

## MEDICAL MARIJUANA DISPENSARIES – GENERAL

- There is currently a debate that is receiving considerable media attention about whether the City of Vancouver should regulate the 80+ medical marijuana dispensaries that have opened in the last year, mostly in the Downtown East Side (DTES).
- In April 2014, new federal regulations were introduced requiring medical marijuana production to be centralized in larger secured facilities where plants must be grown indoors and storefronts are prohibited.
- In the past, patients were able to grow their own supply, but the new regulation requires patients with a prescription to obtain their medical marijuana by mail from an approved production facility (there are five in BC). This has prompted more than 80 new medical marijuana dispensaries to open shop in Vancouver. These dispensaries are in violation of federal legislation s. 13  
s.13
- Vancouver City Council has concerns about the proliferation of these shops and, as a step towards regulating and controlling the businesses, is contemplating the implementation of business regulations for these dispensaries.
- The proposed regulations – including a \$30,000 annual licensing fee and staying at least 300 metres away from schools, community centres and other dispensaries – are intended to ensure a reasonable level of responsibility instead of allowing the businesses to operate in a vacuum.
- The federal government is opposed to this approach: “Once you legalize something, you normalize it. When you normalize it, the message is that it's safe and marijuana is not safe for young people,” said Health Minister Rona Ambrose. Ambrose has stated that by regulating the businesses and handing out licences, the City is, in essence, condoning an illegal industry. Ambrose wrote in a letter to Mayor Gregor Robertson that storefronts and dispensaries are illegal and should be shut down. (Why is this not happening?)
- Mayor Gregor Robertson and Vancouver City Council want a full discussion on the plan to regulate and license marijuana dispensaries. The City insists that in the absence of any federal oversight on the industry, it needs to do what it can.
- City manager Penny Ballem says the issue will go to public consultation with a public hearing (date TBD). Ballem has outlined, if approved, how licensing will take place. She says existing marijuana shops will be ranked on a point system before receiving a licence and anyone wanting to open a new shop will have to apply for a development permit.

Existing operators would have 30 days to apply for business development permits and would have to close if they don't meet permit requirements.

- Some medical marijuana growers licensed by Health Canada say new regulations for pot dispensaries proposed by Vancouver City Hall will legitimize the sale of illegally acquired pot. Licensed growers can only sell cannabis directly to patients by mail, not to retail operations.

#### **MCSCD's ROLE IN THE REGULATION OF MEDICAL MARIJUANA DISPENSARIES**

- Overall, the regulation of the distribution and sale of medical marijuana is primarily a federal issue. not a provincial issue. s 13  
s.13
- MCSCD does not have a role in regulating the medical marijuana dispensaries in Vancouver.  
s.13
- However, MCSCD has jurisdiction over how medical marijuana production facilities are assessed for tax purposes (see below).

#### **EXCLUSION OF MEDICAL MARIJUANA FROM FARM CLASS**

- In June 2014, the Government of British Columbia excluded federally-licensed medical marijuana production from the list of agricultural uses that qualify for farm classification for assessment and property tax purposes.
- The decision was made to ensure local governments do not lose potential property tax revenues from the Health Canada licensed-production facilities and to offset any related increases in service costs.
- Although local governments have not provided quantified additional costs associated with medical marijuana facilities, experience with existing businesses and medical marijuana production under the old federal regulation has indicated that there will be additional costs for fire and police services and bylaw enforcement.
- BC's position takes into consideration the nature of the highly-regulated and secure facilities and is consistent with the approach being taken in neighbouring Alberta.
- The exclusion from farm classification for property tax purposes will take effect for property assessments in the 2015 taxation year.

- Medical marijuana facilities will not receive a special assessment category but they will be classified by BC Assessment based on actual use, such as light industry or business, on a case by case basis.
- Nine local governments wrote to express concern about giving farm class to these facilities.
- The five federally-regulated medical marijuana facilities are located in Nanaimo, Central Saanich, Maple Ridge, Whistler and Spallumcheen.
- *Note: The Ministry of Agriculture will also continue to view medical marijuana production as an allowable farm use within the Agricultural Land Reserve that cannot be prohibited by local government bylaws. The Ministry of Agriculture is introducing a bylaw standard that has prescribed criteria for local government bylaws relating to medical marijuana production facilities.*

## 2015/16 Estimates Note Advice to the Minister

**Ministry:** Ministry of Community, Sport and Cultural Development  
**Minister Responsible:** Hon. Coralee Oakes

**Title:** Medical Marijuana (MM) Production Facilities

**Revised:** April 30, 2015

**Issue:** Implementation of the new federal regulation for MM production facilities and potential impacts on local governments.

**Response:**

### *On municipal taxation of MM production facilities*

- MM is a federally-regulated narcotic, produced by licensed operators inside secure facilities.
- This is an emerging industry in Canada following new Health Canada regulations that took effect April 1, 2014.
- Our Government has made a decision that MM and any other federally-regulated narcotic, is not eligible for the farm classification for property tax purposes.
- BC is taking a balanced approach which takes into consideration the nature of the operation and is consistent with the taxation approach being taken in Alberta.
- This decision will ensure local governments do not lose potential property tax revenues from this new, emerging industry.
- Local governments expressed concern about providing these facilities farm class which may result in loss of property tax revenue – and Government has listened.

### *On City of Vancouver Regulation of Businesses Selling MM*

- The City of Vancouver has authority under the Vancouver Charter to regulate businesses in their jurisdiction,
- The Ministry has no role in overseeing or approving specific decisions with respect to business regulation.

### *On Ministry of Agriculture Regulation of MM*

- Last year the Province made it clear that MM production was considered a farm use on ALR land. This regulation puts that decision into effect.
- The Bylaw Standard is a balanced approach to ensuring that local government

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regulation of this activity on ALR land does not inadvertently prohibit production.

- The Ministry has committed to working with local governments who may have bylaws impacted by this standard over the coming months to ensure their bylaws are brought into alignment.

### **Background/Status:**

#### Municipal Property Taxation

- The government assesses property taxes by use, not zoning.
- Under the new federal regulations, which came into effect April 1, 2014, MM production will be centralized in larger secured facilities where plants must be grown indoors and storefronts are prohibited.
- Local governments have raised concerns that these facilities, whether in the Agricultural Land Reserve (ALR) or elsewhere, may pose increased service costs and have asked the Province to consider denying farm class for these facilities for local taxation purposes due to potential loss of property tax revenue.
- Nine local governments have written that they are against farm class being given to these facilities.
- Government has implemented regulatory amendments to exclude MM – the only farmed “federally regulated narcotic” in BC – from being eligible for farm class tax benefits effective the 2015 assessment year.
- These benefits are derived from the regulated assessed values of farm land, which are much lower than market value, lower tax rates and certain Provincial Sales Tax exemptions. In addition, farm buildings (but not any farm residences) are exempt from taxation up to 87.5 per cent of assessed value.
- Health Canada is reviewing 168 applications from BC residents and corporations looking to establish MM production facilities in the Province.
- BC’s position is consistent with Alberta, which also considers that MM is a narcotic/pharmaceutical. Under the new regulation, there are currently five MM applications that have been approved by Health Canada for MM production facilities in BC. They are located in Nanaimo, Central Saanich, Maple Ridge, Whistler and Spallumcheen.

#### City of Vancouver Regulation of Businesses Selling MM

## 2015/16 Estimates Note Advice to the Minister

**Ministry:** Ministry of Community, Sport and Cultural Development  
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- The federal government is responsible for regulation, transition and implementation of the new medical marijuana access program, and approving production licenses.
- Local governments cannot stop the federal licensing process, but they can require site conditions to be met through local bylaws that local governments can also enforce.
- The City of Vancouver is enabled to regulated businesses within its jurisdiction within the bounds of the Vancouver Charter. The Province has no approval role in decisions of this nature.

### Ministry of Agriculture Regulations Relating to MM

- The Ministry of Agriculture has introduced an amendment to the Agricultural Land Reserve Regulation confirming that federally-licenses MM production is a farm use in the ALR which local governments can regulate, but not prohibit.
- The Ministry has also established a corresponding Bylaw Standard setting the limits to which local governments can restrict production of MM in the Agricultural Land Reserve.
- The standard provides ready-to-use bylaw provisions developed following consultations with local governments. The standard includes provisions such as:
  - Minimum setback of no more than 30 metres from any watercourse;
  - Maximum lot coverage of no less than 35% and a maximum height of no less than 15 metres;
  - Minimum setbacks between 15 to 30 metres (at the local government's discretion) from any property line
- The Ministry of Agriculture has communicated to local governments who have passed bylaws related to MM production on ALR land that they will work with them over the coming months to ensure their bylaws are brought into alignment with this standard.
- It does not impact licensed facilities outside of ALR lands. However, local governments are advised to continue to seek leek legal advice on any bylaws they implement to ensure they do not frustrate the federal government's lawful initiative.

**Contact:**

Manager	Brian Currie	Property Assessment Services	250 356-6075
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**2015/16 Estimates Note  
Advice to the Minister**

**Ministry:** Ministry of Community, Sport and Cultural Development  
**Minister Responsible:** Hon. Coralee Oakes

## D'Argis, Krista CSCD:EX

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**From:** CSCD LG Governance CSCD:EX  
**Sent:** Tuesday, May 12, 2015 8:50 AM  
**To:** 'PAMELA MCCOLL'  
**Subject:** Re: Re: regarding marijuana dispensaries and marijuana advertising - 509112

Hi Pamela,

My understanding is that the City of Vancouver is proposing new licensing and zoning requirements for marijuana-related businesses, which they have the authority to do under the *Vancouver Charter*. The City is not attempting to regulate the activity undertaken by these businesses, as this is not their jurisdiction.

As I stated in my previous email, the possession, sale, provision, shipping, delivery, transportation, production, export and/or importing of marihuana for medical purposes falls under the federal *Marihuana for Medical Purposes Regulations*. If a business is undertaking an activity that contravenes this Regulation, it would be dealt with by the RCMP.

In terms of licensing fees, the municipality has the authority to impose fees as per section 194 of the *Community Charter* (CC). If you have concerns about the reasonableness of a proposed fee you may request a report respecting how a fee was determined under sub-section (4) of this provision. This can be done by contacting the City of Vancouver directly.

Again, I encourage you to contact the Chief Administrative Officer for the City of Vancouver for further information about the proposed bylaw changes and the rationale behind them.

Sincerely,

*Arielle Guetta*

Advisory Officer, Local Government Division

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**From:** PAMELA MCCOLL [<mailto:pjmccoll@shaw.ca>]  
**Sent:** Tuesday, May 5, 2015 4:50 PM  
**To:** CSCD LG Governance CSCD:EX  
**Subject:** \*ag\*Re: regarding marijuana dispensaries and marijuana advertising - 509112

Is there any thing in the Vancouver Charter that precludes the City from licensing operations that contravene Federal law or the Criminal Code.

These operations are not legal entities.

I also understand that the City can not charge a licensing fee that exceeds the cost of enforcement.

Pamela McColl

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**From:** "CSCD LG Governance CSCD:EX" <[LGgovernance@gov.bc.ca](mailto:LGgovernance@gov.bc.ca)>  
**To:** "PAMELA MCCOLL" <[pjmccoll@shaw.ca](mailto:pjmccoll@shaw.ca)>  
**Sent:** Tuesday, May 5, 2015 4:42:48 PM  
**Subject:** Fwd: regarding marijuana dispensaries and marijuana advertising - 509112

Hi Pamela,



Municipalities in BC, including the City of Vancouver under the Vancouver Charter, have authority to regulate businesses and to establish a business licencing/permitting system that best suits local circumstances.

The legislative authority includes the City of Vancouver's authority to provide for the granting and/or refusal of licences, permits and approvals; establishing the effective periods of said licences, as well as setting out terms and conditions that must be adhered to in order for the licensee to continue to hold that business licence (including setting fees for permits). Local governments may also provide for the cancellation or the suspension of a business licence if the licence holder fails to comply with the terms and conditions of the licence – however, the licensee does have the right to appeal such a decision.

The possession, sale, provision shipping, delivery, transportation, production and export and/or importing of marihuana for medical purposes falls under the federal *Marihuana for Medical Purposes Regulations*. Licences for medical production and sale are issued by Health Canada. Issues of non-compliance with a federal regulation would be dealt with by the RCMP.

I hope this information is helpful. If you have specific questions about the City of Vancouver's business licensing scheme, including the terms and conditions of that scheme, you can contact Dr. Penny Ballem, Chief Administrative Officer for the City of Vancouver, by phone: 604-873-7625 or by email: [penny.ballem@vancouver.ca](mailto:penny.ballem@vancouver.ca).

Sincerely,

*Arielle Guetta*

Advisory Officer  
Local Government Division  
Ministry of Community, Sport and Cultural Development  
Phone: 250-387-4024  
<http://www.cscd.gov.bc.ca/lgd/>

**Mailing Address:**

Ministry of Community, Sports and Cultural Development  
Advisory Services – Governance & Structure Branch  
PO Box 9839 Stn Prov Govt, Victoria BC, V8W 9T1

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**From:** PAMELA MCCOLL [<mailto:pjmccoll@shaw.ca>]  
**Sent:** Monday, May 4, 2015 12:06 PM  
**To:** CSCD LG Governance CSCD:EX  
**Subject:** \*ag\*Fwd: regarding marijuana dispensaries and marijuana advertising - 509112

Dear Local Government Officer:

I was advised that you would be able to possibly assist with my inquiry as to the ability of the Vancouver City Council to license the illegal marijuana stores that are currently operational in Vancouver.

I am particularly interested in any information on the Vancouver Charter or other documents that speak to upholding federal law.

I am also interested in the right to charge \$30,000 for a permit and the limitations that are set to enforce not profit from licensing.

Thank you for your time,

Pamela McColl  
Smart Approaches to Marijuana Canada  
1-778-3551

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**From:** "JAG Policing and Security Branch JAG:EX" <[SGPSPB@gov.bc.ca](mailto:SGPSPB@gov.bc.ca)>  
**To:** "[pjmccoll@shaw.ca](mailto:pjmccoll@shaw.ca)" <[pjmccoll@shaw.ca](mailto:pjmccoll@shaw.ca)>  
**Sent:** Monday, May 4, 2015 11:58:05 AM  
**Subject:** RE: regarding marijuana dispensaries and marijuana advertising - 509112

Ms. Pamela McColl  
Smart Approaches to Marijuana Canada  
E-mail: [pjmccoll@shaw.ca](mailto:pjmccoll@shaw.ca)

Dear Ms. McColl:

Thank you for your April 23<sup>rd</sup> and 24<sup>th</sup>, 2015 emails regarding marijuana dispensaries and marijuana advertising in Vancouver.

The legislative responsibility for controlled drugs and substances, including marijuana, lies with the federal government. The federal *Controlled Drugs and Substances Act* provides for the control, import, production, export, distribution and possession of psychoactive substances in Canada.

As you note in your correspondence, the City of Vancouver is proposing a regulatory framework for businesses operating as marijuana dispensaries. Should you have concerns or to request information regarding this proposal, I recommend you contact the Vancouver City Council as follows:

Vancouver City Council  
453 W 12th Ave  
Vancouver BC V5Y 1V4

If you have questions regarding Vancouver City Council's authority to regulate marijuana dispensaries under the *Vancouver Charter* or other relevant provincial legislation, I suggest you contact the Local Government Division of the Ministry of Community Sport and Cultural Development as follows:

Local Government Division  
Ministry of Community Sport and Cultural Development  
PO Box 9839 Stn Prov Govt  
Victoria BC V8W 9T1  
[lggovernance@gov.bc.ca](mailto:lggovernance@gov.bc.ca)

In regards to marijuana that is required by individuals for medical purposes, Health Canada is responsible for managing the federal Medical Marijuana Access Program. If you have further questions or concerns regarding licenced commercial marijuana producers advertising their products, I would encourage you to contact the Marijuana Medical Access Division directly at::

Marihuana Medical Access Division  
Health Canada  
Address Locator: 3503B  
Ottawa ON K1A 1B9

E-mail: [MMAP-PAMM@hc-sc.gc.ca](mailto:MMAP-PAMM@hc-sc.gc.ca)  
Telephone: 1-866-337-7705

Thank you for writing.

*Policing and Security Branch  
Ministry of Justice  
PO Box 9285, Stn Prov Govt  
Victoria BC V8W 9J7  
CLIFF# 509112*