



To: Community Safety Committee
From: John McGowan
Fire Chief, Richmond Fire-Rescue

Date: January 30, 2013
File: 09-5000-03-02/2013-
Vol 01

Re: Proposed Medical Marihuana Access Regulations

Staff Recommendation

That the Minister of Health be advised, by way of comments through the Health Canada website, that the proposed Medical Marihuana Access Regulations require compliance with applicable Provincial and Municipal laws in order to obtain a license.

John McGowan
Fire Chief, Richmond Fire-Rescue
(604-303-2734)

REPORT CONCURRENCE			
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Business Licences	<input checked="" type="checkbox"/>		
Zoning	<input checked="" type="checkbox"/>		
Community Bylaws	<input checked="" type="checkbox"/>		
Law	<input checked="" type="checkbox"/>		
Building Approvals	<input checked="" type="checkbox"/>		
Development Applications	<input checked="" type="checkbox"/>		
REVIEWED BY SMT SUBCOMMITTEE	INITIALS: 	REVIEWED BY CAO	INITIALS:

Staff Report

Origin

The purpose of this report is to provide Council with information regarding Health Canada's proposed Medical Marihuana Access Regulations. Further to seek approval to submit comments through the Health Canada website.

Findings of Fact

In 2001 the Marihuana Medical Access Regulations (MMAR's) came into effect that authorized those suffering from grave and debilitating illnesses to access marihuana for medical use. The existing MMAR's also authorized licensees to produce marihuana for medical use. The program has been administered and regulated by Health Canada through the issuance of licences to authorize persons to possess and/or produce marihuana for medical use.

The medical marihuana program has experienced significant growth. From 2002 until 2011, the number of production licenses increased from 100 to over 10,000 and the number of individuals authorized to possess marihuana has increased from 477 to 21,986. As the numbers of licenses increased so did the impacts on communities. Consequently, as early as 2009 the stakeholders; including municipalities, police and fire services and the BC and Canadian Fire Chiefs Associations, communicated concerns regarding the health, safety and security issues related to the production of marihuana.

In 2011, Health Canada conducted a public consultation process and the results of the consultation were published in June 2012. Subsequently, on December 16, 2012 Health Canada announced and posted the proposed MMAR's. Health Canada is now accepting comments, until February 28, 2013, on the proposed regulations.

The proposed MMAR's consider marihuana to be much like a medication by shifting the production of medical marihuana into large scale, regulated commercial markets. The authorization to possess will shift from Health Canada to health care practitioners. The proposed MMARs include the following significant changes, with the main objective to reduce the risk to public health, safety and security.

- Possession of dried marihuana for medical use is authorized by health care practitioners.
- The production of medical marihuana in private residences will be discontinued. Current licences will be allowed to expire and not renewed and no new licenses will be issued.
- A potential producer must provide proof of written notification to the local government, police, and fire department of the details of the location and production activities.
- Primary distribution of medical marihuana will be shipped from the licensed producer to the registered client, as retail sales.

The new MMAR's are scheduled to be fully implemented March 31, 2014.

Analysis

Overall the proposed MMAR's are a positive change to improving the health, safety and security in the community by eliminating production licences in private residences. The regulations have been reviewed from a fire and life safety, development, zoning and business licensing perspective and offer the following comments.

Fire & Life Safety

The requirement for producers to inform the Fire Department of the marihuana production operations is positive. Awareness of the location of large marihuana production operations allows the Fire Department to pre-plan for emergency response situations. When called to an emergency at the production location, whether it is fire or first responder, the response activities can be planned and executed in a manner appropriate for the circumstances of the marihuana operation.

The same health, fire and life safety issues, especially electrical safety, can exist in a larger scale commercial operation. The potential risk may be higher due to the property size, number of occupants, volume of hazardous materials on site and the magnitude of the production.

The business licensing process review and inspections typically occur prior to occupancy. Therefore to ensure Fire and Building Codes and Occupational Health and Safety legislations is in compliance post occupancy, regular inspections are necessary. It may be inferred, by stating that the local government and fire department be informed, that the local legislation is to be followed to ensure production facilities are constructed in a manner that meets life, fire, and health safety requirements. Though it is not clearly stated, it is assumed that all commercial producers will be expected to comply with all the municipality's regulatory requirements including regular fire and life safety inspections.

In order to be licensed, the Fire-Rescue Department believes it would be beneficial to clarify the obligation to "comply" with local and provincial laws versus "notification" only.

Development Applications/Zoning

The proposed regulations identify the phasing out of marihuana production within private dwellings. This will address the safety and environmental concerns regarding individuals growing marihuana in single family homes and residential strata lots that are created by the personal production licenses that have been issued by the Federal Government.

The proposed MMARs focus on developing a system that requires the production of marihuana to shift towards commercial scale operations that are contained within a building. The City's zoning bylaw would currently classify the commercial production of medical marihuana, as described in the proposed MMARs, as an "Agriculture" use.

These types of commercial production facilities would likely be permitted as a principal use in the Agriculture (AG1, AG3 & AG4) Zones.

The commercial production of medical marihuana would not be permitted in residential zones as a secondary use because any commercial activity within a residential zoning district must comply with the home business or home based business provisions within the zoning bylaw.

Should Council have any concerns associated with the current classification as an "Agriculture" use within the zoning bylaw, Council could direct staff to investigate the development new zoning regulations to specifically define the use and identify alternative zoning districts where commercial scale medical marihuana production facilities should be located.

The City's zoning powers, however, may be subject to the Federal Government's overriding jurisdiction on medical marihuana.

Business licensing

The proposed MMARs transition the production of medical marihuana to a regulated commercial market. Therefore, in Richmond, a medical marihuana production would require the operator to apply for a Business License. The current licensing regime would be followed, hence a review may be necessary to ensure regulatory compliance in Zoning, Building and Fire. This would be the opportunity for the operations to be inspected and the plans reviewed to ensure code compliance before the operations begins.

Financial Impact

None

Conclusion

The proposed MMAR's have significantly improved and addressed a majority of the concerns presented by the stakeholders.

However, a significant gap in the proposed MMARs was identified. Health Canada does not include a compliance obligation with all municipal and provincial laws for licence issuance, only a notification obligation. The opportunity is available until February 28, 2013 to comment on this gap to Health Canada.

Once the new MMAR's are finalized, staff will conduct a review and report back to Council on commercial production of marihuana in relation to the business licensing regimes, zoning bylaws and fire and life safety inspections.

A handwritten signature in blue ink that reads "K Howell". The signature is written in a cursive, flowing style.

Kim Howell
Deputy Chief - Administration
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KH:kh