

NO: **R014**

COUNCIL DATE: **January 28, 2013**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **January 24, 2013**

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

FILE: **3900-20-17410**

SUBJECT: **Zoning By-law Amendments to Regulate the Growing of Medical Marijuana**

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Approve amendments to Surrey Zoning By-law, 1993, No. 12000, as amended (the "Zoning By-law") as documented in Appendix "I" attached to this report, which if adopted will act to prohibit the growing of medical marijuana in all Zones except in the Community Commercial B (C-8B) Zone that in effect will require that a rezoning process be undertaken as a means to establish any such growing operation in Surrey; and
3. Instruct the City Clerk to bring forward the necessary by-law for the required readings and to set a date for the related Public Hearing.

INTENT

The purpose of this report is to obtain approval to amend the Zoning By-law to restrict the the growing of medical marijuana within the City to the Community Commercial B (C-8B) Zone.

BACKGROUND

On December 16, 2012, the Federal Minister of Health announced proposed changes to the Medical Marijuana Access Regulations (the "MMAR"). In effect, the MMAR are proposed to be amended to eliminate licenses for personal marijuana growing operations and to establish a licensing process for commercial growing operations from which persons needing marijuana for medical reasons can acquire marijuana. The announcement signalled the start of a 75-day public comment period related to the proposed changes.

In response to this announcement, Surrey City Council adopted a resolution on December 17, 2012, which instructed staff to prepare amendments to the Surrey Zoning By-law to restrict the commercial cultivation, production, delivery and sale of medical marijuana to a particular zone or zones within the City.

DISCUSSION

To pre-empt the establishment of commercial medical marijuana production facilities in Surrey in the absence of a comprehensive review process to confirm that the use can be established at the proposed site in a reasonable manner, the Zoning By-law should be amended to prohibit the operation of such growing operations except in the Community Commercial B (C-8B) Zone. In view of the location, and scale of the existing C-8B Zone in the City, the recommended amendments to the Zoning By-law will de facto result in any proposal to establish a commercial medical marijuana growing operation in Surrey needing to proceed through a full rezoning process, which would likely be to a Comprehensive Development Zone. Under such a process the City can ensure that the proposed use is compatible with the surrounding uses and that the owners of the neighbouring properties and any other concerned individuals or stakeholders can formally comment on the proposal before approval is considered by Council.

Health Canada may choose to make additional amendments to the MMAR in response to feedback it receives during the 75-day public comment period referenced above, which will end on February 28, 2013. Staff will provide a further report complete with appropriate further recommendations if Health Canada chooses to change its position regarding the MMAR from what it announced in December 2012.

Proposed Amendments to Surrey Zoning By-law No. 12000

To ensure the growing of medical marijuana is restricted to the Community Commercial B (C-8B) Zone, amendments are required to Surrey Zoning By-law No. 12000. Specifically, the definition of "horticulture" is proposed to be amended to exclude the growing of medical marijuana. For clarity, definitions for each of "marijuana" and "medical marijuana" are proposed to be inserted in the Zoning By-law. Further, the permitted uses section of the C-8B Zone needs to be amended to include "growing of medical marijuana" as a permitted use. The proposed amendments to the Surrey Zoning By-law No. 12,000 are documented in Appendix "I" attached to this report.

CONCLUSION

It is recommended that Council:

- Approve amendments to Surrey Zoning By-law, 1993, No. 12000, as amended (the "Zoning By-law") as documented in Appendix "I" attached to this report, which if adopted will act to prohibit the growing of medical marijuana in all Zones except in the Community Commercial B (C-8B) Zone that in effect will require that a rezoning process be undertaken as a means to establish any such growing operation in Surrey; and

- Instruct the City Clerk to bring forward the necessary 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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Appendix "I" – Proposed Amendments to Zoning By-law, 1993, No. 12000, as amended

**Proposed Amendments to
Surrey Zoning By-law, 1993, No. 12000, as amended**

1. Amend Part 1 Definitions as follows:

- (a) Amend the definition of "Horticulture" by inserting the following immediately after the word "hydroponics":

"but shall exclude the growing of *medical marijuana*"

- (b) Amend the definition of "Marijuana Dispensary" by italicizing the words "marijuana" and "medical marijuana"

- (c) Insert the following new definition of "Marijuana" immediately after the definition of "Marijuana Dispensary":

"Marijuana

means all parts of the genus *cannabis* whether growing or not and the seed or clone of such plants."

- (d) Insert the following new definition of "Medical Marijuana" immediately after the definition of "Marina":

"Medical Marijuana

means *marijuana* that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition under the Marijuana Medical Access Regulations, SOR/2001-227, as amended."

2. Amend Part 4 General Provisions, by amending Section C as follows:

- (a) In Section C.1, delete the heading and replace with the following heading:

"Commercial, Industrial and Agricultural Uses"

- (b) Insert a new Sub-section C.1(j) as follows:

"(j) Growing of *medical marijuana*."

3. Amend Part 36B Community Commercial B Zone (C-8B) by inserting a new Section B.3 as follows and renumbering the remaining Sections accordingly:

"3. Growing of *medical marijuana*."

4. Amend Part 52 Comprehensive Development Zone, Section B by inserting a new Section B.5 after Section B.4, as follows:

"5. Uses permitted in the A-1 and A-2 Zones."