



INFORMATION BULLETIN

MEDICAL MARIHUANA PRODUCTION IN THE AGRICULTURAL LAND RESERVE

Updated January 2014

Health Canada's Marihuana for Medical Purposes Regulation (MMPR) <http://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2013-119/> has changed the parameters for the production of medical marihuana in Canada. The current system of personal use licenses and designated person licenses will be phased out by April 1, 2014. In its place, new Federal licenses are geared to larger scale production/distribution facilities. For further information about the changes see the following website <http://www.hc-sc.gc.ca/dhp-mps/marihuana/index-eng.php>.

Various local governments in British Columbia are looking at their zoning bylaws to determine where these larger scale commercial production facilities should be directed. A number of local governments are considering industrial, commercial and agricultural zones, within purpose built structures and with siting regulations from property lines and residential uses. Others are looking to restrict this land use or direct to particular areas of their community.

The Agricultural Land Commission Act and regulations determine land use in the Agricultural Land Reserve (ALR). Due to the number of inquiries from local governments and Medical Marihuana production proponents, the ALC provides the following for clarification purposes with regard to Medical Marihuana production in the ALR.

Section 1 of the *Agricultural Land Commission Act* defines "farm use" as:

An occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*.

Based on the above definition, if a land owner is lawfully sanctioned to produce marihuana for medical purposes, the farming of said plant in the Agricultural Land Reserve (ALR) is allowed and would be interpreted by the Agricultural Land Commission as being consistent with the definition of "farm use" under the *ALC Act*.

Notwithstanding the farming of land for the production of medical marihuana, not all activities associated with its production would necessarily be given the same "farm use" consideration. Accessory uses associated with the farm use include a small business office, testing lab, processing and drying, packaging shipping areas, cloning room and anything else directly related to the growing and processing of the plant. Determining an accessory use is contingent on the use being necessary and commensurate with the primary function of the property/building to produce an agricultural product. If a land use activity is proposed that is not specifically related to the growing of an agricultural product including a stand-alone research and development facility, an application to the ALC for non-farm use would be required.

Municipalities are responsible for governing the use of land within the respective municipality's jurisdiction. Zoning bylaws enacted by municipalities may set out restrictions on land use, including but not limited to the use of land for medical marihuana production. Where such restrictions may apply to land within the ALR, such restrictions with respect to the particular land use of lawfully sanctioned medical marihuana production would not in and of themselves be considered as inconsistent with the *ALC Act*.

Proponents of medical marihuana production facilities should contact their local government to determine the applicability of zoning bylaws, approval processes and to determine building permit requirements that may apply.