

# Wheatland County

## Request for Decision

Regular Council Meeting

April 21, 2020

Report prepared by: Matthew Boscarol



## Cannabis Cultivation and Enforcement

### Recommendation from Administration

THAT Council receives the Cannabis Cultivation and Enforcement report for information.

### Chief Administrative Officer's Comments

N/A

### Report

The Cannabis Act came into effect on October 17, 2018, creating a legal and regulatory framework for controlling the production, distribution, sale and possession of cannabis in Canada. Implementation of the Cannabis Act is a shared responsibility between the federal, provincial and territorial governments.

The Federal government's responsibilities are to set strict requirements for producers who cultivate and process cannabis, and to set industry-wide rules and standards. Provinces and territories are responsible for developing, implementing, maintaining and enforcing systems to oversee the distribution and sale of cannabis. Municipalities are empowered to make rules that are directly linked to their jurisdictions. These types of things include where cannabis can be sold physically, land use bylaw regulations, and where you can consume. There is some overlap between the Provincial and Municipal responsibilities.

For years municipalities have encountered enforcement issues occurring from illegal production and sale and have developed some bylaws to address the community impacts. However, enforcing federal law on controlled substances is the responsibility of the local police and the RCMP. With the legalization of cannabis, municipal enforcement is limited to inspection and compliance with provincial building codes and municipal bylaws, including regulating neighbourhood disputes over nuisance issues.

### **Enforcement of the *Cannabis Act* in the County:**

When the County receives a complaint regarding the suspicion of an illegal cannabis cultivation or production operation, staff will investigate the complaint by confirming whether the property has any permits in place for the growing of cannabis. If there are no permits, the County contacts the RCMP to determine if an investigation is being conducted, or to advise them of the situation. Then enforcement action under the Land Use Bylaw may be taken. This enforcement could include a letter of inquiry, a Warning Letter, a Stop Order, and beyond that, a Court Order authorizing the removal of plants.

Under *Gaming Liquor and Cannabis Act (GLCA)* an individual can grow up to four (4) plants without a production license from Health Canada, or a license under the Access to Cannabis for Medical Purpose Regulation (ACMPR). If more than four (4) plants are being grown without a license, it becomes an offence under the Cannabis Act with investigation and enforcement by the RCMP. The County does not receive information on residents that have a license to grow cannabis for medical purposes (ACMPR), so the County

would need to obtain this information voluntarily from the resident. The County also does not have the authority to ask for a Development Permit for the growing of Cannabis for Medical Purposes for personal use.

Enforcement for more than four (4) plants can also be done by way of a ticket by a County Peace Officer under the GLCA, but large scale unauthorized operations, would be handled by the RCMP. For example, if a County Peace Officer was at a house for a legal investigation, and saw 5-6 cannabis plants, the Peace Officer could issue a ticket and seize two (2) of the cannabis plants. The RCMP have not indicated how many plants they would need to see prior to starting an investigation.

Additionally, the Land Use Bylaw requires a Development Permit for a production facility. The County's definition for a Cannabis Production Facility is the use of land, buildings or structures for purposes of growing, producing, processing, labelling and packaging, testing, researching, destroying, storing or transporting cannabis under authorization by license pursuant to the Cannabis Regulations SOR/2018-144, or any successor or replacement legislation or regulation which may be enacted in substitution thereof. Cannabis Production Facility is only considered within the West Highway One Area Structure Plan Area.

Under the Nuisance and Unightly Property Bylaw (2020-09) the provision for nuisance includes odour coming from properties. This may be an avenue to deal with complaints regarding odour coming from cannabis being grown at a private residence.

### **Relevant Policies, Practices, and Legislation**

**Cannabis Legislative Framework:** Cannabis Production: The Cannabis Act came into force on October 17, 2018. All commercial producers need to be licensed by Health Canada to be able to grow cannabis for sale. Cannabis production licenses are for growing, cultivation, processing, analytical testing, sales and research. Facilities that have or are seeking to obtain a license under the Federal Cannabis Act and Regulation must obtain the required municipal approvals prior to obtaining a license from Health Canada. Health Canada has a variety of different types of licenses, most notably are the standard and micro-grow licenses. Micro-grow facilities have a maximum square footage allowed for the canopy. The County does not, however, differentiate between these two types of licenses. An applicant may apply for a Development Permit for a Cannabis Production Facility which is allowed in the Industrial General District and at this time, only on lands located within the West Highway 1 Area Structure Plan area.

**Growing Cannabis at Home:** The Cannabis Act permits adults to cultivate up to 4 cannabis plants per household (not per person). If a private resident is growing more than the restricted 4 plants that are allowed for and does not have a production licence issued by Health Canada, it becomes an offence under the Cannabis Act (Canada). Investigation and enforcement of the Cannabis Act is the responsibility of the RCMP and will be investigated by way of a formal complaint. Medical Cannabis (Personal Use) Access to Cannabis for Medical Purpose Regulation (ACMPR) is a personal production license given by Health Canada. Under this license, an individual can cultivate a limited quantity of Cannabis at home to treat their medical needs. This allows a license holder to grow up to 500 plants; the number of plants is determined by entering the number of grams you have been prescribed daily into a calculator tool which then determines the number of plants you are allowed to grow on your premises. No sales are permitted.

**Retail Sales:** Provinces and territories are responsible for determining how Cannabis is distributed and sold within their jurisdictions. They set rules around how Cannabis can be sold, where stores may be located, how stores must be operated, who is allowed to sell cannabis. Provinces and territories have the flexibility to set added restrictions, including: Lowering possession limits, increasing the minimum age, restricting where cannabis may be used in public, setting added requirements on personal cultivation. The Gaming, Liquor and

Cannabis Act (GLCA) is where the authority comes from for retail Cannabis to be licenced by the provincial Gaming, Liquor and Cannabis Commission (GLCC). This licence applies to retail cannabis and states that no business may import, distribute, grow, transport, store, purchase, sell, give, possess or use cannabis except in accordance with the GLCA or a cannabis licence. The Gaming, Liquor and Cannabis Regulation states that the commission will not issue a cannabis licence unless a development permit has been issued under the MGA. In March 2020, Wheatland County approved an amendment to the Land Use Bylaw to allow an applicant to apply for a Development Permit for a Retail Cannabis store in a limited number of zones: Commercial Highway, Hamlet Mixed Use, and Hamlet, Commercial.

### **Alignment with the Strategic Plan**

N/A

### **Response Options**

Option 1: THAT Council accepts/approves the recommendation as proposed.

Option 2: THAT Council does not accept/approve the recommendation as proposed.

Option 3: THAT Council accepts/approves an alternate recommendation of Council's choosing.

### **Implications of Recommendation**

#### **General**

Staff will continue to operate in the best interests of ratepayers in Wheatland County.

#### **Organizational**

Staff resources are in place to attend to the subject-matter.

#### **Financial**

N/A

#### **Environmental, Staff, and Public Safety**

Staff attend to the complaints in a timely manner.

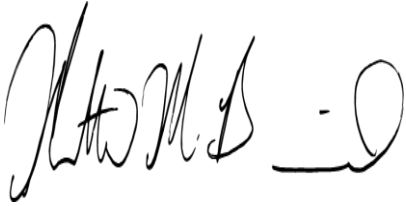
### **Follow-up Action / Communications**

N/A

## Report Approval Details

Document Title:	Cannabis Cultivation and Enforcement.docx
Attachments:	
Final Approval Date:	Apr 14, 2020

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to read "Matthew Boscarol", with a stylized flourish at the end.

Matthew Boscarol

A handwritten signature in black ink, appearing to read "Brian Henderson", with a stylized flourish at the end.

Brian Henderson