

# Cannabis Legalization:

## Implications, Considerations, and Proposed Actions for the CSRD



Development Services

# Outline

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# Cannabis Sale: Local Gov't Considerations

Questions to consider:

- What level of involvement should the CSRD assume?
- Should the CSRD treat cannabis any differently than alcohol or tobacco?
- Should the CSRD regulate the production and retail sale of cannabis?
- Should the CSRD prohibit the production and retail sale of cannabis altogether?
- Priorities?



# Background

## Marihuana Medical Access Regulations – MMAR (2001)

- Permitted authorizations to possess dried cannabis; licences to produce cannabis; and access to supply of cannabis seeds or dried cannabis

## Marihuana for Medical Purposes Regulations – MMPR (2013)

- MMPR was introduced by the Harper Gov't in response to concerns from stakeholders that the MMAR was open to abuse (created health and safety issues)
- Medical cannabis was supposed to be obtained only pursuant to the MMPRs
- This was constitutionally challenged (Allard vs Feds)
- Federal court decision in 2014 preserved the rights of authorized users and producers under the MMAR regime to continue

# Background

## Status quo until August 24, 2016

- legal to possess / produce medical cannabis pursuant to an MMAR or MMPR licence
- neither the MMARs nor MMPRs permitted the retail sale of cannabis
- a dispensary business selling cannabis from a store front was operating contrary to the Controlled Drugs and Substances Act and was unlawful

## Access to Cannabis for Medical Purposes Regulations – ACMPR (2016)

- hybrid of MMPR and MMAR
- still no provision for retail sale – dispensaries unlawful
- some illegal dispensaries have been shut down by police raids or court injunctions

# Cannabis Act (Bill C-45)

Introduced in the House of Commons in April 2017

Coming into force – August?? 2018



1. Sets the general control framework for cannabis
2. Provides for the oversight and licensing of a legal cannabis supply chain
3. Establishes national Standards to protect public health and safety

## Addresses:

- Licencing, Permitting and Authorizations
- Security Clearances
- Cannabis Tracking System
- Cannabis Products: Rules, Classification and Standards
- Packaging and Labelling Rules
- Cannabis for Medical Purposes
- Health Products and Cosmetics Containing Cannabis

# Cannabis Act (Bill C-45)

## Other highlights of the proposed Act:

- Allows for individuals to cultivate up to 4 legal cannabis plants per residence anywhere on their property
  - does not permit for sale/distribution of residentially grown cannabis
  - could be further regulated through zoning, strata bylaws, rental agreements etc.
- Current regime established for accessing cannabis for medical purposes will continue to exist.
- Proposed Act maintains many of the existing prohibitions under the federal Controlled Drugs and Substances Act regarding selling, producing, importing and exporting cannabis outside the proposed established regulated system.

# Cannabis Cultivation: Federal Government Framework

## Standard cultivation

Large-scale growing of cannabis plants and harvesting material from those plants, as well as associated activities (no prescribed production limits, no public sales allowed)

## Micro-cultivation

Small-scale growing of cannabis plants and harvesting material from those plants, as well as associated activities ("micro-cultivation" threshold yet to be determined, no public sales allowed)

## Industrial hemp

Growing of industrial hemp plants those containing 0.3% THC or less) and associated activities

## Nursery

Growing of cannabis plants to produce seeds and seedlings and associated activities



# Cannabis Processing: Federal Government Framework

## Standard Processing

Large-scale manufacturing, packaging and labelling of cannabis products destined for sale to consumers, and the intra-industry sale of these products, including to provincially/territorially authorized distributors, as well as associated activities

- no prescribed production limits, no public sales allowed
- would require a separate authorization for direct sales to the public

## Micro-Processing

Small-scale manufacturing, packaging and labelling of cannabis products destined for sale to consumers, and the intra-industry sale of these products, including to provincially/territorially authorized distributors, as well as associated activities

- "micro-processing" threshold yet to be determined
- would require a separate authorization for direct sales to the public

# Cannabis Production in the ALR



Provincial  
Agricultural  
Land Commission

ALC Act defines "farm use" as:

*An occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the Farm Practices Protection (Right to Farm) Act.*

Interpretation: "Medical marihuana production" is considered "farm use" and is therefore permitted in the ALR (2014)

Accessory uses could include: a small office, testing lab, processing and drying, packaging shipping areas, cloning room and anything else directly related to the growing and processing of the plant.

Uses not specifically related to the production of medical cannabis would require an application to the ALC for "non-farm use" (e.g.; stand-alone research and development facility, retail outlet, cannabis café etc.)

The ALC has yet to announce if it will regulate recreational cannabis production any differently than cannabis grown for medical purposes.

# Cannabis Sale

## Sale of Cannabis for Medical purposes – Federal Jurisdiction

A licence for the sale of cannabis for medical purposes would authorize the sale of cannabis products obtained from a federally-licensed processor to registered clients (or to an individual who is responsible for a registered client) in a manner consistent with the current system established under the ACMPR (ordered over the phone, online or via written order, with secure delivery through the mail or by courier).

## Sale of Non-Medical Cannabis (recreational) – Provincial Jurisdiction

To be overseen by the Province - wholesale distribution of non-medical cannabis will be solely through the Liquor Distribution Branch.

The rules governing retail stores will be similar to those currently in place for liquor, and public and private retailers will have similar operating rules. Local Gov't regulations will also apply.

# Cannabis Sale: BC Government Framework

What is the process for obtaining local government support for a retail store?

The Province requires that local government must ask residents in the vicinity of the proposed retail location to comment on how the store would impact the community. The local government must also consider this public input when deciding whether or not to support the application and must notify the Liquor Control & Licencing Branch of their decision by way of a Board resolution.

The Province is working with local governments and the UBCM to develop the application process, including what information local governments will need to have in order to provide informed comments on the application. Further details will be announced once they are available.

# Cannabis Sale: BC Government Framework

## Rural Area Considerations

The Province is considering allowing existing business in a rural area be authorized to sell non-medical cannabis because a self-contained non-medical cannabis retail store may not be a viable business in some rural areas.

Many of the operational requirements of the Rural Agency Store (RAS) model used for liquor may be applied to non-medical cannabis. However, the Province is still evaluating how to best meet the need for rural access.

Any RAS operator interested in retailing non-medical cannabis will be required to apply for a licence specifically for non-medical cannabis.

# Federal Responsibilities



The Federal Government will be responsible for:

- regulating the production of cannabis
- setting the rules and parameters around possession limits, trafficking and advertising
- the tracking of seed to sale
- establishing minimum age limits
- personal cultivation (4 plants max per residence)
- continued oversight of the medical cannabis regime

The Federal Government will not be responsible for:

- licencing and permitting for retail sales of recreational cannabis
- regulations determining the location of or number of retail stores and production facilities in a community (local governments may choose to do so through zoning)

# Provincial Responsibility



The Provincial Government will be responsible for establishing:

- pricing
- managing the wholesale & retail distribution system for recreational cannabis
  - licencing of non-medical cannabis retail stores (self-contained cannabis stores & rural stores)
- workplace safety
- retail store security requirements
- setting a higher age limits (19 for BC)

The Province will not regulate:

- The location of retail stores or number of retail stores in a community. However, local governments may choose to do so through zoning. For example, local governments may set requirements about the proximity of a store to another cannabis store, schools, daycares or other places.

# Shared Responsibilities



There will be shared jurisdictional responsibility in areas such as:

- public consumption
- rules for retail store locations
- rules for production facility locations
- home cultivation
- taxation from cannabis sales
- public education and health
- law enforcement



# Cannabis : Local Gov't Considerations

The Federal Government and Provincial Government are providing for significant Local Government control over the production and retail sale of cannabis. Local governments can consider taking a role with respect to the following:

- Prohibiting retail sales altogether
- Capping the number of retail outlets
- Regulating permissible retail locations (by zones and/or proximity to certain uses like schools)
- Refusing to support licence applications submitted by existing unlawful retail stores
- Imposition of security requirements and restrictions on hours of operation
- Adopting procedures for public consultation on licence applications
- Prohibiting cannabis production on non-ALR land
- Regulating public consumption

# Cannabis Production and Retail in the CSRD – what we know

Since 2013 the CSRD has responded to numerous general enquiries, application referrals, and bylaw enforcement complaints regarding cannabis related businesses. Most enquires and referrals pertain to production facilities but there have also been enquires regarding research facilities and retail stores.

- Referrals for formal applications to obtain a licence under MMPR or ACMPR
  - approx. 5 referrals – unclear if Health Canada actually issued a licence
- Various bylaw enforcement complaints – unlicensed grow-ops
- Numerous general inquiries – individuals wanting to purchase property, start a business

Areas where interest has been documented:

- Area C – Tappen, Blind Bay, Sorrento
- Area D - Salmon Valley, Falkland
- Area E – Malakwa, Three Valley
- Area F – Scotch Creek, Celista

# CSRD Zoning Bylaws

## Area A: Highway Planning Area No. 168

- minimal coverage – permits "all legal uses"
- no specific regulations pertaining to cannabis

## Area B: Electoral Area B Zoning Bylaw No. 851

- "Medical Marijuana Production Facilities" permitted on ALR land or would need to rezone to the "Special Industrial Zone"
- general regulations for: distance from civic uses/buildings, setbacks, landscaping/ screening
- explicitly not permitted as a Home Occupation

## Area C: Area C Zoning Bylaw No. 701 & Kault Hill Rural Land Use Bylaw No. 3000

- no specific regulations pertaining to cannabis
- cannabis production and sales could potentially occur as home occupation
- commercial zones would allow retail sales of recreational cannabis

# CSRD Zoning Bylaws

## Area D:

- Ranchero /Deep Creek Zoning Bylaw No. 751 (anticipated to be adopted spring 2018)
  - home occupation regulations expressly prohibit cannabis related business activities
  - permits retail sales only in the Highway Commercial Zone
  - cannabis production only permitted on ALR land on parcel 4 ha or greater
- Salmon Valley Land Use Bylaw No. 2500
  - no specific regulations pertaining to cannabis
  - cannabis production and sales could potentially occur as home occupation
  - commercial zones would allow retail sales

## Area E: Rural Sicamous Land Use Bylaw No. 2000

- no specific regulations pertaining to cannabis
- cannabis production and sales could potentially occur as home occupation
- commercial zones would allow retail sales

## Area F: Scotch Creek, Magna Bay, Anglemont

- no specific regulations pertaining to cannabis
- cannabis production and sales could potentially occur as home occupation
- commercial zones would allow retail sales

# CSRD Considerations

Existing regulatory tools and gaps:

- CSRD has zoning regulations in place for many areas but significant gaps still exist: most of Area A, Malakwa, Sunnybrae, White Lake, Tappen, Seymour Arm, Celista...
- Existing zoning may or may not be able to regulate cannabis related activities
  - Micro-cultivation and micro-processing facilities could potentially be permitted under some home occupation regulations – depending on the scale
  - Retail sales of recreational cannabis could potentially be permitted under some home occupation regulations but would be subject to receiving formal support from the Board
  - Highway Commercial zones, Neighbourhood Commercial zones and any other zone that permits "retail sales/store" would permit the sale of recreational cannabis but would be need formal support from the Board
  - Most Industrial zones permit "processing"
- Building regulations exist in a portion of Area F but will be introduced to Area B and Area E in March 2018
- CSRD does not currently have the ability to issue business licences

# CSRD Next Steps

## Proposed actions:

- Develop a Cannabis Policy (similar to the existing Liquor Licence Policy A-42)
  - Establish a process for how to respond to referrals from Health Canada (for production facilities) and the Liquor Control and Licensing Branch (for retail sales of cannabis)
- If the CSRD is required to provide a resolution and to consult with the public, consider establishing a fee to cover the cost of responding to cannabis retail store applications. The fee would recover any cost required to for processing the application and any public consultation
- If the Board wishes to specifically regulate cannabis production and sales, that existing zoning bylaws be amended to include additional regulations
  - Use Ranchero/Deep Creek Zoning Bylaw as a model
- Consider establishing a public consumption bylaw in CSRD parks

Cannabis Act is proposed to come into force in August 2018 – a timeline and work plan will be necessary for any actions that need to be completed in advance

Questions?

