



REPORT

To: Electoral Area Directors Committee

Report Number: DS-EADC-002

From: Tyra Henderson, Corporate Officer

Date: April 7, 2020

Subject: Cannabis Zoning Regulation Review

RECOMMENDATION #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:

- 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	1-2 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;
- b) 100 m from a residential parcel or any parcel containing a residence; and
- c) 100 m from any parcel containing a park, place of worship, medical clinic, rehabilitation centre, or other cannabis-related business.

BACKGROUND/RATIONALE:

At the February 20, 2020 Electoral Area Directors Committee (EADC) meeting, EADC recommended that the Regional Board review guidelines from surrounding municipalities applicable to cannabis production and retail establishments; further, that a report identifying potential harmonized guidelines for

potential inclusion in Regional District Zoning bylaws applicable to rural areas be provided to the Electoral Area Directors Committee.

No. 1: Cannabis Production and Retail Establishments

RD/20/03/11

That the Regional Board review guidelines from surrounding municipalities applicable to cannabis production and retail establishments; further, that a report identifying potential harmonized guidelines for potential inclusion in Regional District Zoning bylaws applicable to rural areas be provided to the Electoral Area Directors Committee.

This report provides local, provincial and federal government regulations and legislation as it relates to cannabis-related businesses. It also provides a comparison of existing regulations found in the bylaws of PRRD member municipalities and select regional districts in BC. This report concludes with three possible options for consideration for addressing cannabis-related businesses within the rural areas of the PRRD through amendments to the PRRD Zoning Bylaws. The three options are as follows:

- Option 1 – Enhanced Definitions, Addition of General Regulations, and Cannabis-Related Uses Permitted in Certain Zones; (Recommendation)
- Option 2 – Enhanced Definitions and Addition of General Regulations; and
- Option 3 – Status Quo.

Each option is discussed in more detail below.

Cannabis Legalization Updates in the PRRD Zoning Bylaws

Prior to the national legalization of cannabis use on October 17, 2018, the PRRD prohibited cannabis-related businesses in the District’s zoning bylaws, herein referred to collectively as “the zoning bylaws”:

- Zoning Bylaw No. 479, 1986 (Dawson Creek Rural);
- Zoning Bylaw No. 506, 1986 (Chetwynd Rural);
- Zoning Bylaw No. 1000, 1996 (North Peace Area); and
- Zoning Bylaw No. 1343, 2001 (Fringe Areas surrounding Chetwynd, Dawson Creek, and Fort St. John).

In each of the PRRD’s zoning bylaws, the term “cannabis-related business” is currently defined as “the use of land, buildings, or structures for the sale, storage, or other provision, of Cannabis”.

In prohibiting the use across all zones, the intent was to address any cannabis dispensaries or other related businesses on a case-by-case basis through a zoning bylaw amendment (spot zone). Since then, the Board has received zoning amendment applications for a few cannabis-related operations and it became apparent that a lack of guidelines and supporting regulation to rely on to guide consideration of case-by-case zoning, including setbacks, distance requirements, and when amendments may or may not be considered, is not ideal. The PRRD has not approved any zoning amendments regarding cannabis since the inclusion of the definition into each of the zoning bylaws, and at the January 23, 2020 Board meeting, the Regional Board respectfully refused a zoning amendment to allow a cannabis-related business on PID 017-656-010 in Charlie Lake:

ZONING AMENDMENT BYLAW NO. 2394, 2020, PRRD FILE NO. 19-217RD/20/01/37
(23)

RD/20/01/37 (23)

MOVED Chair Sperling, SECONDED Director Goodings, that the Regional Board respectfully refuse Zoning Amendment Bylaw No. 2394, 2020, to amend Section 27(b) of PRRD Zoning Bylaw No. 1343, 2001 to allow a cannabis-related business on the property identified as PID 017-656- 010.

CARRIED.

In its referral response, School District 60 noted concerns for the health and safety of nearby students at Charlie Lake Elementary, as the applicant parcel is approximately 150 m from the Charlie Lake Elementary School.

Summary of Local Government Comparisons

Attached to this report are two files that identify the various cannabis-related regulations currently present in various zoning bylaws in municipalities within the PRRD, and in select regional districts. The Board expressed interest in guidelines that are harmonized across the multiple zoning bylaws applicable in different areas of the PRRD, and also consistent with surrounding municipalities; however, it is noted that the municipalities within the PRRD do not necessarily have aligning cannabis regulations; they are similar, but not identical. This will result in slight variations across jurisdictions, which is not uncommon.

Most of the municipalities within the PRRD define cannabis, cannabis retail sales, and cannabis processing separately. Of the PRRD municipalities, cannabis-related businesses are prohibited only in Hudson's Hope. The remaining six municipalities all have at least one commercial zone that permits cannabis retail sales. Three municipalities (Chetwynd, Dawson Creek, and Tumbler Ridge) have at least one industrial zone that permits cannabis production.

From a regulation perspective, both Fort St. John and Taylor have distance requirements between cannabis-related businesses and specific conflicting uses, such as schools (200 m) and parks (100 m). Dawson Creek has similar distance requirements, but different specified distances of 150 m from all identified conflicting land uses (schools, parks, places of worship, etc.), as well as a specified distance of 60 m from residential parcels.

If the PRRD wishes to align with surrounding municipalities as closely as possible, the PRRD could consider aligning its regulations with the distance requirements of 200 m around schools or daycares and 100 m from a residence, park, place of worship, medical clinic, rehabilitation centre, or other cannabis-related business. However, the PRRD can determine different values based on the needs of the rural areas. Given the larger parcel sizes in the PRRD, the PRRD may even wish to consider increasing the required distance requirements to reflect larger rural area parcel sizes.

In comparing regional districts, there are few consistent trends present with respect to how cannabis is defined or regulated. In general, most regional districts permit cannabis retail sales in select lighter commercial zones and cannabis processing in select heavier industrial or agricultural zones, but this is not consistent across the regional districts reviewed. Only the Northern Rockies Regional Municipality specifies distance restrictions for cannabis retailers: 300 m for schools, parks and recreation centres, and 500 m

between cannabis retailers. These distances are farther than those found in surrounding PRRD municipalities' bylaws.

As there do not appear to be consistent zones or regulations for cannabis across the PRRD, or across other regional districts, the PRRD should implement regulations that are best suited to the Regional District, having given consideration to the greater regional context.

Provincial Licensing

The federal and provincial governments have strict regulations in place for the approval and operation of cannabis facilities. A provincial license from the Liquor & Cannabis Regulation Branch (LCRB) is required for each business and must be accompanied by a recommendation from the applicable local government for each cannabis license application. When making comments and recommendations to the LCRB, 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 to not make a recommendation for the cannabis license application – in that event, the license application progress 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 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 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 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 license is granted to an applicant. An applicant must have both a license granted by the Province and an appropriately zoned parcel in order to open a cannabis-related business in a local government.

Agricultural Land Commission Policy

It is noted that the Agricultural Land Commission has determined that cannabis production in general is an agricultural use that may not be prohibited within the Agricultural Land Reserve.

Section 4 of the ALR Use Regulation states that farm uses, including those listed in Section 8, may not be prohibited by a local government enactment except a bylaw under Section 552 (Farming Area Bylaws) of the *Local Government Act*.

Section 8 of the ALR Use Regulation states that cannabis may not be lawfully prohibited if it is produced in a field or inside a structure that has a base consisting entirely of soil. Section 8 also lays out conditions around structures that are being used for cannabis production.

Federation of Canadian Municipalities' Guide

The Federation of Canadian Municipalities' Municipal Guide to Cannabis Legalization suggests many considerations for the location of retail cannabis stores and commercial processing of cannabis to industrial zones but stops short of making any recommendations on zoning. Municipalities may, if they so choose, permit "cannabis cafes" and other public legal consumption premises, which would require exemptions in smoking bylaws in addition to permitting them within their zoning and business regulations.

PRRD Zoning Bylaws Option 1 – Enhanced Definitions, Addition of General Regulations, Cannabis-Related Use Permitted in Certain Zones

This option outlines three aspects of a zoning bylaw amendment that would make the PRRD zoning regulations regarding cannabis consistent with the regulations present in the majority of PRRD municipalities: definitions, zones permitting cannabis-related uses, and general regulations.

- 1) Update the Definitions in all zoning bylaws with the following:
 - 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*.

Remove the definition for "cannabis-related business" in all zoning bylaws.

- 2) Update the General Regulations across all zoning bylaws with the following:

Remove the prohibition for "cannabis-related business" in all zoning bylaws.

Cannabis Retail Stores and Cannabis Processing Facilities

Cannabis retail stores and cannabis processing facilities are prohibited on a parcel that is located within:

- d) 200 m from a parcel containing a school or day care;
- e) 100 m from a residential parcel or any parcel containing a residence; and

f) 100 m from any parcel containing a park, place of worship, medical clinic, rehabilitation centre,

3) Permit cannabis-related uses in the following recommended zones (blue coloured columns):

Zoning Bylaw	Recommended Zones for “cannabis retail store”	Optional Zones for “cannabis retail store”	Recommended Zones for “cannabis processing facility”	Optional Zones for “cannabis processing facility”
Bylaw 479, 1986	C-1 Local Commercial	C-2 Highway Commercial C-3 Public House Commercial C-5 Recreation Commercial	M-2 General Industrial M-3 Agricultural Industrial	A-2 Large Agricultural Holdings
Bylaw 506, 1986	C-1 Local Commercial	C-2 Highway Commercial C-5 Recreational Commercial	M-2 General Industrial	M-1 Light Industrial A-2 Large Holdings
Bylaw 1000, 1996	NC Neighbourhood Commercial Zone	HC Highway Commercial Zone RC Regional Commercial Zone	1-2 General Industrial Zone	I-1 Light Industrial Zone A-2 Large Agricultural Holdings Zone
Bylaw 1343, 2001	C-1 Local Commercial Zone C-2 General Commercial Zone	C-3 Neighbourhood Pub Commercial Zone C-4 Recreational Commercial Zone	I-2 General Industrial Zone I-3 Agricultural Industrial Zone	I-1 Light Industrial Zone A-2 Large Agricultural Holdings Zone

* Note: (Cannabis-related uses may also be considered in additional optional zones, highlighted in red)

PRRD Zoning Bylaws Option 2 – Enhanced Definitions and Addition of General Regulations

This option reflects the desired February 20, 2020 EADC recommendation. This option would see the Regional Board continue prohibiting the processing and sale of cannabis on non-ALR lands through the use of zoning regulations, but update the zoning bylaws to include definitions and additional regulations to address cannabis-related businesses on a case-by-case basis. Cannabis-related businesses, such as cannabis retail sales and cannabis processing would remain as not explicitly permitted anywhere within the PRRD.

As with Option 1 above, this option would require the addition of definitions consistently across all zoning bylaws and updating the general regulations to provide a framework for decision-making when cannabis-related applications come before the Regional Board.

The addition of definitions and cannabis-related zoning regulations will provide guidelines and structure for licensing referrals and aid in the PRRD approving licenses on a case-by-case basis. It is noted that this option means that each cannabis retail store and cannabis processing facility, were it to be approved, would require a zoning amendment.

1) Update the Definitions in all zoning bylaws with the following:

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*.

Remove the definition for “cannabis-related business” in all zoning bylaws.

- 2) Update the General Regulations across all zoning bylaws with the following:

Cannabis Retail Stores and Cannabis Processing Facilities

Cannabis retail stores and cannabis processing facilities are prohibited on a parcel that is located within:

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

PRRD Zoning Bylaws Option 3 – Status Quo

If the Regional Board wishes to continue prohibiting the processing and sale of cannabis on non-ALR land, the current zoning bylaws can continue to be used. This option may be desirable if the Regional Board do not wish to see any authorized cannabis-related businesses within the PRRD and will not in the foreseeable future. This outcome does not address the challenge of permitting licenses on a case-by-case basis and would only be recommended if the PRRD wishes to outright prohibit cannabis-related businesses. In this recommendation, the terms “cannabis” and “cannabis-related business” as currently defined would be satisfactory.

ALTERNATIVE OPTIONS:

- 1. That the Electoral Area Directors Committee recommend that the Regional Board define cannabis and cannabis-related businesses, and include the 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 which will provide the Board with guidelines to use when considering cannabis related business applications on a case by case basis.

**A spot zone will still be required to relax the prohibition of cannabis related businesses for a specific property.*

- 2. That the Regional Board continue prohibiting the processing and sale of cannabis in its Zoning Bylaws.
- 3. 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 regulations 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 the web page and correspondence.

OTHER CONSIDERATION(S):

None at this time.

Attachments:

1. Comparison of Cannabis Zoning Regulations for Municipalities Within the PRRD
2. Comparison of Cannabis Zoning Regulations for Select Regional Districts in BC