

SUMMARY:

The Medical Marihuana Production Regulation Business Bylaw No. 10920 requires an owner or operator of a business within the City of Kelowna to hold a valid and subsisting licence for the carrying on business, fix and impose licence fees for licences and provide for the collection of licence fees and the granting, issuing and transferring of licences, subject to the limitations contained within the bylaw.

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CITY OF KELOWNA

BYLAW NO. 10920

REVISED: March 9, 2015

CONSOLIDATED FOR CONVENIENCE TO INCLUDE:
BYLAWS NO. 11055

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:

BL11055 amended the following:

- (a) require an owner or operator of an **business** within the City of Kelowna to hold a valid and subsisting licence for the carrying on of such **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;

BL11055 amended the following:

AND WHEREAS it is also the purpose of this bylaw to regulate the carrying on of **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.

BL11055 added the following:

"**Business**" means reference to both Medical Marihuana Production Regulation Business and Medical Marihuana Analytical Testing.

"**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.

BL11055 added the following:

"Medical Marihuana Analytical Testing" means the validated testing, research and development or quality control of a substance or product carried out in a laboratory operation and must be licensed under Health Canada or Controlled Drugs and Substances regulation of any substance or product being tested.

BL11055 amended the following:

"Medical Marihuana Production Regulation Business" or "Business" means carrying on a commercial or industrial protection 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.

"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

BL11055 amended the following:

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

BL11055 amended the following:

4.2 In the case of different **businesses** in one building, each **business** shall be considered as a separate business.

BL11055 amended the following:

4.3 Every person who carries on a **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.

BL11055 amended the following:

4.4 No person shall carry on a **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 **business**.

5. LICENCE APPLICATION AND FEE

BL11055 amended the following:

5.1 An application for an initial licence for a **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 **business**, or the owner or operator's agent duly authorized in writing.

BL11055 amended the following:

5.2 Every application for an initial licence for a **business** shall include a detailed description of the **premises** in or upon which the **applicant** intends to carry on the **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.

BL11055 amended the following:

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

BL11055 amended the following:

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

BL11055 amended the following:

- 9.2 A licence is not a representation or warranty that the licenced **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.

BL11055 amended the following:

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 **business** shall submit an application form and supporting documentation in the same manner as an application for an initial licence for a **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

BL11055 amended the following:

11.1 Every person or individual carrying on the **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;

BL11055 amended the following:

- (b) is convicted of any offence under any Municipal Bylaw or Statute of the Province in respect of the **business** for which he is licenced or with respect to the **premises** named in his licence;

BL11055 amended the following:

- (c) has, in the opinion of the Official, been guilty of such gross misconduct in respect of the **business** or in or with respect to the **premises** named in his licence that it warrants the suspension of his licence;

BL11055 amended the following:

- (d) has ceased to meet the lawful requirements of Health Canada to carry on the **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;

BL11055 amended the following:

- (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 **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

BL11055 amended the following:

- 13.1 The Licencee or person in charge or control of **premises** where the **business** for which the licence is issued is carried on, shall at all times keep the licence or licences prominently displayed in the **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 26th day of May, 2014.

Walter Gray

Mayor

Stephen Fleming

City Clerk