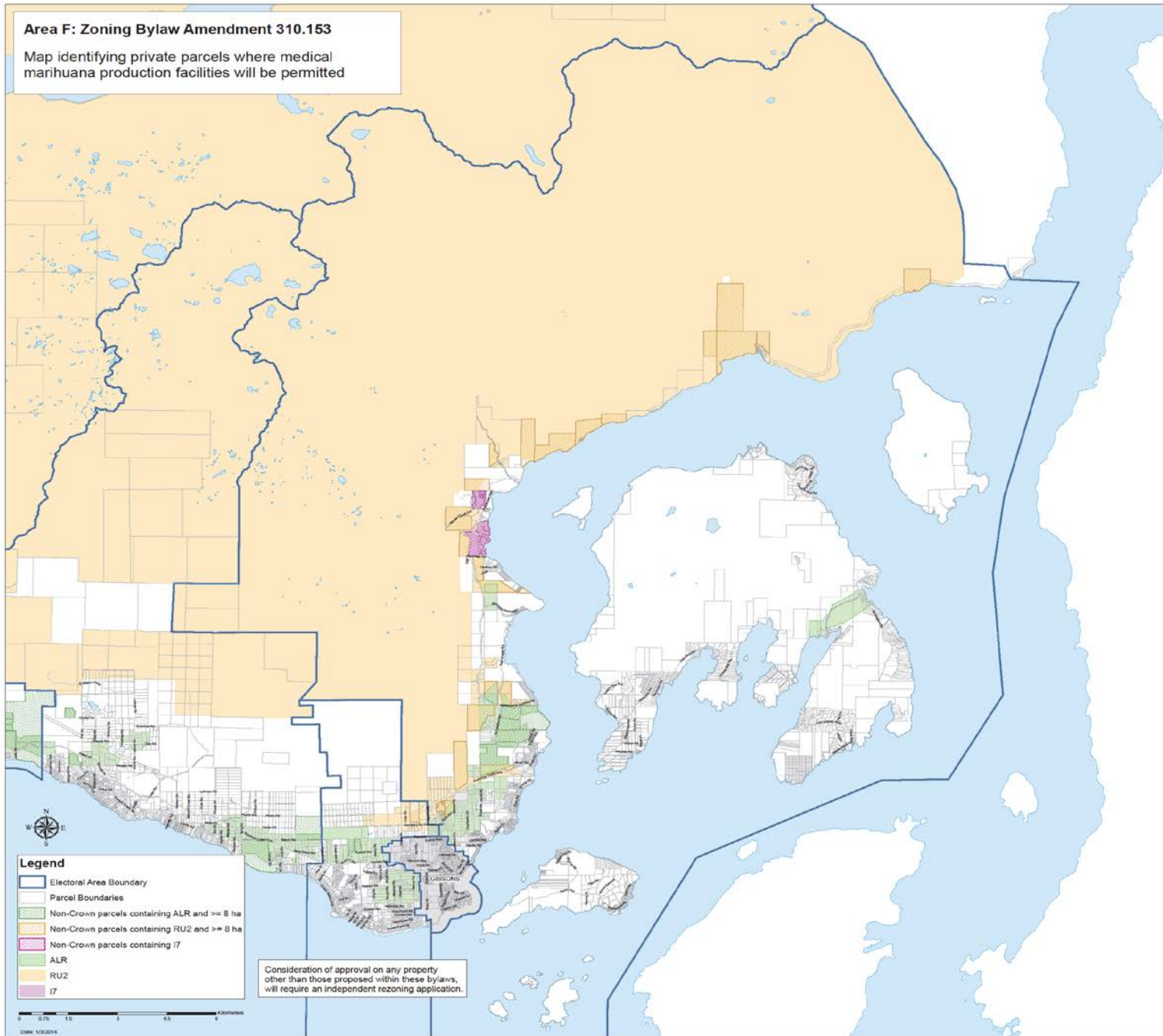


- Legend**
- Orange: Parcels with RU2
 - Green: Parcels with RU2_2
 - Purple: Parcels with ALR
 - Pink: Parcels with I7



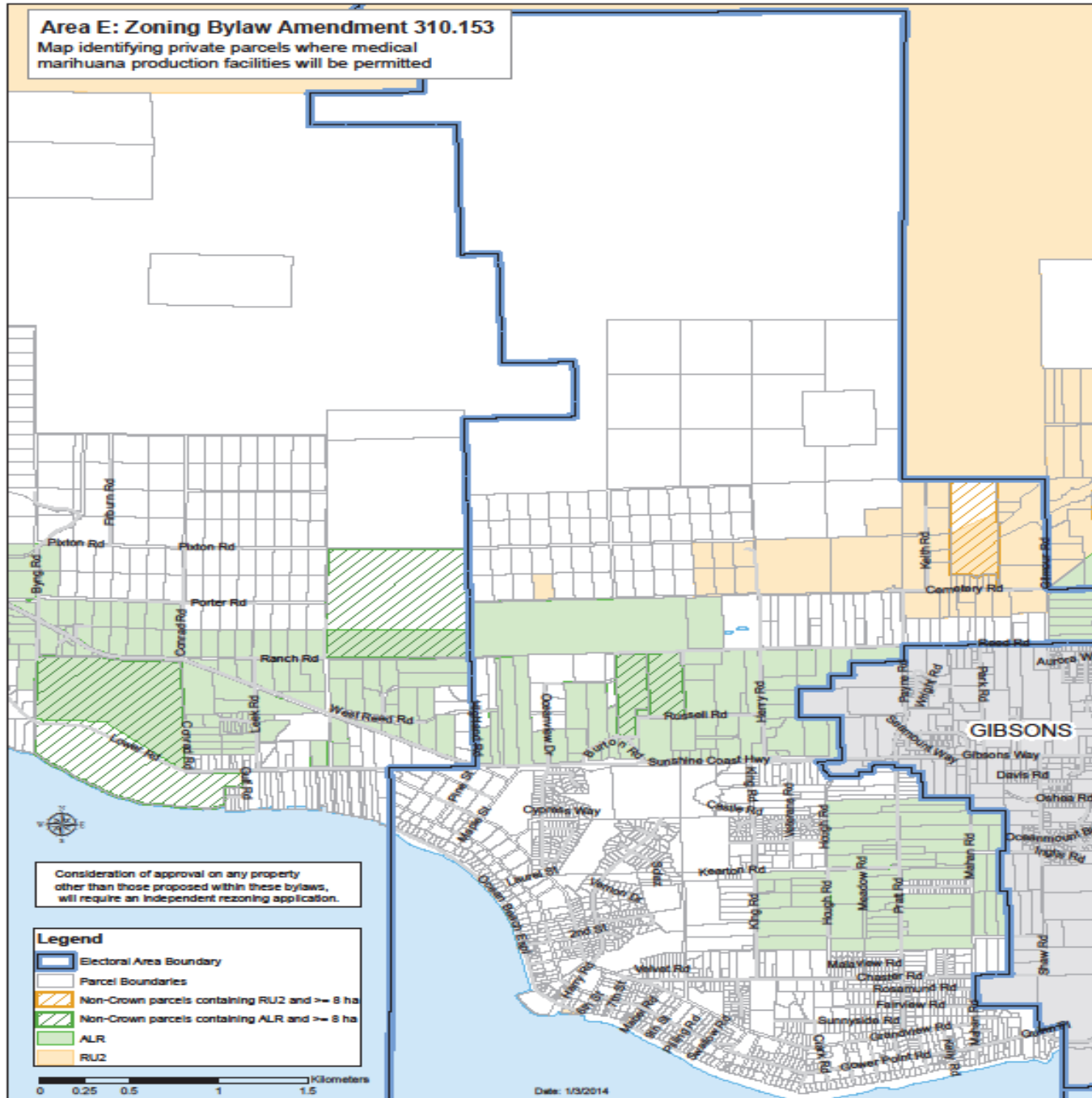
Area F: Zoning Bylaw Amendment 310.153

Map identifying private parcels where medical marihuana production facilities will be permitted



Area E: Zoning Bylaw Amendment 310.153

Map identifying private parcels where medical marihuana production facilities will be permitted



RETAIL

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Retail – Medical

- Currently only legally distributed through licensed producers via secure shipping
- Dispensaries are illegal. Under *Cannabis Act*, medical sales will continue to be online, licensed only
- Zoning does not contain types of uses within retail
- For example, C5 permits ‘retail or wholesale sales’



Retail: Non-Medical

- Mix of jurisdictional authority – federal, provincial and local government
- Retail stores will require Provincial licence
- Provincial legislation:
 - “Applicants must have the support of the local government” – process being developed with UBCM
 - Physical store regulations (mix of private and public); “exceptions for rural stores, similar to rural liquor stores.” Criteria under development.
 - Existing dispensaries are illegal, no guarantee of licence



Retail: Non-Medical

Cannabis Licensing and Control Act - section 33

Recommendations of local government or Indigenous nation

33 (1) The general manager must not issue a prescribed class of licence or make a prescribed type of amendment to a prescribed class of licence unless the local government or Indigenous nation for the area in which the establishment is proposed to be located or is located gives the general manager a recommendation that the licence be issued or amended.

(2) After the general manager receives an application... must give the local government or Indigenous nation... notice of the application.

(3) If a local government or Indigenous nation that receives notice decides to give comments and recommendations, the local government or Indigenous nation must take into account any prescribed criteria and, in the prescribed circumstances, gather the views of residents of an area determined by the local government or Indigenous nation in respect of the application...



Retail: Non-Medical

- Zoning Status:
 - Commercial zones permit retail, no specific language on cannabis, either permissive or prohibitive
 - Details of rural retail framework still outstanding
- Board direction required should a notice of a license application be received.



Potential Bylaw Options

- Distinguishing between medical and non-medical sales
- Broadly defining cannabis operations and expressly permitting/prohibiting various components, such as:
 - i. Restricting number and location of dispensary and retail stores
 - ii. Regulate location for non-medical cannabis retail sales which could include distance from other outlets or types of use e.g. schools, daycares, etc.
- Potential licence application review fee



Actions taken elsewhere

- SLRD and CVRD preparing bylaws to prohibit retail sale of cannabis in all electoral areas pending public consultation process
- District of Sechelt – recent report to Council with recommendations to:
 - permit sales in specific zones
 - amend business license bylaw to recognize and regulate medical and non-medical uses
 - regulate smoking of marijuana
 - add fee for review of Cannabis retail and cultivation/production licence application



Other implications

- Once legislation is brought in to effect, existing dispensaries/retail outlets may attempt to claim legal non-conforming status
- Develop procedure for public consultation on retail licence applications, fee for review



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Use – Non-medical

- Age for possession and purchase is 19
- Banned for all occupants in vehicles
- 90 day administrative driving prohibition for drug affected driving
- Public use will be permitted where tobacco use permitted (generally)
- Banned from use at community beaches, parks and playgrounds
- Once legalized, use may become more prevalent or less hidden therefore resulting in potential neighborhood odour impacts/conflicts



Potential bylaw options - use

- Nuisance odour
 - Difficult to regulate and remediate
 - Hard to quantify objectively
 - Usefulness of odour testing labs questionable and testing is expensive
 - Hard to prove source of odour to standard needed in court
- Air quality/smoking regulations (public health aspect and in consultation with/approval of Minister of Health)



CONSIDERATIONS



Enforcement issues

- Improper sale or production
- Illegal dispensaries
- Public use
- Impaired driving
- Impairment
- If nuisance regulations are added, how to measure, assess & record odours in a fair and consistent manner
- Building construction and safety standards in relation to home cultivation of cannabis
- Liability for failure to enforce



Public safety

- Production is associated with construction issues, overloaded or bypassed electrical wiring and private security measures
- Unauthorized municipal water services
- Wastewater impacts from production facilities
- Mould and air quality issues
- Commercial facilities should have an annual fire and life safety inspection



Summary – If Legal Today

- Production guided by existing zoning, ACMPR, 4 plants per dwelling; commercial scale requires federal licence
- Medical cannabis retail illegal
- Non-medical cannabis permitted in retail zones, if granted provincial licence
- Local government support required for retail licence
- Community consultation required for local government to respond to Provincial licence application
- Board direction would guide response to licence application
- Use not permitted in parks, playgrounds



Summary

- Local government jurisdiction includes land use and zoning
- Legislation and regulations still under development
- Bylaw options to further define production
- Bylaw options to set retail rules through zoning (could be interim)
- Public consultation for any bylaw amendments, for licence applications
- Resources required to support legalization of cannabis being monitored; Board will be updated

