



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JUNE 17, 2014**

SUBJECT **PROPOSED LAND USE REGULATIONS FOR MEDICAL MARIHUANA PRODUCTION FACILITIES IN THE RURAL RESOURCE LANDS**

ISSUE

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

BACKGROUND

The Juan de Fuca Land Use Committee (LUC) considered bylaw amendments regulating medical marihuana production facilities at their meeting of January 21, 2014. At its meeting of February 12, 2014, the Regional Board considered the LUC recommendation and directed staff to refer the proposed bylaws (Bylaw Nos. 3922, 3926, 3927, 3928 and 3929) to a public information meeting and to agencies for comment. However, as Proposed Bylaw No. 3926 would amend the Rural Resource Lands Land Use Bylaw No. 3602, the amending bylaw was referred to the full Capital Regional District (CRD) Board for a determination of consistency with the Regional Growth Strategy pursuant to provisions of the Juan de Fuca Development Procedures Bylaw, Bylaw No. 3110. At its meeting on April 23, 2014 the Planning, Transportation & Protective Services Committee recommended to the CRD Board that proposed Bylaw No. 3926 to amend the Rural Resource Lands Land Use Bylaw No. 3602 be deemed consistent with the RGS. The full CRD Board deemed the proposed bylaw consistent with the RGS at its meeting on May 14, 2014.

At its meeting on April 15, 2014 the LUC recommended to the CRD Board that proposed bylaws (Bylaw Nos. 3922, 3927, 3928, and 3929) be given first and second reading and be directed to a public hearing. The CRD Board considered the LUC recommendation on May 14, 2014 and gave these bylaws first and second reading and were directed to a public hearing. Due to the need for proposed Bylaw No. 3926 to be considered by the CRD Board, this bylaw must now be considered for first and second reading and be directed to a public hearing.

Comments were received from Cowichan Valley Regional District, District of Central Saanich, District of Highlands, District of Sooke, Island Health, Ministry of Agriculture, Ministry of Transportation & Infrastructure and BC Hydro, as well as the full CRD Board (Appendix 1). The proposed bylaw was considered by the Agricultural Advisory Planning Commission at their meeting held on March 12, 2014. The proposed bylaw was also considered at the public information meeting held on March 10, 2014.

ALTERNATIVES

1. Recommend to the CRD Board that proposed amendment Bylaw No. 3926 proceed for first and second readings and to direct the bylaw to public hearing.
2. Recommend that the CRD Board not approve the proposed bylaw amendment.
3. Request more information be provided by staff.

PUBLIC CONSULTATION IMPLICATIONS

Should the proposed bylaw proceed, a public hearing pursuant to Section 890 of the *Local Government Act* will be required subsequent to the amendment passing second reading by the CRD Board. The public hearing will be advertised in the local paper and on the CRD website.

REFERRAL COMMENTS

Referrals were forwarded on February 14, 2014 to those agencies specified by the CRD Board. The Cowichan Valley Regional District, District of Central Saanich, District of Highlands, District of Sooke, Island Health and BC Hydro indicated their interests were unaffected. The Ministry of Transportation & Infrastructure had no objections to the proposed bylaw. The Ministry of Agriculture encouraged the CRD to incorporate a 30 m front yard setback for intensive agriculture uses consistent with the Ministry's Guide for Bylaw Development in Farming Areas.

The full CRD Board passed a resolution at their meeting of May 14, 2014, determining the proposed Bylaw No. 3926 was consistent with the Regional Growth Strategy.

The Agricultural Advisory Planning Commission considered the proposed bylaw at their meeting on March 12, 2014 and passed a resolution in support of limiting medical marihuana facilities to the Agricultural (AG) zones and that setbacks for intensive agriculture – medical marihuana be 30 m from front, side and rear parcel boundaries with the ability for variances to be considered.

The proposed amendment was considered at a public information meeting held at the Juan de Fuca Local Area Services Building on March 10, 2014. Approximately ten members of the public were in attendance. Information regarding the potential for medical marihuana facilities on industrial zoned land to be eligible for farm class was discussed. Comments were also made suggesting that the 90 m front yard setback proposed was too restrictive. In consideration of the support forwarded by public attendees, the proposed bylaw be amended to reflect setbacks of 30 m (front), 30 m (side) and 30 m (rear). It was further requested that "use" be struck from bylaw sections referring to setbacks to allow for consideration of variance applications.

PLANNING ANALYSIS

Staff have reviewed the comments received from the public information meeting and referral agencies and have made changes to the originally proposed amendment. These changes are outlined in revised Bylaw No. 3926 (Appendix 2).

Staff recommends that the definition of Medical Marihuana Licensed Producer be changed to include all the uses outlined in the definition of Intensive Agriculture – Medical Marihuana Production, as follows:

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

Further, comments received at the public information meeting and AAPC suggest that the 90 m front yard setback should be reduced to 30 m. Other jurisdictions have implemented similar setbacks for medical marihuana use, such as Regional District of Nanaimo and Cowichan Valley Regional District and the Ministry of Agriculture recommends maximum setbacks of 30 m for intensive agriculture. Staff supports this change and recommend that the setbacks for Intensive Agriculture – Medical Marihuana buildings be distinguished from Intensive Agriculture yard requirements in Bylaw No. 3926 by adding a new section in the AG zone that requires a 30m setback from all property lines. By removing the word "use" from the section, development variance permits could be considered for buildings within 30 m from the parcel boundary.

Considering the agency and public comments received, staff recommends that the revised bylaw proceed for first and second reading and forwarded on to public hearing.

CONCLUSION

The intent of the proposed bylaw amendment, Bylaw No. 3926, is to permit and regulate medical marihuana production facilities that are licensed by Health Canada on land within the Agricultural Land Reserve in the Resource Lands in the Juan de Fuca Electoral Area. The proposed bylaw has been amended to reflect comments received during the referral process. Therefore, staff recommends that the revised bylaw be forwarded to the CRD Board for first and second reading and on to public hearing.

RECOMMENDATIONS

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

1. That proposed Bylaw No. 3926, as included in Appendix 2, be introduced and read a first time and read a second time;
2. That in accordance with the provisions of Section 890 and 891 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or the Alternate Director, be delegated authority to hold a public hearing with respect to Bylaw No. 3926.

****ORIGINAL SIGNED****

Emma Taylor, MA
Planner

June Klassen, MCIP, RPP
Manager, Local Area Planning
Concurrence

Kevin Lorette, P.Eng., MBA
General Manager,
Planning & Protective Services
Concurrence

Robert Lapham, MCIP, RPP
Chief Administrative Officer
Concurrence

Appendices:

- 1) Agency Comments
- 2) Bylaw No. 3926

RESPONSE SUMMARY – PROPOSED BYLAW NOs. 3922, 3926, 3927, 3928 and 3929

Interest Affected by Proposal for Reasons Outlined Below

Interest Unaffected by Proposal

Comments: On behalf of BC Hydro, Property Rights Services Department, I
herewith confirm that BC Hydro interests are unaffected by these proposed
zoning bylaw amendments to define and regulate medical marihuana production
facilities as intensive agriculture on lands within the ALR in the J&F EA.


Signed Rita Brom

Property Coordinator, Property Rights Services
Title

March 13, 2014
Date

British Columbia Hydro and Power Authority
Agency

RESPONSE SUMMARY – PROPOSED BYLAW NOs. 3922, 3926, 3927, 3928 and 3929

- Interest Affected by Proposal for Reasons Outlined Below
- Interest Unaffected by Proposal

Comments:


Signed _____ Title MANAGER, COMMUNITY / REG. PLANNING

14 FEB 2014
Date _____ Agency CVRD



The Corporation of the District of Central Saanich

March 10, 2014

CRD Juan de Fuca Electoral Area Planning
3 – 7450 Butler Road
Sooke, BC V9Z 1N1

Attention: June Klassen, Manager, Local Area Planning

Dear Ms. Klassen:

Re: Referral of CRD Bylaw Nos. 3922, 3926, 3927, 3928 and 3929

At its March 3rd, 2014 meeting, the District of Central Saanich Council considered the draft CRD Bylaws and passed the following motion:

That the Staff Memorandum dated February 25, 2014, from the Director of Planning and Building Services entitled "CRD Referral: Bylaw Nos. 3922, 3926, 3927, 3928, and 3929" be received, and Council indicate to the Capital Regional District that proposed Bylaw Nos. 3911, 3926, 3927, 3928, and 3929 do not affect the interests of Central Saanich.

Please do not hesitate to call the undersigned at 250-544-4214 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Greig".

Bruce Greig, mcip, bcsla
Director of Planning & Building Services

cc: Patrick Robins, Administrator

*1903 Mount Newton Cross Road, Saanichton, B.C. V8M 2A9
Phone: (250) 652-4444 Fax: (250) 652-0135*

Wendy Miller

From: Laura Beckett <lbeckett@highlands.ca>
Sent: Thursday, March 06, 2014 11:29 AM
To: Wendy Miller
Subject: RE: Marihuana for Medical Purposes Regulations - Referral

Hello Wendy,

Yes. Council considered the referral this past Monday evening, and passed a resolution stating that the District's interests are unaffected by the proposed bylaws (3922, 3926, 3927, 3928 and 3929).

Sincerely,
Laura Beckett

*
Laura Beckett, M.U.R.P, MCIP, RPP

Municipal Planner, Approving Officer
District of Highlands
1980 Millstream Road
Victoria, BC V9B 6H1
PH: 250-474-1773
FX: 250-474-3677
WEB: [Highlands, British Columbia, Canada](#)



2205 Otter Point Road, Sooke, British Columbia, Canada V9Z 1J2

Phone: 250-642-1634 • Fax: 250-642-0541 • Email: info@sooke.ca • Website: www.sooke.ca

File No. 0400-90

March 11, 2014

VIA FACSIMILE 250-642-5274

June Klassen
Manager of Local Area Planning
Juan de Fuca Electoral Area Planning
PO Box 283
Sooke, BC V9Z 0S9

Dear Ms. Klassen:

**RE: Referrals for Bylaw Nos. 3922, 3923, 3926, 3928, 3929 (Medical Marihuana
Production Facilities) and 3934 (3384 Otter Point Road)**


Please be advised that at the March 10th 2014 Regular Council Meeting, the District of Sooke Council resolved as follows:

"MOVED and seconded to direct staff to respond to the zoning bylaw amendment referrals by noting that the District of Sooke interests are unaffected by the proposed amendments.

CARRIED UNANIMOUSLY"

We trust that you will find the above to be in order however if you require further information, please do not hesitate to contact me directly at 250-642-1634.

Sincerely,



Bonnie Sprinkling
Corporation Officer

Wendy Miller

From: Evanoff, Ryan TRAN:EX <Ryan.Evanoff@gov.bc.ca>
Sent: Tuesday, February 25, 2014 10:36 AM
To: Wendy Miller
Subject: RE: Marihuana for Medical Purposes Regulations - Referral

Hello Wendy,
Please accept this email as an official response to your bylaw referrals outlined below.

The Ministry has no objections to the proposed Bylaws and has no additional requirements for approval. Any required accesses for commercial use off of Ministry managed roads will be reviewed on an individual basis.

If you require any additional documentation please feel free to contact myself directly. The certified bylaw forms can be forwarded to this office for stamp/signature at your convenience.

Thank you,

RYAN EVANOFF | DISTRICT DEVELOPMENT TECHNICIAN | BC MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE | VANCOUVER ISLAND DISTRICT | 240-4460 CHATTERTON WAY, VICTORIA, BC V8X 5J2 |
T: 250.952.4495 | **F:** 250.952.4508
WEBSITE FOR DEVELOPMENT APPROVALS:
www.th.gov.bc.ca/Development_Approvals/home.htm | **MINISTRY WEBSITE:** <http://tranbc.ca/>

RESPONSE SUMMARY – PROPOSED BYLAW NOS. 3922, 3926, 3927, 3928 and 3929

- Interest Affected by Proposal for Reasons Outlined Below
 Interest Unaffected by Proposal


Comments:

The Ministry of Agriculture has not developed policy specific to medical marihuana production facilities (MMPF) to meet Health Canada requirements. However, the CRD is encouraged to incorporate the setbacks for *intensive agriculture* as outlined in the Ministry of Agriculture's Guide for Bylaw Development in Farming Areas into your zoning bylaws.

In Bylaw Nos. 2040 and 3602, the requirement for 90 m front yard setbacks from lot lines does not meet the Minister's standards, which recommend maximum setbacks for *intensive agriculture* of 30 m. The Ministry encourages the CRD to review the bylaw guide and develop setbacks complimentary with this document.

It is unclear of the land use regulations that will pertain to *intensive agriculture* in Bylaw 3109 (Port Renfrew) and Bylaw 3027 (Willis Point). When developing land use regulations (e.g. setbacks) for these areas, it is recommended that the CRD refer to the Guide for Bylaw Development in Farming Areas.

Thank you for allowing the Ministry of Agriculture to comment on these bylaws. A copy of these comments will also be sent to the Agricultural Land Commission planning staff.

	Land Use Planner
Signed	Title
March 17, 2014	Ministry of Agriculture
Date	Agency

CAPITAL REGIONAL DISTRICT

BYLAW NO. 3926

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

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 grow, produce, possess, sell, provide, ship, deliver, transport, destroy, research, 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 Buildings
Setbacks for Intensive Agriculture and Intensive Agriculture – Medical Marihuana Production Buildings are as follows:
a) 30m 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".

READ A FIRST TIME THIS	day of	, 2014.
READ A SECOND TIME THIS	day of	, 2014.
READ A THIRD TIME THIS	day of	, 2014.

APPROVED by the Minister of Transportation

and Infrastructure THIS	day of	, 2014.
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ADOPTED THIS	day of	, 2014.
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CHAIR

CORPORATE OFFICER