

NO: **R105**

COUNCIL DATE: **May 30, 2011**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **May 27, 2011**

FROM: **City Solicitor
General Manager, Planning & Development**

FILE: **3900-20**

SUBJECT: **Zoning By-law Amendments to Address Marijuana Dispensaries**

RECOMMENDATION

The Planning and Development Department and the Legal Services Division recommend that Council:

1. Approve the inclusion of a definition for "Marijuana Dispensary" as an amendment to Part 1 Definitions of Surrey Zoning By-law 1993, No. 12000, as documented in Appendix 1 to this report;
2. Approve the inclusion as a permitted use "Marijuana Dispensary" as an amendment in the Permitted Uses section of the C-8B "Community Commercial B" Zone of Surrey Zoning By-law, 1993, No. 12000, as amended, as documented in Appendix 2 to this report; and
3. Instruct the City Clerk to introduce the necessary amendment by-law for the required readings and to set a date for the related public hearing.

INTENT

The purpose of this report is to bring forward for Council's consideration amendments to the Zoning Bylaw that if adopted, will act to prohibit in the City medical Marijuana Dispensaries which are not licensed, regulated and inspected by either the provincial or federal governments.

BACKGROUND

Currently there are no Marijuana Dispensaries in Surrey. Marijuana Dispensaries are typically operated by compassion clubs. The largest in Canada is in Vancouver which has approximately 4,000 members.

Based on Court decisions that took place in 2003, Health Canada was mandated to provide a framework under the Medical Marijuana Access Regulation for authorized persons to gain access to a legal supply of marijuana seeds and/or dried marijuana for medical purposes. As a result, Health Canada introduced the Medical Marijuana Access Regulations under which persons can apply for licensing (known as “production licenses”) by Health Canada to grow marijuana for personal medical purposes.

DISCUSSION

Canada-wide applications to Health Canada for personal use production licenses have tripled in the past two years to over 350 per month. However, there are many patients who do not wish to wait several months for Health Canada authorization or who do not wish to grow their own marijuana. They are turning to marijuana dispensaries operated by compassion clubs. These dispensaries are not authorized under law.

Compassion clubs with their accompanying dispensaries are currently operating in Vancouver, Victoria, Maple Ridge, Kelowna and Nanaimo. Other such dispensaries are rumoured to be opening shortly in Burnaby and New Westminster.

The problem with compassion club dispensaries is that they are conducting a business with significant health and safety risks without any provincial or federal licensing, regulation and inspection process. Furthermore, they may purchase or grow their marijuana from/at illegal growing operations further aggravating public safety concerns.

It is not in the public interest to allow medical marijuana dispensaries until there are appropriate provincial licensing and regulatory requirements in place to govern the production, distribution, taxation and sale of the marijuana products they distribute.

To regulate the location of Marijuana Dispensaries in Surrey, it is recommended that they be limited to the Community Commercial B (C-8B) Zone. By specifying “Marijuana Dispensary” as a permitted use in the C-8B Zone, it automatically precludes this use from all other zones. The C-8B Zone was developed to accommodate all the uses of the Community Commercial (C-8) Zone, as well as pawnshops and second-hand stores and more recently, adult entertainment stores and theatre uses. Currently, the only site zoned the C-8B Zone is a small, vacant City-owned property located at 13535 King George Boulevard. As such, if the recommendations of this report are adopted, any person wanting to open a Marijuana Dispensary in Surrey would need to make application for rezoning the site on which they propose to establish the use. This will leave Council in a strong position to control when and where such a use is established in Surrey.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve the inclusion of a definition for "Marijuana Dispensary" as an amendment to Part 1 Definitions of Surrey Zoning By-law 1993, No. 12000, as documented in Appendix 1 to this report;

- Approve the inclusion as a permitted use "Marijuana Dispensary" as an amendment in the Permitted Uses section of the C-8B "Community Commercial B" Zone of Surrey Zoning By-law, 1993, No. 12000, as amended, as documented in Appendix 2 to this report; and
- Instruct the City Clerk to introduce the necessary amendment by-law for the required readings and to set a date for the related public hearing.

CRAIG MacFARLANE
City Solicitor

JEAN LAMONTAGNE
General Manager,
Planning & Development

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Attach.

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Appendix "1" – Proposed Changes to Definitions – Surrey Zoning By-law No. 12000
Appendix "2" – Proposed Changes to Community Commercial B (C-8B) Zone

APPENDIX "1"

Proposed Changes to Definitions Surrey Zoning Bylaw 12000

That the following amendment be incorporated into Part 1 Definitions:

Insert the following definition of "Marijuana Dispensary" between "Manufactured Home Space" and "Marina":

"Marijuana Dispensary"

means a business or service which is used for dispensing, selling or distributing marijuana, and is not licensed or regulated by applicable federal or provincial law pertaining to medical marijuana.

APPENDIX "2"

Proposed Changes to Community Commercial B (C-8B) Zone
Surrey Zoning Bylaw 12000

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That the following amendments be incorporated into Part 36B Community Commercial B Zone to include Marijuana Dispensary as a permitted use:

1. Intent

Delete this section and replace with the following:

“This zone is intended to accommodate and regulate the development of community shopping areas, including *secondhand stores, pawnshops, body rub parlours, social escort services and marijuana dispensaries.*”

2. Permitted Uses

Insert a new Section B.2 as follows and renumber accordingly:

2. *Marijuana dispensary.*