

City of Kelowna Public Hearing AGENDA



Tuesday, March 18, 2014
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

1. (a) The purpose of this Hearing is to consider certain bylaws which, if adopted, shall amend *Kelowna 2030 - Official Community Plan* Bylaw No. 10500 and Zoning Bylaw No. 8000.

(b) All persons who believe that their interest in property is affected by the proposed bylaws shall be afforded a reason-able opportunity to be heard or to present written submissions respecting matters contained in the bylaws that are the subject of this hearing. This Hearing is open to the public and all representations to Council form part of the public record. A live audio feed may be broadcast and recorded by Castanet.

(c) All information, correspondence, petitions or reports that have been received concerning the subject bylaws have been made available to the public. The correspondence and petitions received after March 7, 2014 (date of notification) are available for inspection during the course of this hearing and are located on the information table in the foyer of the Council Chamber.

(d) Council debate on the proposed bylaws is scheduled to take place during the Regular Council meeting after the conclusion of this Hearing. It should be noted, however, that for some items a final decision may not be able to be reached tonight.

(e) It must be emphasized that Council will not receive any representation from the applicant or members of the public after conclusion of this Public Hearing.

2. Notification of Meeting

The City Clerk will provide information as to how the Hearing was publicized.

3. Individual Bylaw Submissions

- 3.1 Bylaw No. 10917 (TA14-0002) - City of Kelowna Medical Marihuana Production Facilities - Industrial Zones 4 - 7

To consider approval for a text amendment in order to amend City of Kelowna Zoning Bylaw No. 8000 with respect to Medical Marihuana Production Facilities in certain Industrial Zones.

- 3.2 Bylaw No. 10919 (TA14-0003) - City of Kelowna Medical Marihuana Production Facilities in Agriculture 1 Zones 8 - 11

To consider approval for a text amendment in order to amend City of Kelowna Zoning Bylaw No. 8000 with respect to Medical Marihuana Production Facilities in Agriculture 1 Zones.

- 3.3 Bylaw No. 10920, Medical Marihuana Producer Business Licence and Regulation Bylaw 12 - 20

To provide an opportunity for public input on the proposed Medical Marihuana Producer Business Licence and Regulation Bylaw.

4. Termination

5. Procedure on each Bylaw Submission

(a) Brief description of the application by City Staff (Land Use Management);

(b) The Chair will request that the City Clerk indicate all information, correspondence, petitions or reports received for the record.

(c) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.

(d) The Chair will call for representation from the public in attendance as follows:

(i) The microphone at the public podium has been provided for any person(s) wishing to make representation at the Hearing.

(ii) The Chair will recognize ONLY speakers at the podium.

(iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.

(e) Once the public has had an opportunity to comment, the applicant is given an opportunity to respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.

(f) Questions by staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

(g) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to the gallery that the Public Hearing on the Bylaw is closed.

Note: Any applicant or member of the public may use visual aids (e.g. photographs, sketches, slideshows, etc.) to assist in their presentation or questions. The computer and ELMO document camera at the public podium are available. Please ask staff for assistance prior to your item if required.

Report to Council



Date: 2/24/2014
File: TA14-0002
To: City Manager
From: Shelley Gambacort, Director, Subdivision, Agriculture & Environment
Subject: Proposed Text Amendment to Zoning Bylaw 8000 to permit Medical Marihuana Production Facilities in the I2 - General Industrial, I3 - Heavy Industrial and I4 - Central Industrial Zones

Recommendation:

THAT Zoning Bylaw Text Amendment No. TA14-0002 to amend City of Kelowna Zoning Bylaw No. 8000 by adding a definition for Medical Marihuana Production Facilities (MMPF) and adding Medical Marihuana Production Facilities (MMPF) as a Principal Use in the I2 - General Industrial, I3 - Heavy Industrial and I4 - Central Industrial Zones, as outlined in Schedule "A" of the report from the Subdivision, Agriculture & Environment Department dated February 24, 2014, be considered by Council.

AND THAT the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

Purpose:

In response to the new Health Canada *Marihuana for Medical Purposes Regulations* (MMPR), staff seeks Council's approval for a text amendment to the Zoning Bylaw No. 8000, in order to add a definition for Medical Marihuana Production Facilities (MMPF) and allow MMPF as a permitted use in the I2 - General Industrial, I3 - Heavy Industrial zones and I4 - Central Industrial zones.

Background:

The new Health Canada *Marihuana for Medical Purposes Regulations* (MMPR) regulations came into force July 19, 2013 and will be in full effect April 1, 2014 replacing the current *Marihuana Medical Access Regulations* (MMAR), which will be repealed on March 31, 2014.

Under the new Health Canada MMPR's a production site must be located indoors and must not be within a residence. Previously the regulations did allow for the production to occur within a residence. In order to address some of the questions and inquiries that Staff have been

fielding the attached Commercial Medical Marijuana Technical Bulletin has been prepared as is available on the City's Website.

In response to the new Health Canada Regulations Council has directed Staff to bring forward for Council consideration:

- Amendments to Zoning Bylaw 8000 that would permit Medical Marijuana Production Facilities in the I2 - General Industrial and I3 - Heavy Industrial Zones and prohibit the use in all other zones including the A1 - Agriculture 1 zone;
- A Commercial Medical Marijuana Business Licence Bylaw; and
- Adoption of the Safe Premises Bylaw No. 10064 (currently at third reading)

Before a Health Canada licence can be issued, compliance with the site and physical security requirements under the MMPR's is required. Key Health Canada MMPR's criteria include:

- Mandatory building and production security requirements relating to monitoring and detection to prevent unauthorized access;
- All areas within a site where cannabis is present must be equipped with a system that filters air to prevent the escape of odours and, if present, pollen; and
- Before a Health Canada licence can be issued, compliance with the site and physical security requirements under the MMPR and Health Canada *Directive on Physical Security Requirements for Controlled Substances* will be verified through a pre-licence inspection by Health Canada.

A City of Kelowna Commercial Medical Marijuana Business Licence Bylaw is also being proposed concurrently with the proposed zone amending bylaw and is intended to ensure that the MMPF maintains its operation in compliance with the Health Canada Regulations.

MMPF as a Permitted Use within the I2, I3 Industrial and I4 Zones

A number of factors have been considered when determining the appropriate zones for the MMPF land use including:

- the compatibility of, and impacts on, adjacent uses,
- the available infrastructure (road, water, storm, sanitary and electrical)
- accessibility for emergency services; and
- the ability to repurpose the buildings.

Considering these factors Staff are recommending that a definition be added to Zoning Bylaw 8000 for MMPF's and the MMPF use then be added as a Principal Use to the I2 - General Industrial, I3 - Heavy Industrial and I4 - Central Industrial zones. Original consideration excluded the I4 zone, however, given the existing Principal Uses contained within the I4 zone it would be consistent with the I2 and I3 zones to also allow MMPF's in this zone. This proposed Text Amendment will result in only three zones permitting MMPF's and by definition the MMPF's must be licenced by Health Canada.

Internal Circulation:

Divisional Director of Community Planning & Real Estate
Divisional Director of Corporate and Protective Services
Divisional Director of Communications and Information Services
Director Development Services
Building & Permitting Manager
City Clerk
Policy & Planning Manager

Urban Planning Manager
RCMP, Crime Prevention Supervisor
Deputy Fire Chief, Fire Administration, Training & Fire Prevention

Legal/Statutory Authority:

Health Canada establishes the Regulations and issues licences for medical marihuana under the *Marihuana for Medical Purposes Regulations* (MMPR) regulations which came into force July 19, 2013 and will be in full effect April 1, 2014 replacing the current *Marihuana Medical Access Regulations* (MMAR), which will be repealed on March 31, 2014.

External Agency/Public Comments:

Existing Policy:

There is currently no existing policy specific to Medical Marihuana Production in either the OCP or the Zoning Bylaw.

Considerations not applicable to this report:

Financial/Budgetary Considerations
Personnel Implications
Alternate Recommendation
Communications

Submitted by: S. Gambacort, Director/Approving Officer
Subdivision, Agricultural & Environmental Department

Approved for inclusion: Doug Gilchrist, Division Director Community Planning & Real Estate

Attachments: Schedule "A"
Commercial Medical Marihuana Technical Bulletin

SCHEDULE "A"
SUMMARY OF PROPOSED TEXT AMENDMENT

Zoning Bylaw No. 8000		
Section	Existing Text	Proposed Text
General Definitions Section 2.3.3	N/A	<i>Add as a new definition:</i> Medical Marihuana Production Facility means a facility for the producing, processing, selling, providing, shipping, delivering, and destroying of marihuana and must be licenced under the Health Canada Marihuana for Medical Purposes Regulations (SOR/2013-119.)
15.2- I2-General Industrial 15.2.2 Principal Uses	N/A	<i>Add as a principal use:</i> Medical Marihuana Production Facility
15.3 - I3 - Heavy Industrial 15.3.2 Principal Uses	N/A	<i>Add as a principal use:</i> Medical Marihuana Production Facility
15.4 - I4 - Central Industrial 15.4.2 Principal Uses	N/A	<i>Add as a principal use:</i> Medical Marihuana Production Facility

Report to Council



Date: 2/24/2014
File: TA14-0003
To: City Manager
From: Shelley Gambacort, Director
Subject: Proposed Zoning Bylaw amendment to prohibit Medical Marihuana Production Facilities in the Agriculture 1 (A1) Zone

Recommendation:

THAT Zoning Bylaw Text Amendment No. TA14-0003 to amend City of Kelowna Zoning Bylaw No. 8000, by amending the definition of **Agriculture**, as outlined in Schedule "A" of the report from the Subdivision, Agriculture & Environment Department dated February 24, 2014, be considered by Council.

AND THAT the Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

Purpose:

In response to the new Health Canada *Marihuana for Medical Purposes Regulations* (MMPR), staff seeks Council's approval for a text amendment to Zoning Bylaw No. 8000, in order to prohibit Medical Marihuana Production Facilities in the Agriculture 1 (A1) Zone.

Background:

The new Health Canada *Marihuana for Medical Purposes Regulations* (MMPR) regulations came into force July 19, 2013 and will be in full effect April 1, 2014 replacing the current *Marihuana Medical Access Regulations* (MMAR), which will be repealed on March 31, 2014.

Under the new Health Canada MMPR Regulations a production site must be located indoors and must not be within a residence. Previously the regulations did allow for the production to occur within a residence. Before a Health Canada licence can be issued, compliance with the site and physical security requirements under the MMPR and Health Canada *Directive on Physical Security Requirements for Controlled Substances* will be verified through a pre-licence inspection by Health Canada.

In response to the new MMPR regulations Council has directed Staff to bring forward for Council consideration:

- Amendments to Zoning Bylaw 8000 that would permit Medical Marihuana Production Facilities in the I2 - General Industrial and I3 - Heavy Industrial Zones and prohibit the use in all other zones including the A1 - Agriculture 1 zone;

Agricultural Land

The Agricultural Land Commission (ALC) has issued three information bulletins over the last year to address the issue of Medical Marihuana production in the Agricultural Land Reserve. The ALC recognizes that local governments are determining, through zoning bylaw amendments, where the Medical Marihuana Production facilities (MMPF) should be permitted.

Through the initial bulletin the ALC has clarified that based on the ALC Act's definition of farm use *"if a land owner is lawfully sanctioned to produce marihuana for medical purposes, the farming of said plant in the Agricultural Land Reserve is allowed and would be interpreted by the Agricultural Land Commission as being consistent with the definition of 'farm use' under the ALC Act"*.

The ALC further clarified that accessory uses associated with this definition of farm use would also include a small business office, testing lab, processing and drying, packaging, shipping areas, cloning room and anything else that would be directly related to the growing and processing of the plant.

The most recent Bulletin, which was update January 2014, recognizes that 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"*.

Concerns with allowing the MMPF use within agricultural zones include:

- the potential sterilizing affect additional structures would have on viable agricultural land;
- the limited ability for repurposing under the uses allowed within the agricultural zones should the MMPF cease operating; and
- inflating the property value due to the additional structures, utilities and security measures required for this specific use thus increasing the entry level value of agricultural land, and thereby economically decreasing the viability of growing other crops in the future.

Staff are proposing an amendment to the definition of Agriculture which will exclude MMPF's. Research shows that this approach, to prohibit MMPF's in agricultural zones, is consistent with the regulatory approach being considered by a number of other larger municipalities (e.g.: Chilliwack, Kamloops, Abbotsford, Langley, Burnaby, Surrey, Ottawa).

Internal Circulation:

Divisional Director of Community Planning & Real Estate
 Divisional Director of Corporate and Protective Services
 Divisional Director of Communications and Information Services
 Director Development Services
 Building & Permitting Manager
 City Clerk

Policy & Planning Manager
Urban Planning Manager
RCMP, Crime Prevention Supervisor
Deputy Fire Chief, Fire Administration, Training & Fire Prevention

Legal/Statutory Authority:

Health Canada establishes the regulations and issues licences for medical marijuana under the *Marihuana for Medical Purposes Regulations* (MMPR), which came into force July 19, 2013 and will be in full effect April 1, 2014 replacing the current *Marihuana Medical Access Regulations* (MMAR), which will be repealed on March 31, 2014.

Legal/Statutory Procedural Requirements:

Should Council favourably consider the text amending bylaw, in accordance with the Right to Farm Regulation 261/97 and Section 903.4 of the Local Government Act the Minister of Agriculture will be required to approve the bylaw prior to adoption.

External Agency/Public Comments:

Circulated for comments to Resource Stewardship Agrologist, Southern Branch, Ministry of Agriculture

Correspondence received to date from the public is attached.

Existing Policy:

There is currently no existing policy specific to Medical Marihuana Production in either the OCP or the Zoning Bylaw.

Considerations not applicable to this report:

Financial/Budgetary Considerations
Personnel Implications
Alternate Recommendation
Communications

Submitted by: S. Gambacort, Director/Approving Officer
Subdivision, Agricultural & Environmental Department

Approved for inclusion: Doug Gilchrist, Division Director Community Planning & Real Estate

Attachments: Schedule "A"
Correspondence from Marlys Wolfe
Correspondence from Kevin Carta

SCHEDULE "A"
SUMMARY OF PROPOSED TEXT AMENDMENT

Zoning Bylaw No. 8000		
	Existing Text	Proposed Text
General Definitions	<p>AGRICULTURE means development or use for the primary production of farm</p>	<p>AGRICULTURE means development or use for the primary production of farm</p>
Section 2.3.3	<p>products such as dairy products, poultry products, cattle, hogs, sheep or other animals, wheat or other grains, and vegetables, orchards or other field crops. This use is limited to one dwelling, and the processing and marketing of the products of the farm and those off-farm products permitted by the Land Reserve Commission.</p>	<p>products such as dairy products, poultry products, cattle, hogs, sheep or other animals, wheat or other grains, and vegetables, orchards or other field crops <i>but shall exclude a Medical Marijuana Production Facility</i>. This use is limited to one dwelling, and the processing and marketing of the products of the farm and those off-farm products permitted by the Land Reserve Commission.</p>

Report to Council



Date: 2/19/2014
File: RIM Classification Number
To: City Manager
From: Bylaw Services Manager
Subject: Medical Marihuana Producer Business Licence and Regulation Bylaw

Recommendation:

THAT Council receives, for information, the Report from the Bylaw Services Manager dated February 19 2014 with respect to the Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920;

AND THAT Bylaw No. 10920, being Medical Marihuana Producer Business Licence and Regulation Bylaw, be forwarded for reading consideration;

AND THAT Bylaw No. 10921 being amendment No.8 to Bylaw Notice Enforcement Bylaw No. 10475 be forwarded for reading consideration;

AND FURTHER THAT Council directs staff to give notice by way of advertising in a local newspaper and on the City web site, and to provide notice directly to identified MMPP producers of their opportunity to make representations to Council regarding the proposed bylaw prior to adoption.

Purpose:

To advance a new Medical Marihuana Producer Business Licence and Regulation Bylaw for first three readings and to establish an opportunity for public input on the proposed bylaw.

Background:

Staff recommend a "stand alone" business licence bylaw for Health Canada Licenced Medical Marihuana Production Facilities to help ensure such facilities are operated with as little neighbourhood impact as is reasonable. The proposed business licence regulations are intended to protect public safety and welfare through reasonable limitations on medical marihuana production in relation to noise, air and water quality, community safety and security and other health and safety concerns. This Bylaw is not intended to promote or condone the production, distribution or possession of medical marihuana in violation of any applicable law.

The proposed Medical Marihuana Producer Business Licence and Regulation Bylaw includes the following requirements:

- The applicant is obligated to ensure the location of the Medical Marihuana Production Facility meets all applicable stipulations of the City of Kelowna Zoning Bylaw 8000;
- The applicant is obligated to obtain the required permits prior to commencement of any building, plumbing, natural gas, propane and electrical installations on any development site or building.
- All new construction and tenant improvements must comply with the BC Building code, BC Fire Code and City of Kelowna Building Bylaw, Plumbing, Gas, Development Cost Charges, and Life Safety Bylaws;

Submission of:

- A ventilation plan used to control the environment detailing how such system(s) prevents the escape of pollen, and other particles through exhausted air ensuring no odours leaving the premises can be detected by a person with a normal sense of smell at the exterior of the Premises;
- A plan that specifies the methods to be used to prevent the growth of harmful mould and achieve compliance with limitations on discharge into the waste water system of the City;
- A security and exterior lighting plan consistent with the requirements of the Health Canada MMPR regulations, including monitored alarm system;
- A plan of the placement and use of security cameras consistent with the Health Canada MMPR regulations;
- A storage plan for the Medical Marihuana produced and/or otherwise stored on the Premises;
- A plan for disposal of any Medical Marihuana or Infused Marihuana that is not consumed by patients in a manner that protects any portion thereof being possessed or ingested by any person or animal;
- A plan for packaging and delivery of Medical Marihuana to patients, including the loading and transport of product;
- Provide a signed declaration that no pesticides or other toxic substance shall be used in Medical Marihuana production and that the operation will meet the Health Canada Technical Specifications for Dried Marihuana for Medical Purposes document;
- A Copy of the Health Canada Medical Marihuana Producer licence ;
- The names of every individual employed in the MMPR business and provide updates within 72hrs of any change in personnel;
- Documentation that the applicant and all employees have passed an RCMP criminal records check on an annual basis;
- The premises must be cleaned to the standard contained in the Nuisance Controlled Substance Bylaw 9510, as amended or replaced from time to time;
- City may inspect at any time to confirm any and all conditions are being met;
- Failure to meet any of the conditions will be grounds for a business licence suspension hearing [staff decision] or business licence revocation hearing [council decision].

Staff recommend amending the Bylaw Offence Notice Bylaw to include enforcement options for ensuring compliance with the Medical Marihuana Producer Business Licence and Regulation Bylaw.

Internal Circulation:

City Clerk
Divisional Director of Corporate and Protective Services
Director Subdivision, Agriculture & Environment
Director, Development Services
Building and Permitting Manager
Building, Plumbing & Gas Inspector Supervisor
Crime Prevention Supervisor
Deputy Fire Chief, Fire Administration, Training and Fire Prevention

Legal/Statutory Authority:

Council's business regulation and business licence authorities are found in the *Community Charter* sections 8(3)(6); 15; 59 & 60.

Legal/Statutory Procedural Requirements:

Council must provide an opportunity for and give notice to those persons who consider themselves affected by the proposed bylaw to make representations to Council prior to Council adopting the bylaw.

Considerations not applicable to this report:

Existing Policy:
Personnel Implications:
External Agency/Public Comments:
Communications Comments:
Financial/Budgetary Considerations:
Alternate Recommendation:

Submitted by:

Greg Wise, Bylaw Services Manager

Approved for inclusion:



R. Mayne Divisional Director
Corporate & Protective Services

cc:

CITY OF KELOWNA

BYLAW NO. 10920

A bylaw pursuant to the provisions of the Community Charter S.B.C. [2003] Chapter 26 to provide for the Licencing and Regulating of Health Canada Licenced Medical Marihuana businesses within the City of Kelowna

WHEREAS it is the purpose of this bylaw to:

- (a) require an owner or operator of an **MMPR business** within the City of Kelowna to hold a valid and subsisting licence for the carrying on of such **MMPR business** and,
- (b) fix and impose licence fees for licences; and,
- (c) provide for the collection of licence fees and the granting, issuing and transferring of licences, subject to the limitations contained within the bylaw;

AND WHEREAS it is also the purpose of this bylaw to regulate the carrying on of **MMPR business** within the City of Kelowna, to the extent not inconsistent with the intent of this bylaw, for the purpose of protecting the public or preventing or minimizing nuisances and misleading business practices;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited for all purposes as 'Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920.'

2. DEFINITIONS

In this bylaw unless the context otherwise requires:

"**Applicant**" means any person who makes application for a licence under the provisions of this Bylaw;

"**Medical Marihuana Production Regulation Business**" or "**MMPR Business**" means carrying on a commercial or industrial undertaking of any kind or nature or the providing of professional, personal or other services, whether or not for the purpose of gain or profit, under the authority of the Health Canada Medical Marihuana Production Regulations, as amended or replaced from time to time;

"**City**" means the City of Kelowna or the area within the Municipal boundaries thereof;

"**Council**" means the Municipal Council of the City of Kelowna;

"**Licence Inspector**" means the officials appointed by Council under Section 14 of this bylaw and includes Building Inspectors, Bylaw Enforcement Officers, and Plumbing Inspectors;

"**Premises**" means a building, portion of a building or an area of land where business is carried on;

3. LICENCING PERIOD

3.1 A licence period shall be one (1) year, to commence on the first day of January to terminate on the 31st day of December in each and every year.

4. LICENCE REQUIRED

4.1 Every person who owns or operates an **MMPR business** within the **City** shall apply for, obtain and hold a licence for each **MMPR business**.

4.2 In the case of different **MMPR businesses** in one building which are operated or owned by the same person and which are accessible to each other through internal doorways without leaving the structure, such **MMPR businesses** shall be considered one **premises** for the purposes of this bylaw.

4.3 Every person who carries on a **MMPR business** from more than one **premises** in the **City** shall obtain a separate licence for each **premises**, whether or not the **premises** are located in the same building.

4.4 No person shall carry on a **MMPR business** for which a licence is required by this bylaw within the **City** without holding a valid and subsisting licence for the carrying on of such **MMPR business**.

5. LICENCE APPLICATION AND FEE

5.1 An application for an initial licence for a **MMPR business** shall be made on the application form set out in Business Licence and Regulation Bylaw No. 7878, as amended or replaced from time to time, and shall be signed by an owner or operator of the **MMPR business**, or the owner or operator's agent duly authorized in writing.

5.2 Every application for an initial licence for a **MMPR business** shall include a detailed description of the **premises** in or upon which the **applicant** intends to carry on the **MMPR business**. All such licences shall be subject to the provisions of the **City** of Kelowna Zoning Bylaw No. 8000 as amended or replaced from time to time.

5.3 Every application for an initial licence for a **MMPR business** must obtain any required building, plumbing, natural gas, propane and electrical installation permits applicable to the **MMPR business**.

5.4 It is the responsibility of the **applicant** for a licence, not the responsibility of the **Licence Inspector**, to obtain the inspection and confirmations required under this bylaw.

5.5 Where an **applicant** applies for more than one licence, the particulars of each licence applied for shall be included on a separate application form for each licence.

5.6 The application form shall be delivered to the **Licence Inspector** and shall be accompanied by a fee of \$510.00 and any inspection forms and confirmations required under this bylaw.

5.7 Licence fees paid hereunder shall not be refundable.

6. PRO-RATING OF LICENCE FEE

6.1 The licence fees described in this bylaw may be reduced pro-rata in respect of any person who becomes liable to be licenced after the commencement of the licence period on a quarterly basis.

7. FORM OF LICENCE

7.1 Every licence granted pursuant to this bylaw shall be in the form outlined in Business Licence and Regulation Bylaw No. 7878, as amended or replaced from time to time.

8. TRANSFER

8.1 Any person proposing to obtain a transfer of a licence with respect to a change of **Premises** shall make application in the form set out in Business Licence and Regulation Bylaw No. 7878, as amended or replaced from time to time, and the powers, conditions, requirements, and procedures relating to the initial licence application apply, except as to fees.

8.2 Any person proposing to obtain a transfer of a licence shall pay a licence transfer fee of \$30.00 at the time of application.

9. EFFECT OF LICENCE

9.1 A licence authorises only the person named in the licence to carry on only the **MMPR business** described in the licence, and only at the **premises** or locations described in the licence.

9.2 A licence is not a representation or warranty that the licenced **MMPR business** or the **business premises** comply with the bylaws of the **City** or with any regulations or standards.

10. LICENCE RENEWAL

10.1 A licensee is responsible for submitting a licence renewal form and the annual licence fee outlined in Section 5.6 of this Bylaw prior to the expiration of the licence.

10.2 If a licence is not renewed as required by this bylaw, the licence shall be terminated and the licensee who wishes to continue to carry on the **MMPR business** shall submit an application form and supporting documentation in the same manner as an application for an initial licence for a **MMPR business** and shall pay an additional licence fee as set out in set out in Business Licence and Regulation Bylaw No. 7878, as amended or replaced from time to time.

11. REQUIREMENTS

11.1 Every person or individual carrying on the **MMPR business** shall submit to the **Licence Inspector**, as part of an application, the following:

- a) A ventilation plan used to control the environment detailing how such system(s) prevents the escape of pollen, and other particles through exhausted air ensuring no odours leaving the **premises** can be detected by a person with a normal sense of smell at the exterior of the **premises**;
- b) A plan that specifies the methods to be used to prevent the growth of harmful mould and achieve compliance with limitations on discharge into the waste water system of the **City**;
- c) A security and exterior lighting plan consistent with the requirements of the Health Canada MMPR regulations, including monitored alarm system;
- d) A plan of the placement and use of security cameras consistent with the Health Canada MMPR regulations;
- e) A storage plan for the Medical Marihuana produced and/or otherwise stored on the **premises**;

- f) A plan for disposal of any Medical Marihuana or Infused Marihuana that is not consumed by patients in a manner that protects any portion thereof being possessed or ingested by any person or animal;
- g) A plan for packaging and delivery of Medical Marihuana to patients, including the loading and transport of product;
- h) Provide a signed declaration that no pesticides or other toxic substance shall be used in Medical Marihuana production and that the operation will meet the Health Canada Technical Specifications for Dried Marihuana for Medical Purposes document;
- i) A copy of the Health Canada Medical Marihuana Producer licence;
- j) a Health Canada identification number;
- k) The names of every individual employed in the MMPR business and provide updates within 72 hours of any change in personnel;
- l) Documentation that the **applicant** and all employees have passed an RCMP criminal records check on an annual basis;

11.2 Upon the termination of the MMPR business, an owner is required to clean the **premises** to the standard contained in the Nuisance Controlled Substance Bylaw No. 9510 as amended or replaced from time to time.

12. GRANTING AND SUSPENSION OF LICENCES

12.1 The **Licence Inspector** may grant a licence where he is satisfied that the **applicant** therefore has complied with the requirements of the bylaws of the **City** regulating building, zoning, health, sanitation and **MMPR business** and may suspend for such period as he may determine any licence if the holder of the Licence:

- (a) is convicted of an offence indictable in Canada;
- (b) is convicted of any offence under any Municipal Bylaw or Statute of the Province in respect of the **MMPR business** for which he is licenced or with respect to the **premises** named in his licence;
- (c) has, in the opinion of the Official, been guilty of such gross misconduct in respect of the **MMPR business** or in or with respect to the **premises** named in his licence that it warrants the suspension of his licence;
- (d) has ceased to meet the lawful requirements of Health Canada to carry on the **MMPR business** for which he is licenced or with respect to the **premises** named in the licence;
- (e) Failure to comply with or refusal to submit any of the requirements identified in **Part 11 REQUIREMENTS** of this Bylaw;
- (f) The suspension of a licence by the **Licence Inspector** shall be made, in writing, signed by the Inspector and served on the person holding such licence or delivered to the holder of such licence by registered mail to the address given by the Licencee on the application for the licence. A notice of suspension of licence may be posted by the **Licence Inspector** upon the **premises** for which the licence was issued and such notice shall not be removed until the licence is reinstated, the former Licencee ceases to occupy the **premises**, or a new **MMPR business** other than the one carried on by the former Licencee is started in the **premises**. The **Licence Inspector** may also pick up any licence held by the Licencee during such period of suspension.
- (g) The **Council** may revoke a licence for reasonable cause after giving notice to the Licencee and after giving him an opportunity to be heard.

13. LICENCE TO BE DISPLAYED

13.1 The Licencee or person in charge or control of **premises** where the **MMPR business** for which the licence is issued is carried on, shall at all times keep the licence or licences prominently displayed in the **MMPR business** area of the **premises** to which the public have access.

14. LICENCE INSPECTOR

14.1 The **Council** may, by resolution, appoint a person to be the **Licence Inspector**.

14.2 **Licence Inspectors** appointed pursuant to Section 14.1 are hereby authorized to enter at all reasonable times on any property that is subject to the direction to ascertain whether the requirement is being met or the regulations observed.

15. INSPECTION

15.1 The **Licence Inspector** is hereby authorized to enter at all reasonable time, on any property that is subject to the regulation of this bylaw in order to ascertain whether such regulations are being observed.

16. PENALTIES

16.1 Any person guilty of an infraction of this Bylaw shall be liable for a penalty under the City of Kelowna Bylaw Notice of Enforcement Bylaw No. 10475 as amended or replaced from time to time.

16.1.2 A person who:

- a) contravenes, violates or fails to comply with any provision of this Bylaw or of any permit or order issued under this Bylaw;
- b) suffers or allows any act or thing to be done in contravention or violation of this Bylaw or any permit or order issued under this Bylaw; or
- c) fails or neglects to do anything required to be done under this Bylaw or any permit or order issued under this Bylaw;

commits an offence and is liable on summary conviction to a penalty not exceeding Ten Thousand Dollars (\$10,000.00) and the cost of prosecution.

Each day a violation of the provisions of this bylaw exists or is permitted to exist shall constitute a separate offence.

17. SEVERABILITY

17.1 In the event that any section of this bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or sub-section shall be severed from and not affect the remaining provisions of this bylaw.

20. EFFECTIVE DATE

20.1 This bylaw comes into full force and effect and is binding on all persons as from the date of adoption.

Read a first, second and third time by the Municipal Council this 24th day of February, 2014.

Adopted by the Municipal Council this

Mayor

City Clerk