



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, JANUARY 21, 2014**

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**SUBJECT**      **PROPOSED LAND USE REGULATIONS FOR MEDICAL MARIHUANA PRODUCTION FACILITIES IN THE JUAN DE FUCA ELECTORAL AREA**

**ISSUE**

Health Canada has implemented new *Marihuana for Medical Purposes Regulations* which authorize supply and distribution of medical marihuana by licensed producers. Staff have prepared zoning bylaw amendments to define and regulate medical marihuana production facilities as intensive agriculture on lands within the Agricultural Land Reserve (ALR) in the Juan de Fuca Electoral Area (JdF EA).

**BACKGROUND**

The *Marihuana for Medical Purposes Regulations* (the Regulations) create a licensing scheme for the production and distribution of medical marihuana. This is considered a farm use by the Agricultural Land Commission (ALC); however, local governments can regulate the siting of medical marihuana production facilities on land within the ALR through zoning bylaws.

Staff has received multiple inquiries and two notices of applications for medical marihuana production facilities within the JdF EA. The Land Use Committee (LUC) directed staff to prepare bylaw amendments regulating medical marihuana production facilities at their meeting of November 19, 2013.

**ALTERNATIVES**

1. That proposed Bylaw Nos. 3922, 3926, 3927, 3928 and 3929 be referred to a public information meeting and to appropriate agencies for comment.
2. That the issue be referred back to staff for additional information.

**LEGISLATIVE IMPLICATIONS**

Health Canada's Regulations authorize the production of medical marihuana by licensed companies. The Agricultural Land Commission considers the growing of medical marihuana consistent with the definition of 'farm use' in the *Agricultural Land Commission Act*. Therefore, licensed medical marihuana production is permitted on land within the ALR.

Local governments may avoid legal challenges on *Charter of Rights and Freedoms* grounds if their regulations are based on proper planning principals. An advisable approach is to determine where the use is appropriate and regulate it in a manner that addresses potential community concerns.

**PUBLIC CONSULTATION IMPLICATIONS**

Bylaw amendments to JdF EA land use bylaws have been prepared and will be considered pursuant to the rezoning process outlined in the JdF EA Development Procedures Bylaw (Bylaw No. 3110). The proposed amendments are presented to the LUC and, through the Capital Regional District (CRD) Board, will be referred to First Nations and community, regional, provincial and federal agencies for comment. The proposed bylaws, revised to address community and referral agency concerns, would be considered by the LUC for a recommendation to the CRD Board for first and second reading and direction to a public hearing. A public hearing pursuant to Section 890 of the *Local Government Act (LGA)* would be required subsequent to the amendments passing second reading by the CRD Board. Property owners within 500 metres of the subject property would be sent a notice of the proposed bylaw amendments and it will be advertised in the local paper and on the website.

The Advisory Planning Commissions were established to provide advice to the JdF EA LUC on land use planning matters referred to them relating to Part 26 of the *LGA*. The Agricultural Advisory Planning Commission was established to provide advice on agricultural issues in the JdF EA. As the issue relates

to the entire JdF EA, in lieu of Advisory Planning Commission meetings, staff recommends that a public information meeting could be held on this issue.

### **PLANNING ANALYSIS**

Staff considers the cultivation, processing and distribution of medical marihuana generally consistent with the definitions of intensive agriculture in the JdF EA land use bylaws. This approach is also consistent with the ALC policy that medical marihuana production facilities are a 'farm use' on land within the ALR. Currently, JdF EA zoning bylaws do not include a definition or specific regulations for medical marihuana production facilities. At their meeting of November 19, 2013, the LUC directed staff to prepare land use bylaw amendments to define and regulate medical marihuana production facilities. Staff prepared JdF EA land use bylaw amendments and present them here for consideration (Appendix 1).

The proposed bylaw amendments include definitions for Medical Marihuana Licensed Producer and Intensive Agriculture – Medical Marihuana Production. The proposed bylaws will permit the production of medical marihuana on ALR land in the JdF EA. There is no ALR land within the Malahat area and only one ALR parcel in both Port Renfrew and Willis Point. For applicants on land outside the ALR, a rezoning application will be required and specific regulations will be considered for that parcel. Public consultation and referrals to Advisory Planning Commissions will be conducted as part of all rezoning processes.

### **CONCLUSION**

Under the new *Marihuana for Medical Purposes Regulations*, local governments are in a position to regulate medical marihuana production facilities through zoning. Licensed medical marihuana facilities are considered a farm use by the ALC. Staff have prepared JdF EA land use bylaw amendments that include definitions and regulations to permit medical marihuana production facilities on land within the ALR. Staff recommends the proposed bylaws be referred to First Nations, community, regional, provincial and federal agencies for comment and that a public information meeting be held.

### **RECOMMENDATION**

That the Juan de Fuca Land Use Committee recommends to the CRD Board:

1. That proposed Bylaw Nos. 3922, 3926, 3927, 3928 and 3929, as included in Appendices 1-5, be referred to a public information meeting and to the following relevant and appropriate agencies for comment:

Agricultural Advisory Planning Commission  
Agricultural Land Commission  
BC Hydro  
City of Langford  
Cowichan Valley Regional District  
District of Central Saanich  
District of Highlands  
District of Metchosin  
District of Sooke  
Island Health

JdF EA Fire Departments  
Ministry of Agriculture  
Ministry of Transportation and Infrastructure  
RCMP  
School District #62 - Sooke  
School District #63 - Saanich  
School District #79 – Cowichan (Malahat)  
Pacheedaht First Nation  
Scia'new First Nation  
T'Sou-ke First Nation

2. That proposed Bylaw No. 3926, to amend the Rural Resource Lands Land Use Bylaw No. 3602, be referred to the full CRD Board for a determination of consistency with the Regional Growth Strategy in accordance with the Juan de Fuca Development Procedure Bylaw No. 3110.

**\*\*ORIGINAL SIGNED\*\***

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June Klassen, MCIP, RPP  
Manager, Local Area Planning

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Maurice Rachwalski, PhD  
Acting General Manager  
Planning & Protective Services  
Concurrence

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Bob Lapham, MCIP, RPP  
Chief Administrative Officer  
Concurrence

Appendices:

- 1) Bylaw No. 3922
- 2) Bylaw No. 3926
- 3) Bylaw No. 3927
- 4) Bylaw No. 3928
- 5) Bylaw No. 3929

Appendix 1: Bylaw No. 3922

CAPITAL REGIONAL DISTRICT  
BYLAW NO. 3922

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A BYLAW TO AMEND BYLAW NO. 2040, THE "JUAN DE FUCA LAND USE BYLAW, 1992"  
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The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 2040 being the "Juan de Fuca Land Use Bylaw, 1992" is hereby amended:

A. Schedule A, Part 1, Section 2.0 DEFINITIONS

(a) By adding a new definition for "INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION" after the definition for "INTENSIVE AGRICULTURE" as follows:

"INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119.*"

(b) By adding a new definition for "MEDICAL MARIHUANA LICENSED PRODUCER" after the definition for "MEDICAL HEALTH OFFICER" as follows:

"MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119* authorized to possess, sell, provide, ship, deliver, transport, destroy produce, export and/or import marihuana for medical purposes."

B. Schedule A, Part 2, Section 4.0 AGRICULTURAL ZONE - AG

(a) By adding to Section 4.01 the words "(c) Intensive Agriculture – Medical Marihuana Production on lands within the Agricultural Land Reserve" after the words "(b) Intensive Agriculture" and re-numbering the section accordingly.

(b) By deleting the title of Section 4.09 and replacing it with the words "Yard Requirements for Intensive Agriculture and Intensive Agriculture – Medical Marihuana Production Uses and Buildings".

2. This bylaw may be cited as "Bylaw No. 3922, Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 118, 2014".

READ A FIRST TIME	THIS	DAY OF	2014
READ A SECOND TIME	THIS	DAY OF	2014
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APPROVED by the Minister of Transportation and Infrastructure			
	THIS	DAY OF	2014
ADOPTED	THIS	DAY OF	2014

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CHAIR

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CORPORATE OFFICER

CAPITAL REGIONAL DISTRICT

BYLAW NO. 3926

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A BYLAW TO AMEND BYLAW NO. 3602, THE "LAND USE BYLAW FOR THE  
RURAL RESOURCE LANDS, BYLAW NO. 1, 2009"

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The Capital Regional District Board, in open meeting assembled, enacts as follows:

1. Bylaw No. 3602 being the "Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009" is hereby amended:

**(a) Schedule A, Section II, DEFINITIONS**

- i. By adding a new definition for "AGRICULTURE, INTENSIVE – MEDICAL MARIHUANA PRODUCTION" after the definition for "AGRICULTURE, INTENSIVE" as follows:  
"AGRICULTURE, INTENSIVE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, processing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119."
- ii. By adding a new definition for "MEDICAL MARIHUANA LICENSED PRODUCER" after the definition for "MARINA" as follows:  
"MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119 authorized to possess, sell, provide, ship, deliver, transport, destroy, produce, export and/or import marihuana for medical purposes."

**(b) Schedule A, Part 4, Section 4.4 AGRICULTURE (AG) –**

- i. By adding to Section 4.4.1 the words "e) Intensive Agriculture - Medical Marihuana Production is permitted on lands within the Agricultural Land Reserve."
- ii. By adding to Section 4.4.2 before the words "Additional Requirements" the following:  
"Setbacks for Intensive Agriculture and Intensive Agriculture – Medical Marihuana Production Uses and Buildings  
Setbacks for Intensive Agriculture and Intensive Agriculture – Medical Marihuana Production Uses and Buildings are as follows:  
a) 90m of a front parcel line;  
b) 30m of an interior or exterior side parcel line; and  
c) 30m of a rear parcel line."

2. This bylaw may be cited as "Bylaw No. 3926, Land Use Bylaw for the Rural Resource Lands, Bylaw No. 1, 2009, Amendment Bylaw No. 3, 2014."

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APPROVED by the Minister of Transportation  
and Infrastructure THIS                                    day of                                    , 2014.

ADOPTED THIS    day of                                    , 2014.

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CHAIR

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CORPORATE OFFICER

Appendix 3: Bylaw No. 3927

CAPITAL REGIONAL DISTRICT  
BYLAW NO. 3927

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A BYLAW TO AMEND BYLAW NO. 980, THE "MALAHAT LAND USE BYLAW, 1981"  
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The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 980 being the "Malahat Land Use Bylaw, 1981" is hereby amended:

A. SCHEDULE A, SECTION 1.2 DEFINITIONS

(a) By adding a new definition for "INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION" before the words "INSTITUTIONAL ZONE" as follows:

"INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119*, where the use is expressly permitted by a zone."

(b) By adding a new definition for "MEDICAL MARIHUANA LICENSED PRODUCER" before the words "MOBILE HOME" as follows:

"MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119* authorized to possess, sell, provide, ship, deliver, transport, destroy produce, export and/or import marihuana for medical purposes."

2. This bylaw may be cited as "Bylaw No. 3927, Malahat Land Use Bylaw, 1981, Amendment Bylaw No. 144, 2014".

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CORPORATE OFFICER

CAPITAL REGIONAL DISTRICT  
BYLAW NO. 3928

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A BYLAW TO AMEND BYLAW NO. 3027,  
THE "COMPREHENSIVE COMMUNITY PLAN FOR WILLIS POINT BYLAW NO. 1, 2002"

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The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 3027, being the "Comprehensive Community Plan for Willis Point, Bylaw No. 1, 2002" is hereby amended:

**A. SCHEDULE B, PART 1, SECTION 1.0 DEFINITIONS**

- (a) By adding a new definition for "INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION" before the words "INTERIOR SIDE PARCEL LINE" as follows:

"INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119*, on lands within the Agricultural Land Reserve or where the use is expressly permitted by a zone."

- (b) By adding a new definition for "MEDICAL MARIHUANA LICENSED PRODUCER" before the words "NATURAL BOUNDARY" as follows:

"MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119* authorized to possess, sell, provide, ship, deliver, transport, destroy produce, export and/or import marihuana for medical purposes."

2. This bylaw may be cited as "Bylaw No. 3928, Comprehensive Community Plan for Willis Point, Bylaw No. 1, 2002, Amendment Bylaw No. 2, 2014".

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CORPORATE OFFICER

Appendix 5: Bylaw No. 3929

CAPITAL REGIONAL DISTRICT  
 BYLAW NO. 3929

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 A BYLAW TO AMEND BYLAW NO. 3109, THE "COMPREHENSIVE COMMUNITY DEVELOPMENT PLAN  
 FOR PORT RENFREW BYLAW NO. 1, 2003"  
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The Regional Board of the Capital Regional District, in open meeting assembled, enacts as follows:

1. Bylaw No. 3109, being the "Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003" is hereby amended:
  - A. SCHEDULE B, PART 1, SECTION 1.0 DEFINITIONS
    - (a) By adding a new definition for "INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION" before the words "INTERIOR SIDE PARCEL LINE" as follows:
 

"INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119*, on lands within the Agricultural Land Reserve or where the use is expressly permitted by a zone."
    - (b) By adding a new definition for "MEDICAL MARIHUANA LICENSED PRODUCER" before the words "OFFICE USES" as follows:
 

"MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the *Marihuana for Medical Purposes Regulation, SOR/2013-119* authorized to possess, sell, provide, ship, deliver, transport, destroy produce, export and/or import marihuana for medical purposes."
  2. This bylaw may be cited as "Bylaw No. 3929, Comprehensive Community Development Plan for Port Renfrew, Bylaw No. 1, 2003, Amendment Bylaw No. 6, 2014".

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