



City of Richmond

Report to Committee

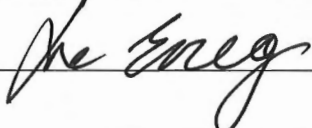

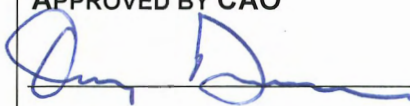
To:	General Purposes Committee	Date:	October 23, 2018
From:	Barry Konkin Manager, Policy Planning	File:	08-4430-03-10/2018- Vol 01
Re:	Cannabis Related Official Community Plan and Zoning Bylaw Amendments in Response to Changes to Provincial Agricultural Land Reserve Legislation		

Staff Recommendations

1. That Richmond Official Community Plan (OCP) Bylaw 9000, Amendment Bylaw No. 9928, to revise Section 3.6.5 of Schedule 1 of the OCP on the City's land use policies for the management of cannabis production in response to changes to *Provincial Agricultural Land Reserve (ALR) Regulation*, be introduced and given first reading.
2. That Bylaw 9928, having been considered in conjunction with:
 - The City's Financial Plan and Capital Program; and
 - The Greater Vancouver Regional District Solid Waste and Liquid Waste and Management Plans;is hereby found to be consistent with the said programs and plans, in accordance with Section 477(3)(a) of the *Local Government Act*.
3. That Richmond Official Community Plan 9000, Amendment Bylaw No. 9928, having been considered in accordance with OCP Bylaw Preparation Consultation Policy 5043 and Section 477(3)(b) of the *Local Government Act*, be forwarded to the Agricultural Land Commission for comment in advance of the Public Hearing.
4. That Richmond Zoning Bylaw No. 8500, Amendment Bylaw No. 9929, to amend Section 3.4 and Section 5.13 of the Zoning Bylaw related to the production of cannabis in response to changes to Provincial ALR legislation, be introduced and given first reading.


Barry Konkin
Manager, Policy Planning

Att.

REPORT CONCURRENCE		
ROUTED TO: Development Applications Law	CONCURRENCE <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	CONCURRENCE OF GENERAL MANAGER 
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO 

Staff Report

Origin

On July 13, 2018, the Province of British Columbia announced changes to the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* regarding cannabis production in the Agricultural Land Reserve (ALR). These new regulations identified that the lawful production of medical and non-medical (recreational) cannabis is a farm use if it occurs:

1. Outdoors in a field or in a building or structure with a soil base; or
2. In an existing building or structure (or under construction) used for the purpose of growing crops.

Council directed staff to review existing City Bylaws in relation to cannabis and report back. We note that the recommended amendments in this report have no impact on Council's recent amendments regarding concrete-slab greenhouses, and would maintain Council's prohibition on retail of cannabis in the City. Council received a letter from Honourable Lana Popham, BC Minister of Agriculture dated October 2, 2018 regarding amendments to the City's Zoning Bylaw regarding greenhouse construction. Staff have been in contact with Ministry representatives and have requested an opportunity to discuss the City's desire to protect agricultural land, and ways in which the Ministry of Agriculture can do more to prevent the destruction of high-quality agricultural soils by the construction of large concrete-slab greenhouses.

This report outlines proposed amendments to the Official Community Plan (OCP) Bylaw 9000 and Richmond Zoning Bylaw 8500, which are proposed in order to bring related City Bylaws into compliance with the changes to provincial regulation while maintaining the City's existing restrictive regulatory framework.

This report supports Council's 2014-2018 Term Goal #1 A Safe Community:

Maintain emphasis on community safety to ensure Richmond continues to be a safe community.

- 1.1. *Policy and service models that reflect Richmond-specific needs.*
- 1.2. *Program and service enhancements that improve community safety services in the City.*

This report supports Council's 2014-2018 Term Goal #3 A Well-Planned Community:

Adhere to effective planning and growth management practices to maintain and enhance the livability, sustainability and desirability of our City and its neighbourhoods, and to ensure the results match the intentions of our policies and bylaws.

- 3.1. *Growth and development that reflects the OCP, and related policies and bylaws.*

Change to Provincial Legislation

On July 13, 2018, the Province of BC amended the *ALR Use, Subdivision and Procedure Regulation* to define how cannabis may be lawfully grown as a permitted farm use (Attachment 1 is a copy of the ALC Information Bulletin 04 on this matter).

The lawful production of cannabis is a designated farm use under the ALR regulations as follows:

- Growing and cultivation of cannabis outdoors in an open field or within a structure/building occurring entirely on a native soil base.
- Growing and cultivation of cannabis in a structure that was either fully constructed or under construction, with required permits in place, prior to the revised ALR regulations coming into effect for the purpose of growing crops.

The legislative changes enable local government to prohibit cannabis production on ALR lands not consistent with the ALR regulations (i.e. concrete slab, industrial type cannabis production facilities).

Existing OCP and Zoning Bylaw Regulations Related to Cannabis Production

OCP Policy

The OCP limits the proliferation of medical and non-medical cannabis production and cannabis research and development facilities city-wide by restricting any such facility to a site designated as “Mixed Employment” or “Industrial”. The OCP policy also limits any type of cannabis production or cannabis research and development facility to one facility only city-wide.

Zoning Bylaw 8500

Richmond Zoning Bylaw 8500 currently has land use definitions for a “medical cannabis production facility”, “non-medical cannabis production facility” and “cannabis research and development facility”. None of these identified land uses are permitted in any zoning-district city-wide, and a rezoning application is required to allow City Council to consider the site-specific requirements of the use. Furthermore, the land use definitions for “farm business” and “agriculture” explicitly exclude cannabis related activities.

Analysis

OCP Amendments

Amendments to the OCP are needed for Section 3.6.5 regarding the production of cannabis and related activities so that they are coordinated with the proposed Zoning Bylaw changes (summarized in the following section).

The following additional policy statements are proposed to be added to Section 3.6.5 of the OCP to clarify the types of lawful cannabis production permitted in the ALR and maintain the City’s approach to restrict forms of cannabis production not permitted in the ALR regulations:

“The lawful production of cannabis in the Agricultural Land Reserve is considered a permitted farm use only if produced outdoors in a field, inside a structure that has a base consisting entirely of soil, or inside in a building or structure constructed for the purpose of growing crops or under construction for the purpose of growing crops in accordance with the Agricultural Land Reserve Regulations, as amended.”

“Use of OCP designated Agriculture areas for a medical cannabis production facility, non-medical cannabis production facility or cannabis research and development facility is not supported as these industrial-style cannabis facilities are not considered farm uses.”

It is noted that the *ALR Use, Subdivision and Procedure Regulation* – and the amendments outlined in this report – are clear that the conversion of existing structures that were not originally built for raising crops (barns, sheds, out buildings, storage buildings and the like) are not permitted to be used for the indoor growing of cannabis.

Zoning Bylaw Amendments

Amendments to Richmond Zoning Bylaw 8500 are proposed to address the production of cannabis both inside and outside of the ALR in response to changes to the Provincial ALR legislation. A table summarizing the City’s regulatory framework in relation to cannabis production and related activities is contained in Attachment 2 and includes the proposed Zoning Bylaw amendments recommended in this report.

To ensure that the City’s regulatory framework for cannabis is consistent with the ALR legislation for the production of cannabis as a permitted farm use, the following Zoning Bylaw amendments are proposed:

- Amend the definition of “farm business” to be consistent with the ALR regulation to allow the production of cannabis:
 - outside in an open field or within a structure/building occurring entirely on a native soil base; or
 - in a building/structure that was either fully constructed or under construction for the purpose of growing crops, from the date this Richmond Zoning Bylaw 8500 amendment comes into effect.
- Amend the definition of “medical cannabis production facility” and “non-medical cannabis production facility” to differentiate these uses from the production of cannabis considered to be a farm use under the ALR legislation.

Through the staff review of appropriate bylaw responses to the new provincial ALR regulations, it became apparent that the City’s Zoning Bylaw did not have regulations to address proposals involving commercial cannabis production outdoors or production in a soil based structure for areas outside of the ALR (i.e. larger industrial zoned and designated parcels). In response, a new “commercial cannabis cultivation” use definition is proposed with details provided below. Other Zoning Bylaw amendments are proposed to maintain Richmond City Council’s desired approach to regulate the production of cannabis that is not a farm use in the ALR and City-wide. A summary of the proposed Zoning Bylaw amendments are as follows:

- Create a use definition of “commercial cannabis cultivation” that would not be permitted in any zoning district; which will address the commercial cultivation of cannabis outside of the ALR via unenclosed outdoor cultivation or cultivation in any type of building or structure with a soil base and any related accessory uses. This use would require a rezoning approved by Council.
- The City’s Zoning Bylaw currently allows “agriculture” as a permitted secondary use in all zones, so long as it occurs in conjunction with the principal use (i.e. urban agriculture as a secondary use to a principal industrial or residential use). “Farm business” generally applies to “Agriculture (AG1)” zoned property in the ALR and allows for a wide range of farm uses and related activities to occur.
- Zoning Bylaw 8500, Amendment Bylaw 9929 proposes to amend the “agriculture” definition and section (5.13.4) of the bylaw that permits “agriculture” as a permitted secondary use in all zones to not permit the production of cannabis under this land use definition.
- The “greenhouse & plant nursery” definition applies to commercial/retail establishments generally involved in the household plant and bedding business that operate outside of the ALR (i.e. garden centres attached to home improvements stores). The proposed changes would amend this definition to not permit the lawful production of cannabis and “commercial cannabis cultivation” from occurring under this use.

If the proposed bylaw amendments are approved by Council, no approvals would be required from the Agricultural Land Commission (ALC) or City for a property owner to grow cannabis in open cultivation or within a building with a soil floor in the ALR. In addition, the bylaw amendments outlined in this staff report will ensure that large-scale concrete floor industrial-type buildings, outside the ALR would require Council approval of a rezoning application (refer to Attachment 2).

It is noted that the amendments proposed in this report are intended to reflect the recently amended *ALR Use, Subdivision and Procedure Regulation*. The proposed regulations have no bearing on the Federal and Provincial regulations which permit the personal growing of up to 4 cannabis plants per household. The role of municipal government is limited to land use and business licensing regulations and the authority to regulate the provisions to grow up to 4 cannabis plants is a Federal and Provincial responsibility.

Conversion of Existing Agricultural Buildings and Greenhouses

The July 13, 2018 changes to the provincial ALR regulations allow for the production of cannabis in existing buildings, which were specifically constructed (with valid building permits) for crop production either fully constructed or under construction, as of July 13, 2018. Agricultural buildings used for crop production proposed to be converted for the production of cannabis could have concrete floors or footings, depending on the method of original construction. Agricultural buildings purpose-built for crops cannot be altered to increase the size of its base or to change the material used at its base.

Application Process – Cannabis Production and Related Activities Outside of the ALR

The proposed OCP and Zoning Bylaw amendments contained in this report maintains the existing City approach to require rezoning for any type of commercial cannabis production activities outside of the ALR (refer to Attachment 2).

Impacts to Existing Rezoning Application – 5960 No. 6 Road

Council granted third reading to a rezoning application at 5960 No. 6 Road (RZ 14-665028; Zoning Amendment Bylaw 9592) on September 6, 2016. If the Zoning Bylaw amendments proposed in this report are approved, minor amendments to the Zoning Amendment Bylaw 9592 associated with the rezoning will need to occur prior to adoption.

Public Consultation

Staff have reviewed the proposed OCP and Zoning Bylaw amendments, with respect to the *Local Government Act* and the City's OCP Consultation Policy No. 5043 requirements. As the amendments proposed in this report are required (the City must amend the Richmond Zoning Bylaw to be in alignment with the new ALC Regulations) staff have not yet referred to external stakeholders or Richmond's Agricultural Advisory Committee (AAC).

Should the recommended amendments be supported, staff will forward the proposed bylaws to the Agricultural Land Commission, and the City's Agricultural Advisory Committee and secure their input prior to the Public Hearing in accordance with Section 477(3)(b) of the *Local Government Act* and the City's OCP Consultation Policy No. 5043.

A Public Hearing will be held for the proposed bylaws, which will give all interested parties an opportunity to provide Council with their input, and the Public Hearing notice will be placed in the local newspapers in compliance with the requirements of the *Local Government Act*.


Financial Impact

None.

Conclusion

On July 13, 2018, the ALR regulations were amended by the province to designate the lawful production of cannabis as a farm use if produced outdoors in a field or inside soil-based structures or structures purpose built for the production of crops that were existing or under construction at the time of the legislation change. The provincial amendment to the ALR regulations also has the effect of allowing local governments to prohibit concrete-slab, industrial type cannabis production facilities.

In response to the provincial legislation, this report recommends that Richmond Official Community Plan Bylaw 9000, Amendment Bylaw No. 9928 and Richmond Zoning Bylaw No. 8500, Amendment Bylaw No. 9929 be introduced and given first reading to comply with the new ALR regulations and not permit industrial type cannabis production facilities on agricultural land.

A handwritten signature in black ink, appearing to read 'K. Eng', with a stylized flourish extending to the right.

Kevin Eng
Planner 2

KE:cas

Attachment 1: ALC Information Bulletin 04 – Cannabis Production in the ALR

Attachment 2: Summary Table – Cannabis Production Activities and Proposed Regulatory Approach



**INFORMATION BULLETIN 04
CANNABIS PRODUCTION IN THE ALR**

August 15, 2018

SCOPE OF THIS INFORMATION BULLETIN

This information bulletin provides guidance to assist in interpreting the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (**ALCA**) and the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, BC Reg. 171/2002 (the **ALR Regulation**), in relation to cannabis production in the agricultural land reserve (**ALR**). The ALCA and ALR Regulation will govern if inconsistent with this bulletin.

This information bulletin is directed only to interpretation of the ALCA and the ALR Regulation. All other applicable laws, regulations and bylaws related to cannabis production must also be complied with.

RECENT REGULATORY CHANGES

The ALR Regulation has recently been amended. The changes came into force on July 13, 2018. Section 2(2)(p) of the ALR Regulation, which designated as farm use "the production of marihuana in accordance with the Marihuana for Medical Purposes Regulation, SOR/2013-119 (Canada)", has been repealed. The following has been added as **section 2(2.5)** to the ALR Regulation:

The lawful production of cannabis is designated as farm use for the purposes of the [ALCA] if produced outdoors in a field or inside a structure

- (a) that has a base consisting entirely of soil, or
- (b) that was, before the date on which this section came into force,
 - (i) constructed for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis, or
 - (ii) under construction for the purpose referred to in subparagraph (i), if that construction
 - (A) was being carried out in accordance with all applicable authorizations and enactments, and
 - (B) continues without interruption from the date it began to the date the structure is completed, other than work stoppages considered reasonable in the building industry, and

that has not been altered since that date to increase the size of its base or to change the material used as its base.

Section 2(1.1) of the ALR Regulation provides:

The activities designated under [section 2 of the ALR Regulation] as farm uses for the purposes of the [ALCA] must not be prohibited

- (a) by any local government bylaw except a bylaw under section 552 of the *Local Government Act*, or
- (b) by a law of the applicable treaty first nation government, if the activity is undertaken on treaty settlement lands.

GENERAL INTERPRETATIVE PRINCIPLES

The ALCA prohibits “non-farm use” of land in the ALR unless the owner of the land successfully makes an application to the Agricultural Land Commission for permission to undertake that use or that use is expressly permitted under section 3 of the ALR Regulation: ALCA, section 20. Sections 20(3), 25 and 34 of the ALCA and Part 10 of the ALR Regulation are among the provisions relevant to non-farm use applications.

A “non-farm use” is a “use of land other than a farm use”: ALCA, s. 1.

The form of cannabis production described in section 2(2.5) of the ALR Regulation is designated as farm use. Therefore, producing cannabis on the ALR in the manner described in section 2(2.5) of the ALR Regulation does not require a non-farm use application to the Agricultural Land Commission.

However, section 2(2.5) of the ALR Regulation does not designate as farm use:

- cannabis production that does not meet the description in section 2(2.5). Having regard to the regulatory framework, this information bulletin treats forms of cannabis production that are not described in section 2(2.5), together with all activities associated with forms of cannabis production not described in section 2(2.5), as non-farm uses.
- non-production activities associated with the cannabis production described in section 2(2.5). Having regard to the regulatory framework, this information bulletin treats those activities as non-farm uses except to the extent that they fall into exceptions found elsewhere in section 2 or 3 of the ALR Regulation.

PLACEMENT OF FILL IN THE ALR

Placement of fill onto land in the ALR for any reason related to cannabis production, **whether it is a form of production described in section 2(2.5) of the ALR Regulation or not**, cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission. That is, if a producer wishes to place fill on the land even for the purpose of cannabis production described in section 2(2.5) of the ALR Regulation, he or she will not be able to do so without obtaining permission from the Agricultural Land Commission through a non-farm use application.

This is because section 20(2) of the ALCA generally defines the placement of fill as a non-farm use, subject to certain exceptions. Those exceptions do not apply to cannabis production.

Though sections 2(4) and (5) of the ALR Regulation designate as farm use certain fill placement related to uses designated under sections 2(2)-(2.2) of the ALR Regulation, cannabis production is addressed in section 2(2.5), so sections 2(4) and (5) do not apply. Please consult the Agricultural Land Commission's Bylaw No. 2 – Placement of Fill in the ALR and Policy L-23 – Placement of Fill for Soil Bound Agricultural Activities.

CANNABIS PRODUCTION IN THE ALR

Section 2(2.5) of the ALR Regulation requires that to be designated as farm use, production of cannabis must meet various requirements including that the production is "lawful". The production of cannabis is not lawful unless it is licensed by the Government of Canada (excluding exemptions for personal cultivation). As such producers need to be very careful about taking steps in reliance on section 2 of the ALR Regulation without first ensuring that federal preconditions (as well as preconditions that other governments may impose) are or will be met before production occurs.

Field Production

Lawful production of cannabis in the ALR **outdoors in a field** is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission.

Soil Based Structure Production

Lawful production of cannabis in the ALR **inside a structure that has a base consisting entirely of soil** is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. Note:

- The base – that is, what the structure rests on – must be "entirely" of soil in order for production in it to qualify under section 2(2.5)(a) of the ALR Regulation. Production in a structure that has a base consisting partly of a material other than soil, even if the non-soil material constitutes a very small portion of the base, does not qualify under section 2(2.5)(a) of the ALR Regulation. Structures that do not have a base consisting entirely of soil are structures that have a base consisting partly or entirely of other materials, such as structures with cement footings or a cement floor.
- "Soil" means material native to the property, not material brought onto the property for the purpose of creating the base or for any other purpose. If imported onto the property, the material is "fill", the placement of which requires a non-farm use application: ALCA, section 20.

Production in Existing Structures

Lawful production of cannabis in the ALR **inside a structure that had been, before July 13, 2018, constructed for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis**, is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. Note:

- Existing structures used for the lawful production of cannabis do not have to have a base made entirely of soil.

- The structure must not have been altered on or after July 13, 2018 to increase the size of its base or to change the material used as its base.
- The structure must have been built for the purpose of growing “crops”. Livestock are not crops and, as such, production of cannabis in a converted livestock barn is not designated as farm use under section 2(2.5) of the ALR Regulation.

Production in Structures that Were Under Construction

If the requirements outlined in the bullet points set out later in this paragraph are met, lawful production of cannabis **inside a structure** (even if its base is not entirely soil) **that was under construction before July 13, 2018 for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis**, is designated as farm use and can be undertaken without a non-farm use application to the Agricultural Land Commission. For a structure to have been “**under construction**” before July 13, 2018, ground disturbance (such as excavation for laying foundation) must have commenced before that date; it would not be sufficient for the property owner to have made a permit application or received a permit for construction before July 13, 2018. The further requirements for lawful cannabis production to be designated under this portion of section 2(2.5) of the ALR Regulation are as follows:

- The pre-July 13, 2018 construction was being carried out in accordance with all applicable authorizations and enactments.
- The construction must continue without interruption from the date it began to the date the structure is completed, other than work stoppages considered reasonable in the building industry.
- The construction must not be altered on or after July 13, 2018 to increase the size of the structure’s base or to change the material used as its base.

Other Cannabis Production

Cannabis production not described in section 2(2.5) of the ALR Regulation is not designated as farm use. Neither that production nor activities related to that production (such as the construction, maintenance or operation of a building or structure, or processing of the cannabis) can be undertaken without a successful non-farm use application to the Agricultural Land Commission.

CONSTRUCTING, OPERATING OR MAINTAINING CANNABIS PRODUCTION FACILITIES

A non-farm use application to the Agricultural Land Commission is not required in order to construct, maintain or operate a building, structure, driveway, ancillary service or utility that is **necessary for the lawful production of cannabis described in section 2(2.5) of the Regulation**: ALR Regulation, section 2(3). Note:

- Section 2(2.5)(a) of the ALR Regulation refers to lawful production of cannabis inside a structure “that has a base consisting entirely of soil”. Construction, maintenance or operation of the soil-based structure necessary for that production can be undertaken without applying to the Agricultural Land Commission.

- Section 2(2.5)(b) refers to lawful production of cannabis inside a structure that meets certain requirements addressed earlier in this information bulletin. Completion of the structure referred to in section 2(2.5)(b)(ii), and maintaining and operating either that structure or the structure referred to in section 2(2.5)(b)(i), can be undertaken without applying to the Agricultural Land Commission.
- Other than as described in section 2(2.5) of the ALR Regulation, a building or structure is unlikely to be necessary for the form of cannabis production described there, as section 2(2.5) already addresses where the production is located. Possible exceptions may be a small washroom facility or small office for a required supervisor no greater than necessary for that form of cannabis production to occur on the land.
- Though associated with the form of cannabis production described in section 2(2.5), construction, maintenance or operation (including for a conference centre) of a building, structure, driveway, ancillary service or utility that is not necessary for that production on the land, may not occur without a successful non-farm use application to the Agricultural Land Commission. Proponents of such uses should be prepared to justify in their application materials why such use, both in that nature/scale and at all, is appropriate in the ALR rather than, for example, in an industrial park outside the ALR.

Construction, maintenance or operation of a building, structure, driveway, ancillary service or utility necessary for a form of cannabis production that is not described in section 2(2.5) of the ALR Regulation cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission.

STORING, PACKING, PREPARING OR PROCESSING CANNABIS

Storing, packing, preparing or processing cannabis yielded by the form of cannabis production described in section 2(2.5) of the ALR Regulation (and construction, maintenance or operation of a building, structure, driveway, ancillary service or utility necessary for that storing, packing, preparing or processing) can be undertaken without a non-farm use application to the Agricultural Land Commission if at least 50% of the cannabis being stored, packed, prepared or processed is produced on the "farm" (for this purpose being one or several parcels of land or tenured areas of Crown land that are being occupied or used together for designated or other farm uses), or produced by an association as defined in the *Cooperative Association Act* to which the owner of the farm belongs: section 2(2)(c) of the ALR Regulation.

Storing, packing, preparing or processing cannabis yielded by a form of production not described in section 2(2.5) of the ALR Regulation is not designated as farm use. These activities cannot be undertaken without a successful non-farm use application to the Agricultural Land Commission.

LOCAL GOVERNMENT

Local governments can have an important role to play in the regulatory framework related to cannabis production.

However, local government bylaws may not prohibit the lawful production of cannabis in the ALR if it is produced as described in section 2(2.5) of the ALR Regulation.

Local governments also play a role when non-farm use applications related to cannabis production and associated activities are made to the Agricultural Land Commission. Sections 25 and 34 of the ALCA are among the relevant provisions that they should consult.

FURTHER EXPLANATORY NOTES

Also note the following:

- The word “necessary” (for a designated farm use) figures in several of the above-discussed scenarios. It is within the purview of the Agricultural Land Commission to determine whether and to what extent activities are “necessary”.
- In determining whether an activity is “necessary” to a designated farm use, the Agricultural Land Commission may consider whether the nature and size of the activity are proportionate to the designated farm use.
- If someone claims that an activity is “necessary” for a designated farm use that has not yet commenced, the Agricultural Land Commission may require satisfactory evidence that the proposed use is in fact going to occur, and that the nature and size of activity characterized as “necessary” (such as construction of a driveway) will in fact be necessary to that use.
- Except for exemptions for personal cultivation, the “lawful” production of cannabis required for section 2(2.5) of the ALR Regulation requires licensing at the federal level. As noted earlier in this information bulletin, producers need to be very careful about taking steps in reliance on section 2 of the ALR Regulation without first ensuring that federal preconditions (as well as preconditions that other governments may impose) are or will be met before production occurs.
- For the purposes of sections 2(2)(o) and 4 of the ALR Regulation, structures in which cannabis is produced are not considered to be “greenhouses”. Section 2(2.5) of the ALR Regulation does not use the term “greenhouse” for any of the structures it describes. This indicates that under the ALR Regulation the concepts were to be treated as distinct and not to be confused.

Summary Table of Type of Cannabis Activities and Proposed City Regulatory Approach

Cannabis Production Location		Facility Type/Production Method	Required Development Applications	Permitted use (in Zoning Bylaw)
Production of Cannabis <u>in the</u> ALR	Outright permitted uses; No City approvals required	Open field/soil cultivation	None Farm business	
		In a soil based building/structure	None	Farm business
		Production in existing building or structure considered a farm use under ALR regulations	None	Farm business
	Non-permitted uses; ALC Non-farm use application required; Rezoning required	Production in existing building or structure not used for crops – not considered a farm use under ALR regulations	ALR Non-Farm Use Rezoning	Medical cannabis production facility Non-medical cannabis production facility
		Purpose built facility	ALR Non-Farm Use Rezoning	Medical cannabis production facility Non-medical cannabis production facility
Production of Cannabis in Urban Areas <u>outside of</u> the ALR	City approval required	Purpose built facility	Rezoning	Medical cannabis production facility Non-medical cannabis production facility
		Existing building - Converted	Rezoning	Medical cannabis production facility Non-medical cannabis production facility
		Commercial/industrial type greenhouse	Rezoning	Medical cannabis production facility Non-medical cannabis production facility
		Open field/soil cultivation	Rezoning	Commercial cannabis cultivation
		Building/structure with a soil base	Rezoning	Commercial cannabis cultivation

*Note – If in ALR, also requires ALR Non-Farm Use Application



**Official Community Plan Bylaw 9000
Amendment Bylaw 9928
(Production of Cannabis in the Agricultural Land Reserve and
City-Wide Official Community Plan Policy)**

The Council of the City of Richmond, in open meeting assembled, enacts as follows:

1. Richmond Official Community Plan Bylaw 9000, as amended, is further amended at Section 3.6.5 (Health Canada Licensed Medical Marijuana Production, and Research and Development Facilities) by deleting it in its entirety and replacing it with the following:

“3.6.5 Federally Licensed Medical Cannabis Production, Non-Medical Cannabis Production, Cannabis Research and Development Facilities and Commercial Cannabis Cultivation

OVERVIEW

The City wishes to regulate the location and number of medical and non-medical cannabis production and cannabis research and development facilities and commercial cannabis cultivation activities in Richmond.

Council may consider medical and non-medical cannabis production, research and development and commercial cannabis cultivation related facilities, on a case-by-case review basis, subject to meeting rigorous social, community safety, land use, transportation infrastructure, environmental and financial planning, zoning and other City policies and requirements. This section establishes the policies and requirements, by which such proposed facilities may be considered and, if deemed appropriate, approved.

TERMS

In this section, the following terms apply:

- “Medical Cannabis Production Facility” – means a facility for the cultivation or processing of medical cannabis in a building or structure containing any concrete construction, hardsurfacing or other impermeable structure or construction sunk into, at or below natural grade of the site in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory uses related to cultivation, processing, testing, research and development, packaging, storage, distribution and administrative office functions that are directly related to and in support of cultivation and processing activities.

- “Non-Medical Cannabis Production Facility” – means a facility for the cultivation or processing of non-medical cannabis in a building or structure containing any concrete construction, hardsurfacing or other impermeable structure or construction sunk into, at or below natural grade of the site in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory uses related to cultivation, processing, testing, research and development, packaging and storage and administrative office functions that are directly related to and in support of cultivation and processing activities.
- “Cannabis Research and Development Facility” – means a facility for the research and development, including testing, of cannabis only in a fully enclosed building or structure in accordance with the appropriate federal and provincial legislation and regulations.
- “Commercial Cannabis Cultivation” – means the commercial production of medical or non-medical cannabis located outside of the Agricultural Land Reserve limited to unenclosed outdoor cultivation or cultivation in a building or structure with a base consisting entirely of soil in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory uses related to cultivation, processing, testing, research and development, packaging and storage and administrative office functions that are directly related to and in support of cultivation and processing activities but does not include a Medical Cannabis Production Facility and Non-medical Cannabis Production Facility.

OBJECTIVE 1:

Protect the City’s social, economic, land use and environmental interests when considering proposed medical and non-medical cannabis production facilities, cannabis research and development facilities and commercial cannabis cultivation by preventing their unnecessary proliferation, avoiding long-term negative effects, and ensuring minimal City costs.

POLICIES:

- a) limit a medical cannabis production facility, non-medical cannabis production facility, cannabis research and development facility and commercial cannabis cultivation, through the rezoning process, to a total of one facility only. This single facility will only be permitted in an OCP designated Mixed Employment or Industrial area. Any proposals for additional facilities may be considered on a case-by-case basis and may require additional OCP amendments;
- b) the lawful production of cannabis in the Agricultural Land Reserve is considered a permitted farm use only if produced outdoors in a field, inside a structure that has a base consisting entirely of soil, or inside in a building or structure constructed for the purpose of growing crops or under construction for the purpose of growing crops in accordance with the *Agricultural Land Reserve Regulations*, as amended;

- c) use of OCP designated Agriculture areas for a medical cannabis production facility, non-medical cannabis production facility or cannabis research and development facility is not supported as these industrial-style cannabis facilities are not considered farm uses;
- d) a medical cannabis production facility, non-medical cannabis production facility, cannabis research and development facility or commercial cannabis cultivation that occurs indoors must be located in a stand-alone building, which does not contain any other businesses, in accordance with the appropriate federal and provincial legislation and regulations;
- e) For lands outside of the ALR, all security, community safety, potential noise/odour/lighting impacts and other issues related to outdoor production and cultivation must be addressed for commercial cannabis cultivation that occurs outdoors, in accordance with the appropriate federal and provincial legislation and regulations;
- f) a medical cannabis production facility, non-medical cannabis production facility, cannabis research and development facility or commercial cannabis cultivation must
 - i) have frontage on an existing, opened and constructed City road, to address infrastructure servicing and emergency response requirements;
 - ii) avoid negatively affecting sensitive land uses (e.g., residential, school, park, community institutional);
 - iii) not emit any offensive odors, emissions and lighting to minimize negative health and nuisance impacts on surrounding areas;
- g) applicants shall engage qualified professional consultants to prepare required studies and plans through the City's regulatory processes (e.g., rezoning, development permit, building permit, other as required);
- h) applicants shall ensure that proposals address the following matters, through the City's regulatory processes (e.g., rezoning, development permit, building permit, other):
 - i) compliance with City social, community safety, land use, building, security (e.g., police, fire, emergency response), transportation, infrastructure (e.g., water, sanitary, drainage), solid waste management, environmental (e.g., Environmentally Sensitive Areas, Riparian Management Areas, Ecological Network), nuisance (e.g., noise, odour and emissions) financial and other policies and requirements;
 - ii) compliance with all federal, provincial and regional (e.g., Metro Vancouver) policies and requirements;
 - iii) compliance with the City Building Regulation Bylaw, Fire Protection and Life Safety Bylaw, Noise Regulation Bylaw, Business License Bylaw, Business Regulation Bylaw and other related, applicable City Bylaws;

- iv) compliance with the current BC Building Code, BC Fire Code, BC Fire Services Act, BC Electrical Code, and other related codes and standards;
 - i) the applicant/owner of a Federally licensed and City approved medical cannabis production facility, non-medical cannabis production facility, cannabis research and development facility or commercial cannabis cultivation operation shall be responsible for full remediation of the facility should it cease operations or upon closure of the facility;
 - j) consultation with stakeholders on a proposed facility shall be undertaken as deemed necessary based on the context specific to each proposal.”
2. This Bylaw may be cited as **“Official Community Plan Bylaw 9000, Amendment Bylaw 9928”**.

FIRST READING

PUBLIC HEARING

SECOND READING

THIRD READING

ADOPTED

_____	CITY OF RICHMOND

_____	APPROVED by KE
_____	APPROVED by Director or Solicitor BK

MAYOR_____
CORPORATE OFFICER



**Richmond Zoning Bylaw 8500
Amendment Bylaw 9929
(Cannabis Related Zoning Regulations)**

The Council of the City of Richmond, in open meeting assembled, enacts as follows:

1. Richmond Zoning Bylaw 8500 is amended by adding the following use definition in Section 3.4 (Use and Term Definitions):

“Commercial cannabis cultivation

means the commercial production of medical or non-medical cannabis located outside of the **Agricultural Land Reserve** limited to unenclosed outdoor cultivation or cultivation in a **building** or **structure** with a base consisting entirely of soil in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory **uses** related to cultivation, processing, testing, research and development, packaging and storage and administrative **office** functions that are directly related to and in support of cultivation and processing activities but does not include a **Medical Cannabis Production Facility** and **Non-medical Cannabis Production Facility**.”

2. Richmond Zoning Bylaw 8500 is amended by repealing and replacing the following use definitions in Section 3.4 (Use and Term Definitions):

“Agriculture

means the **use** of land outside of the **Agricultural Land Reserve** for the growing of crops or the raising of domesticated animals and allotment gardens where land is divided into plots for exclusive **use** as vegetable, fruit or flower gardens such as private and community gardens but does not include a **medical cannabis production facility**, **non-medical cannabis production facility**, the lawful production of cannabis as a **farm business** and **commercial cannabis cultivation**.

Farm business

means a **business** in which one or more of the following farm activities are conducted, and includes a farm education or farm research institution to the extent that the institution conducts one or more of the following farm activities:

- a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- b) clearing, draining, irrigating or cultivating land;
- c) using farm machinery, equipment, devices, materials and **structures**;
- d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;
- e) conducting any other agricultural activity on, in or over agricultural land;

- f) intensively cultivating in plantations, any
 - i) specialty wood crops, or
 - ii) specialty fibre crops prescribed by a Minister of the Province of BC;
- g) conducting turf production in an **Agricultural Land Reserve** with the approval under *Agricultural Land Commission Act* of the Provincial Agricultural Land Commission;
- h) aquaculture as defined in the *Fisheries Act* when carried on by a person licensed, under Part 3 of that Act, to carry on the **business** of aquaculture;
- i) raising or keeping game, within the meaning of the *Game Farm Act*, by a person licensed to do so under that Act;
- j) raising or keeping fur bearing animals, within the meaning of the *Fur Farm Act*, by a person licensed to do so under that Act;
- k) processing or direct marketing by a farmer of one or both of
 - i) the products of a farm owned or operated by the farmer, and
 - ii) within limits prescribed by a Minister of the Province of BC, of products not of that farm, to the extent that the processing or marketing of those products is conducted on the farmer's farm, but
- l) the lawful production of cannabis on land inside of the **Agricultural Land Reserve**, if produced outdoors in a field or inside a structure
 - i) that has a base consisting entirely of soil, or
 - ii) that was, before the date this section came into force:
 - (A) constructed for the purpose of growing crops inside it, including but not limited to the lawful production of cannabis or
 - (B) under construction for the purpose referred to in subparagraph (A), if that construction
 - (i) was carried out in accordance with all applicable authorizations and enactments, and
 - (ii) continues without interruption from the date it began to the date the structure is completed, other than work stoppages considered reasonable in the building industry, and

that has not been altered since the date this section came into force to increase the size of its base or to change the material used as its base.

farm business does not include:

- a) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the *Forest and Range Practices Act*;
- b) breeding pets or operating a kennel;
- c) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by a Minister of the Province of BC;
- d) a **medical cannabis production facility** except as otherwise expressly permitted under section l) of the definition of **farm business**;
- e) a **non-medical cannabis production facility** except as otherwise expressly permitted under section l) of the definition of **farm business**; and
- f) a **cannabis research and development facility**.

Greenhouse & plant nursery

means a facility for the raising, storage and sale of produce bedding, **household**, ornamental plants and related materials such as tools, soil, fertilizers and garden furniture but does not include a **medical cannabis production facility**, **non-medical cannabis production facility**, the lawful production of cannabis as a **farm business** or **commercial cannabis cultivation**.

Medical Cannabis Production Facility

means a facility for the cultivation or processing of medical cannabis in a **building** or **structure** containing any concrete construction, **hardsurfacing** or other impermeable **structure** or construction sunk into, at or below **natural grade** of the **site** in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory **uses** related to cultivation, processing, testing, research and development, packaging, storage, distribution and administrative **office** functions that are directly related to and in support of cultivation and processing activities.

Non-medical Cannabis Production Facility

means a facility for the cultivation or processing of non-medical cannabis in a **building** or **structure** containing any concrete construction, **hardsurfacing** or other impermeable **structure** or construction sunk into, at or below **natural grade** of the **site** in accordance with the appropriate federal and provincial legislation and regulations, including supporting accessory **uses** related to cultivation, processing, testing, research and development, packaging and storage and administrative **office** functions that are directly related to and in support of cultivation and processing activities.”

3. Richmond Zoning Bylaw 8500 is amended by repealing and replacing clause c) in Section 5.13.4 (Agriculture permitted as a secondary use in all zones) as follows:

“c) A **medical cannabis production facility**, **non-medical cannabis production facility**, **cannabis research and development facility**, the lawful production of cannabis as a **farm business** or **commercial cannabis cultivation** is not permitted.”

4. This Bylaw may be cited as **“Richmond Zoning Bylaw 8500, Amendment Bylaw 9929”**.

FIRST READING

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THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED by <i>KE</i>
APPROVED by Director or Solicitor <i>BL</i>

MAYOR

CORPORATE OFFICER