



REPORT

To: Chair and Directors

Report Number: DS-BRD-025

From: Tyra Henderson, Corporate Officer

Date: May 15, 2020

Subject: Cannabis Processing Facilities Regulation & Approval

The following motion was deferred from the May 7, 2020 Regional Board Meeting, and is being presented to the Regional Board for its consideration:

RECOMMENDATION ON THE FLOOR [Corporate Unweighted]

RD/20/05/15

MOVED Chair Sperling, SECONDED Director Rose,

That the Regional Board remove the current definition for “cannabis related business” and the prohibition of all cannabis related businesses from all zoning bylaws, and insert the following definitions:

1. **Cannabis** means cannabis as defined in the federal *Cannabis Act*.
2. **Cannabis Processing Facility** means cultivating, growing, processing, testing, producing, packaging, storing, distributing, or dispensing of cannabis or any products containing or derived from cannabis as lawfully permitted and authorized under the federal *Cannabis Act*.
3. **Cannabis Retail Store** means the retail sale of cannabis, cannabis products, cannabis accessories, or any product containing or derived from cannabis as lawfully permitted and authorized under the Provincial *Cannabis Control and Licensing Act*.

Further, that the Regional Board permit cannabis retail and cannabis processing facilities in the zones noted below:

Zoning Bylaw	Recommended Zones for “Cannabis Retail Store”	Recommended Zones for “Cannabis Processing Facility”
Bylaw 479, 1986	C-1 Local Commercial	M-2 General Industrial M-3 Agricultural Industrial
Bylaw 506, 1986	C-1 Local Commercial	M-2 General Industrial
Bylaw 1000, 1996	NC Neighbourhood Commercial Zone	I-2 General Industrial Zone
Bylaw 1343, 2001	C-1 Local Commercial Zone C-2 General Commercial Zone	I-2 General Industrial Zone I-3 Agricultural Industrial Zone

On properties that are not located within:

- a) 200 m from a parcel containing a school or day care; and
- b) 100 m from any parcel containing a park, place of worship, medical clinic, rehabilitation centre, or other cannabis-related business.

BACKGROUND/RATIONALE:

At the April 16, 2020 Electoral Area Directors Committee (EADC) meeting, EADC recommended that the Regional Board consider guidelines developed from a review of surrounding municipalities and regional districts, as applicable to cannabis processing facilities and cannabis retail establishments. These were presented to the Regional Board on May 7, 2020.

At the May 7, 2020 Board meeting, the Regional Board discussed and questioned what opportunities exist for a local government to provide input and comments with respect to any application for a cannabis processing facility. The Regional Board requested that staff investigate this further through the following resolution:

MOVED, SECONDED, and CARRIED

That the Regional Board defer consideration of Resolution No. RD/20/05/15 (Cannabis Related Business) from its May 7, 2020 meeting until it has received clarification on Liquor and Cannabis Regulation Branch (LCRB) regulations as they pertain to carte blanche approval of Cannabis Processing Facilities in PRRD permitted zones, and requirements for public consultation.

This report provides clarification on the processes as they relate to both cannabis retail and cannabis processing facilities, and the involvement of the local government and the public in those processes.

Provincial Retail Licensing

As noted previously, the Provincial Government is responsible for licensing cannabis retail stores and has strict regulations in place for the approval and operation of cannabis retail stores. The Provincial Government is not responsible for licensing related to cannabis **processing** facilities.

A provincial license from the Liquor & Cannabis Regulation Branch (LCRB) is required for each retail business, and must be accompanied by a recommendation from the applicable local government for each cannabis retail license application. When making comments and recommendations to the LCRB with respect to a cannabis retail store, a local government is required to gather views of residents, which must be gathered in one or more of the following methods:

- a) by receiving written comments in response to a public notice of the application;
- b) by conducting a public hearing in respect of the application;
- c) by holding a referendum; or
- d) by using another method that the local government considers appropriate.

The local government may choose not to make a recommendation for the cannabis retail license application – in that event, the retail license application process would end.

The local government recommendation must:

- a) be in writing (this may or may not be in the form of a resolution);
- b) show that the local government has considered the location of the proposed store;
- c) include the views of the local government on the general impact on the community if the application is approved;

- d) include the views of residents if the local government has gathered residents' views, and a description of how they were gathered; and
- e) include the local government's recommendation as to whether the application should be approved or rejected and provide the reasons upon which the recommendation is based.

The local government should also provide any supporting documents referenced in their comments.

The LCRB retail licensing process gives the Regional Board a similar level of control to the current zoning regulations, as all applications are referred to the PRRD and the LCRB will not proceed with retail licensing without a positive recommendation from the PRRD. Retail cannabis businesses will still require this approval, even if listed as a permitted use in the zone where they are to be located. It is noted, that a positive recommendation from the PRRD does not guarantee that the retail license is granted to an applicant. An applicant must have both a retail license granted by the Province and an appropriately zoned parcel in order to open a cannabis-related business.

Federal Processing Licensing

The Federal Government is responsible for licensing cannabis processing facilities. The Federal Government is not responsible for licensing cannabis retail stores.

A federal license from Health Canada is required for each processing facility. Cannabis processing facilities are required to report monthly to the Federal Government, who publicly share a list of all licensed cannabis cultivators, processors, and wholesalers. From additional research undertaken, and through discussions with several local governments in British Columbia, the following points should be taken into consideration with respect to cannabis processing facilities:

- a) The cannabis processing facility application process is driven by the applicant, including all communication to applicable local governments.
- b) As part of the federal application process, an applicant must submit a notice to the local government and provide confirmation of this notification to the Federal Government. This is the only instance that local governments receive an update throughout the licensing process. It is the responsibility of the applicant to communicate with the local government.
- c) There is currently no official step in the licensing process for local governments to provide input into an application for a cannabis processing facility to Health Canada, nor if, and how, that information is taken into consideration by the Federal Government prior to the issuance of a license.
- d) It is unclear whether local governments are able to further restrict cannabis processing facilities, and which governing body that authority would come from.

Due to the COVID-19 pandemic, Health Canada is experiencing high volumes of questions and has redirected resources to addressing the virus. While staff have reached out to Health Canada multiple times to seek clarity on how local governments are involved in the application and licensing process as it relates to cannabis processing facilities, and if local governments may prohibit such facilities, they have not yet responded to the inquiries. In speaking with other local governments, some have enacted further permissions or restrictions on cannabis processing facilities, although it remains vague what legal authority local governments have over these additional policies. Finally, many local governments have not yet seen an applicant navigate through the federal application and licensing process.

ALTERNATIVE OPTIONS:

1. That the Regional Board remove the current definition for “cannabis related business” and the prohibition of all cannabis related businesses from all zoning bylaws, and insert the following definitions:
 - a) **Cannabis** means cannabis as defined in the federal *Cannabis Act*.
 - b) **Cannabis Processing Facility** means cultivating, growing, processing, testing, producing, packaging, storing, distributing, or dispensing of cannabis or any products containing or derived from cannabis as lawfully permitted and authorized under the federal *Cannabis Act*.
 - c) **Cannabis Retail Store** means the retail sale of cannabis, cannabis products, cannabis accessories, or any product containing or derived from cannabis as lawfully permitted and authorized under the provincial *Cannabis Control and Licensing Act*.

Further, that the Regional Board permit cannabis retail stores in the zones noted below:

Zoning Bylaw	Recommended Zones for “Cannabis Retail Store”
Bylaw 479, 1986	C-1 Local Commercial
Bylaw 506, 1986	C-1 Local Commercial
Bylaw 1000, 1996	NC Neighbourhood Commercial Zone
Bylaw 1343, 2001	C-1 Local Commercial Zone C-2 General Commercial Zone

Further, that the Regional Board include the following general regulation:

Where permitted, cannabis retail stores and cannabis processing facilities may not be located on properties within:

- i. 200 m from a parcel containing a school or day care; and
 - ii. 100m from any parcel containing a park, place of worship, medical clinic, rehabilitation centre, or other cannabis-related business.
2. That the Regional Board define cannabis and cannabis-related businesses, and include general regulations for cannabis-related land uses in Zoning Bylaw No. 479,1986, Zoning Bylaw No. 506, 1986, Zoning Bylaw No. 1000, 1996, and Zoning Bylaw No. 1343, 2001.
3. That the Regional Board continue prohibiting the processing and sale of cannabis in its Zoning Bylaws.
4. That the Regional Board provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Organizational Effectiveness
- ☒ Comprehensive Policy Review

FINANCIAL CONSIDERATION(S):

None at this time.

COMMUNICATIONS CONSIDERATION(S):

Any changes to cannabis regulation in the PRRD's Zoning Bylaws, as a result of the Regional Board's decision, will be communicated to the general public and potential applicants through online resources and correspondence.

OTHER CONSIDERATION(S):

None at this time.

External Link:

1. [April 16, 2020 Electoral Area Directors Committee Recommendation, ADM-BRD-014](#)