



## Planning Services COUNCIL REPORT

**TO:** Mayor and Council **DATE:** May 1, 2019  
**FROM:** Manager of Planning Services  
**SUBJECT:** **Zoning Bylaw Amendment Bylaw No. 212**  
Amendments to Cannabis, Second Dwelling Regulations, and regulations  
pertaining to the keeping of bees.

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### RECOMMENDATION:

1. THAT Zoning Amendment Bylaw 212, 2019 be introduced and read a first time by title only.
2. THAT Zoning Amendment Bylaw 212, 2019 be read a second time.
3. THAT Zoning Amendment Bylaw 212, 2019 be taken to Public Hearing in conjunction with a regular Council meeting.
4. THAT Business Licensing and Regulation Amendment Bylaw 213, 2019 be introduced and read a first time by title only.
5. THAT Business Licensing and Regulation Amendment Bylaw 213, 2019 be advertised as per Section 94 of the *Community Charter*.
6. THAT Development Procedures Amendment Bylaw 214, 2019 be introduced and read a first time by title only.
7. THAT Development Procedures Amendment Bylaw 214, 2019 be read a second time.

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A. KRAUSE, MCIP  
Manager of Planning Services

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Approved for  
Council Consideration  
CAO

### SUMMARY

This report is further to Council direction on April 2<sup>nd</sup> to consider minor amendments to Zoning Bylaw 133 pertaining to cannabis regulation. The proposed amendments will 1) ensure concordance with federal legislation, 2) improve clarity, 3) add requirements specific to 'craft' cannabis production facilities less than 200 metres in area, and 4) permit cannabis retail in the C-1:General Commercial and MX-1: Riverside Centre Mixed Use zones.

In conjunction with these Cannabis related changes for Council's consideration are the following:

- **Amendments to the *District of Clearwater Business Licensing and Regulation Bylaw No. 124, 2014*.** Bylaw amendment No. 213, 2019 proposes to update the business license bylaw to include new definitions pertaining to cannabis retail and production and establish a license fee pertaining to cannabis retail specifically.
- **Amendments to the *District of Clearwater Development Procedures Bylaw No. 118, 2014*.** Bylaw amendment No. 214, 2019 proposes to update the Development Procedures bylaw to include wording relating to cannabis applications and to establish application fees for new cannabis licenses and amendments to existing cannabis licenses.
- **Establishment of a *Liquor and Cannabis License Referral Policy*.** The proposed policy would establish procedures and criteria for evaluating any Liquor or Cannabis License Application that is referred by the Province to the District for consideration. At Council's direction, criteria include a limit on the total number of cannabis retail stores in the District, and required distance separation from schools and developed parks. Council will have the opportunity to adopt the Policy separately from this Bylaw - typically at the stage of bylaw amendment adoption.

These proposed changes are discussed in more detail below and the draft documents in their entirety are attached for consideration.

Bylaw 212 also includes minor amendments to Zoning Bylaw 133 pertaining to the following:

- **Additional dwellings** - Recent ALC changes which have further restricted the construction of second dwellings on ALR land. This impacts, among other things, the District's existing regulations pertaining to temporary dwellings for caregiving. The minor amendments proposed are intended to align with new ALC regulations to avoid confusion.
- **Bee Keeping** - In light of the District of Clearwater receiving Bee City designation, minor amendments are proposed that are intended to clarify regulations pertaining to the keeping of bees in residential areas.

## 1. AMENDMENTS TO CANNABIS REGULATION

### Background

In the wake of legalization of recreational cannabis on October 17, 2018 and the rolling out of federal and provincial regulation, it was expected that Bylaw changes *would* be necessary. At the April 2<sup>nd</sup> Council meeting, the Council was presented with options relating to cannabis regulation and directed staff to proceed with bylaw amendments.

### Discussion

The proposed changes will improve overall clarity and bring the bylaw into concordance with federal legislation. It further proposes a reduction in the required lot area for "craft" or micro scale production facilities that are no more than 200 square metres in area. Retail sale of cannabis is proposed to be permitted within the C-1 and MX-1 zones, hence a coinciding policy has been put

forward for consideration that would establish a standard set of criteria for evaluating all referrals received from the Province for retail cannabis licences. The changes are discussed in detail below.

### 1.1 IMPROVE CLARITY OF EXISTING REGULATION

The following proposed Bylaw amendments would bring zoning regulations in line with federal legislation and clarify the Bylaw:

- **Update the definition of *CANNABIS*** to reflect the new legislation by replacing the reference to the Controlled Drugs and Substance Act with the Cannabis Act.
- **Reference all forms of cannabis:** Amend section 5.23 of the Zoning Bylaw to reference all forms of cannabis production (both medical and recreational). Conditions currently stipulated for medical marijuana would then clearly apply to all forms of cannabis production.
- **Replace the definition of *LICENSED MEDICAL MARIHUANA PRODUCTION FACILITY*** with *Licensed Cannabis Production Facility* to include all cannabis.

### 1.2 CULTIVATION/PRODUCTION

Existing regulations for cannabis production facilities are oriented toward large-scale production facilities. However, increasing interest in micro-scale or “craft” facilities has prompted a review of existing regulation pertaining to cannabis production.

Micro production facilities (<200 square metres in area) require a smaller footprint and are generally less intensive than macro scale operations. While an 8 hectare (20 acre) minimum may be reasonable for a large 2000m<sup>2</sup> (22,000 ft<sup>2</sup>) facility, it may be excessive for a 200m<sup>2</sup> facility which is comparable in size to an average single family dwelling. It is therefore reasonable to reflect those differences by broadening regulation to include parameters specific to micro scale production. The amendment proposed below is only for micro or “craft” production facilities less than 200 square metres in total gross area and is intended to provide more production opportunities around the region while limiting potential nuisance concerns:

- **reduce the minimum lot area** required for “craft” production facilities (<200 m<sup>2</sup>) in the RL-1 zone from 8 ha to 4 ha to reflect the minimum parcel area of the zone.

All production facilities larger than 200 square metres will continue to be subject to existing regulation, that is, a minimum of 8 ha in the RL-1 zones. The required setback for all cannabis production facilities will remain at 30 metres.

### 1.3 RETAIL SALE

In June 2018, Council generally and broadly prohibited the retail sale of cannabis in commercial zones ahead of the provincial and federal changes ensuring that potential sales operations would not have an argument for legal non-conformity or “grandfathering” afforded under *Local*

*Government Act* s. 528. This meant that someone wishing to establish a cannabis retail sales outlet is required to apply for rezoning and be approved by Council in order to be lawful in the District, regardless of the location.

At the April 2<sup>nd</sup> Council meeting, Council revisited the regulations on retail sales of Cannabis. With some time having passed since legalization, and a better understanding of the potential impacts surrounding cannabis retail, it was generally agreed that permitting cannabis retail sales in certain commercial zones outright would not be unreasonable, nor would it present a high risk. This is partially due to the fact that Council, through the Provincial Cannabis License Referral process, will still have the opportunity to review and approve or deny an application regardless of the zoning, if there were significant concerns about the proposal. At Council's direction, Bylaw 212 therefore proposes the following:

- **allow cannabis retail in the C-1: General Commercial and MX-1: Riverside Centre Mixed Use zones.**

Should the amendment to Bylaw 212 be approved, an applicant wishing to place a cannabis retail store in an area that is already zoned C-1 or MX-1 will no longer be required to go through the rezoning process. An applicant wishing to place a cannabis retail store in any other zone could still apply but would first be required to rezone. In both cases, the applicant would still have to apply for a License from the province to which the District would be referred.

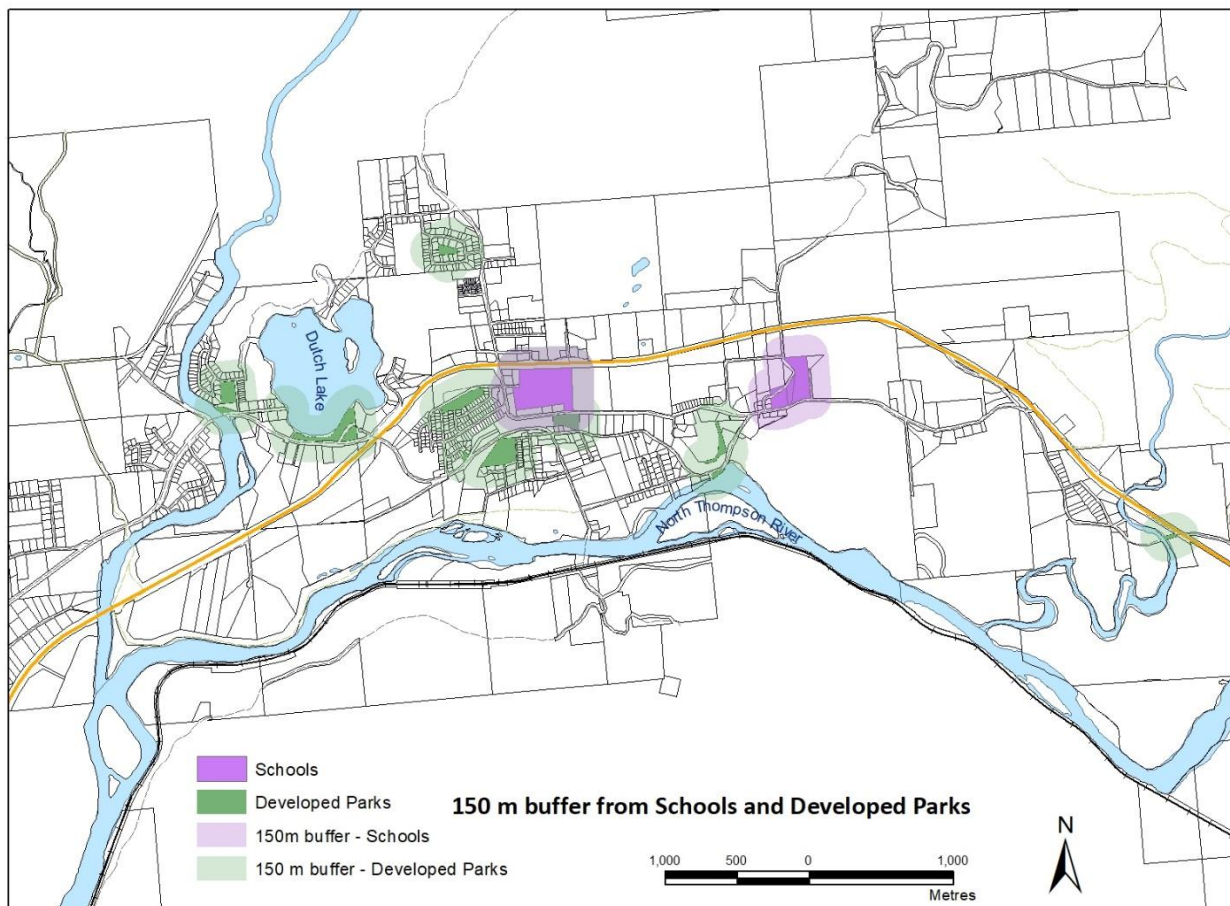
## 2.0 LICENSE REFERRAL POLICY

Under the *Liquor and Cannabis Regulation Branch*, the Province has developed a Cannabis Licensing Program which is comparable to the liquor licensing program. Under both programs, the Province must refer the application to local government for comment and recommendation.

To manage referrals and ensure that every application is assessed according to the same set of criteria, we recommend that Council adopt a *Liquor and Cannabis License Referrals Policy*. This policy is not a part of the Bylaw but given it is directly related to the cannabis amendments it is discussed here. The proposed policy includes the following:

- **procedures for notifying the public of the proposed application.** As part of the referral process local government is required to gather the views of residents. The policy outlines the notification procedure according to the type of application. A Notice of Intent would be mailed to property owners/occupiers located within 100m distance of the subject property. This is in keeping with current practice, including notifications for variances, liquor license applications, and zoning amendments, and is comparable to other local governments. The Policy also stipulates that referrals would be sent to the RCMP detachment, fire department, and building inspection services.
- **a standard set of criteria reviewing cannabis applications.** At Council's direction, the policy includes limiting the maximum number of cannabis retail stores in the District at any given time to 3 and requiring a minimum 150 metre buffer from schools and

developed parks. The effect of the 150m setback is illustrated in the map below. Clearwater Shopping Centre and a significant portion of Wells Gray Gateway commercial area would be precluded from a cannabis retail store based on a 150m policy.



### 3.0 AMENDMENTS TO BUSINESS LICENCING BYLAW

The *District of Clearwater Business Licensing and Regulation Bylaw No. 124, 2014* requires updates to reflect the above mentioned amendments. Bylaw Amendment 213, 2019 is therefore also included for consideration here. The changes include basic updates and additions to the definitions and wording relating to cannabis. It also proposes adding a new section to the fee schedule for cannabis retail to add a fee of \$1,000 for cannabis retail businesses.

### 4.0 AMENDMENTS TO DEVELOPMENT PROCEDURES BYLAW

The *District of Clearwater Development Procedures Bylaw No. 118, 2014* requires updates to reflect the above mentioned amendments as well. Bylaw Amendment 214, 2019 is therefore also included for consideration here. The changes include basic updates to include wording relating



to cannabis. It also proposes adding two new sections to the fee schedule for New Cannabis Retail Licences and Cannabis Licence Amendments. The proposed fees for the applications are \$1500 and \$500, respectively.

## 5.0 AMENDMENTS TO DWELLINGS PER LOT – A RESPONSE TO ALC CHANGES

### Background

Recent changes to the *ALC Act* have resulted in *more* stringent restrictions on a number of existing regulations including the size, siting, and use of dwellings in the ALR. With the passing of Bill 52, effective February 22, 2019, the total floor area of a principal residence on ALR lands is now capped at 500 square metres. In addition, the placement of more than one dwelling per parcel (an additional dwelling) on all ALR lands is prohibited.

Under the new regulations, a landowner wishing to build a dwelling over 500 square metres in total area or a second dwelling on ALR land (including a manufactured home for an infirm family member or for farm help) must first submit an application to the ALC for a “non-adhering residential use”. There are some cases in which grandfathering can apply: for example, existing additional residences that were built in accordance with ALC regulations at the time of construction may continue to be used. Any proposed alterations or renovations to a grandfathered dwelling *which are not in compliance with new regulation* require an application to the ALC. Furthermore, existing residences that are grandfathered are not permitted to be replaced without an application and approval. More information on the ALC changes can be found here: [https://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/information-bulletins/information\\_bulletin\\_5\\_residences\\_in\\_the\\_alr.pdf](https://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/information-bulletins/information_bulletin_5_residences_in_the_alr.pdf).

### Discussion

While section 4.4 of the Zoning Bylaw generally states that ALC regulations override any provisions of the Zoning Bylaw, staff propose one minor amendment to existing regulation on Temporary Dwellings for Caregivers to make it clear within that section that no more than one dwelling per parcel is permitted on ALR lands unless expressly approved by the Agricultural Land Commission.

These changes will not affect any applications currently in process, however they will impact previously approved additional and temporary dwellings over time as current and future landowners look to renovate, rebuild, or alter use of their land. With these new requirements, this will impact the extent of staff time devoted to ALC applications as well as the processing time of applications.

Finally, please note that with the passing of Bill 52, fees for all ALC applications have increased to \$1500 (up from \$900). The District continues to receive \$300 of this fee with the rest being forwarded to the ALC.

## 6.0 NEW REGULATIONS ON BEE KEEPING

With the recent designation of the District of Clearwater as a Bee City, it was felt that some clarity should be given to the regulations surrounding bee keeping in residential zones. Bylaw 212 proposes to include a new section in Zoning Bylaw 133 on bee keeping. The intent is not to hamper the keeping of bees, but to provide clarity and to ensure that any bee keeping operations are within reason and minimize any potential conflict among residents. The proposed amendments would permit bee keeping in all residential zones subject to the following:

- **Adherence to the setbacks and other regulations pertaining to bee keeping as set out in the Animal Control Bylaw.** The animal control bylaw requires setback of 5 metres from any property line and orientation of the hives into the subject lot.
- **Limiting the number of hives in the R-1, R-2, and R-3 zones to a maximum of 2 per lot.** These zones tend to have smaller lot sizes and closer neighbours. It is therefore reasonable to limit the number of hives to 2.
- **Limiting the number of hives on lots under 0.6 ha (1.5 acres) in the CR-1 zone to a maximum of 2 per lot.** These zones tend to have smaller lot sizes and closer neighbours. It is therefore reasonable to limit the number of hives to 2.

### ATTACHMENTS

- Zoning Amendment Bylaw No. 212
- Business Licensing and Regulation Bylaw Amendment Bylaw 213, 2019
- Development Procedures Bylaw Amendment Bylaw 214, 2019
- Draft Liquor and Cannabis License Referrals Policy No. 1902