

CITY OF SURREY

BY-LAW NO. 17410

A by-law to license and regulate the cultivation and
production of Medical Marijuana

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- (a) WHEREAS Health Canada issues licenses under the Medical Marijuana Access Regulation to allow the cultivation and production of marijuana for medical purposes;
- (b) AND WHEREAS the cultivation and processing of Medical Marijuana poses inherent safety risks to the community;
- (c) AND WHEREAS the licensing and regulation of Medical Marijuana will improve the safety of persons and buildings; and
- (d) AND WHEREAS the licensing and regulation of such cultivation and production of Medical Marijuana will improve the health, safety and welfare of the residents and medical marijuana users in the City.

Therefore, under its statutory powers, including Section 15 of the Community Charter, SBC 2003, c. 26, the Council of the City of Surrey enacts the following provisions:

INTENT OF BY-LAW

- (a) to provide for the safe cultivation, production and distribution of Medical Marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Health Canada Medical Marijuana Access Regulation;
- (b) to protect public safety and welfare through reasonable limitations on medical marijuana cultivation and production in relation to noise, air and water quality, patient safety and security and other health and safety concerns; and
- (c) nothing in this By-law is intended to promote or condone the production, distribution or possession of medical marijuana in violation of any applicable law.

CONTENTS

Part 1 Introductory Provisions

1. Title
2. Definitions
3. Table of Contents
4. Severability
5. Duty of Administration and Enforcement

Part 2 Licenses

- 6-7. Licenses
- 8-9. Form of License
10. Possession of License
11. Period of License
12. Transfer of License
13. Inspection
14. Refusal of a License
- 15 – 16. Granting of a License
- 17 – 18. Terms and Conditions of a License
19. Compliance with Zoning
- 20-22. Suspension or Cancellation of a License

**Part 3
Offences and Penalties**

- 23. Offences
- 24. Penalties

**Part 4
General Provisions**

- 25. Prohibited Acts
- 26. Costs of Inspection and Clean-up
- 27. Commencement

**Part 1
Introductory Provisions**

Title

- 1. This By-law may be cited as "Surrey Medical Marijuana Production and Licensing Regulation By-law, 2011, No. 17410".

Definitions

- 2. In this By-law,

"Applicant"

means a person who makes application for a License under this By-law.

"Council"

means the City Council of the City of Surrey.

"Cultivation"

means the process by which a person promotes the germination or cloning and growth of a seed or clone to a mature Marijuana plant.

"Designated-Person Production or Designated-Person Production License"

means a License under this By-law authorizing a person to produce marijuana for the medical purpose of no more than two Licensed Persons.

"Infused Marijuana"

means Medical Marijuana infused with another product that is intended for use or consumption other than by smoking, including, without limitation, edible products, ointments and tinctures.

"Inspector"

means a person from time to time appointed as License Inspector of the City and includes any By-law Enforcement Officer or Peace Officer.

"License"

means a Personal-Use License, Designated-Person Production License or a Personal-Use Production License issued pursuant to this By-law.

"Licensed Persons" or "Licensee"

means a person who is Licensed under this By-law and who can qualify for Medical Marijuana, including its Cultivation, under the Health Canada MMAR or a person who is authorized to Cultivate and Produce Medical Marijuana on behalf of others by Health Canada pursuant to the MMAR.

"Marijuana"

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

"Marijuana Medical Access Regulations" or "MMAR"

means *Marijuana Medical Access Regulations*, SOR/2001-227, as amended.

"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 MMAR.

"Medical Marijuana Cultivation"

means the process by which a person promotes the germination or cloning and growth of a seed or clone to a Medical Marijuana plant.

"Personal-Use License"

means a license issued under this By-law to a person authorized under this By-law and by Health Canada under the MMAR to store and consume dried or Infused Medical Marijuana.

"Personal-Use Licensee"

means a person authorized under this By-law and by Health Canada under the MMAR to store and consume dried or Infused Medical Marijuana.

"Personal-Use Production or Personal-Use Production License"

means a license issued under this By-law authorizing a person to Cultivate Medical Marijuana solely for medical use of that person under the MMAR.

"Premises"

means the indoor location within which the Licensee is authorized to possess or Produce Medical Marijuana.

"Produce" or "Production"

means (i) all phases of growth of Marijuana from seed or clone to harvest; (ii) combining Marijuana with any other substance for distribution, including storage and packaging for future use; or (iii) preparing, compounding, processing, encapsulating, packing or repackaging, labelling or relabeling of Marijuana or its derivatives, whether alone or mixed with any amount of any other substance.

Table of Contents

3. The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Severability

4. A decision by a court that any part of this by-law is illegal, void or unenforceable severs that part from this By-law and is not to affect the balance of this By-law.

Duty of Administration and Enforcement

5. The intent of this By-law is to set standards in the general public interest, and not to impose a duty on the City or its employees to enforce its provisions, and:
 - (a) a failure to administer or enforce its provisions or the incomplete or inadequate administration or enforcement of its provisions does not give rise to a cause of action in favour of any person; and

- (b) the grant of any approval or permission or issuance of any permit is not a representation, warranty or statement of compliance with the By-law and the issuance thereof in error is not to give rise to a cause of action.

Part 2 Licenses

Licenses

- 6. No person shall cultivate Marijuana or Medical Marijuana without holding a valid and subsisting Personal-Use License, a Personal-Use Production License or a Designated-Person Production License.
- 7. All applications for Licenses under this By-law must be made to the Inspector on the application form provided for that purpose and shall contain the information described in Section 16 of this By-law, as well as:
 - (a) two copies of a current photograph of the applicant;
 - (b) the full address of the place the applicant ordinarily resides; and
 - (c) a declaration that the License applied for is either:
 - (i) a Personal-Use License;
 - (ii) a Personal-Use Production License; or
 - (iii) a Designated-Person Production License, in which case the Personal-Use Licensee must be named.

Form of License

- 8. Every License issued under this By-law will state that the holder is licensed as a Personal-Use Licensee or authorized to carry on either Personal-Use Production or Designated-Person Production in a lawful manner for the periods specified in the License at the premises specified in the License, subject to the terms and conditions specified on the License and in this By-law.
- 9. Every License issued under this By-law will be made out in duplicate and one copy will be delivered by the City to the person licensed.

Possession of License

- 10. The person licensed must keep the License available for examination by the Inspector.

Period of License

- 11. All Licenses granted under this By-law will be issued annually to terminate one year from the date of issuance of the License.

Transfer of License

12. No License issued under this By-law is transferrable or assignable.

Inspection

13. Every Inspector and every Medical Health Officer is authorized to enter at all reasonable times, any house, place, premises, vehicle, or other place for an application for a License has been received, granted or may be required under this By-law, to ascertain whether the regulations and provisions of this By-law are being obeyed. No person shall prevent, obstruct or attempt to prevent or obstruct the entry of a person authorized entry under this Section.

Refusal of a License

14. (1) An application for a License may be refused by Council or the Inspector in any specific case, provided that:
 - (a) the application must not be unreasonably refused; and
 - (b) Council or the Inspector must give reasons for the refusal.
- (2) If the Inspector has refused to grant a License, the applicant who is subject to the decision is entitled to have Council reconsider the matter.

Granting of a License

15. The Inspector may grant a License under this By-law where the Inspector is satisfied that the applicant has complied with the requirements of this By-law and the Health Canada Marijuana Medical Access Regulations and the City's by-laws regulating building, zoning, health and sanitation, and for that purpose the applicant must provide the City with detailed plans and other information including without limitation the following:
 - (a) a dimensioned floor plan, showing the layout, floor plan design and equipment, in which the Medical Marijuana Cultivation facility is to be located, which shall only be located inside an enclosed building;
 - (b) a plan describing the ventilation systems that will be used to control the environment for the plants and describe how such systems operate with the systems preventing odour leaving the premises so that no odour can be detected by a person with a normal sense of smell at the exterior of the Premises;
 - (c) 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;
 - (d) a security and lighting plan, including a monitored alarm system;
 - (e) an electrical, lighting and equipment plan for the Medical Marijuana Cultivation;

- (f) a storage plan for the medical marijuana grown and/or otherwise stored on the Premises;
 - (g) a declaration that no pesticides or other toxic substance shall be used in Medical Marijuana Cultivation;
 - (h) a plan for disposal of any Medical Marijuana or Infused Marijuana that is not consumed by patients in a manner that protects any portion thereof being possessed or ingested by any person or animal;
 - (i) in the case of a Designated-Person Production License a plan for delivery of Medical Marijuana to patients, a plan of the placement and use of security cameras, a neighbourhood responsibility plan, a criminal background check for the applicant and a plan for disposal of Medical Marijuana that is not distributed to a patient.
16. If the application for a License is refused by the Inspector, the Inspector must notify the applicant of the right to have the application reconsidered by Council.

Terms and Conditions of a License

17. The Inspector or Council may impose terms and conditions on a License granted under this By-law in addition to the terms and conditions imposed by this By-law.
18. The terms and conditions imposed on a License may include any one or more of the following:
- (a) a requirement that the license holder comply with a particular provision of a City by-law or any other provincial or federal enactment within a specified period of time; and/or
 - (b) a requirement that the holder provide to the Inspector within a specified period of time evidence satisfactory to the Inspector of compliance with a particular provision of a City by-law or any other provincial or federal enactment.

Compliance with Zoning

19. Before a License is granted under this By-law, the Inspector must be satisfied that the use for which the License is sought is not in violation of Surrey Zoning By-law, 1993, No. 12000, as amended or of any by-law then in force in the City, and no License will be issued if the carrying on of the licensed activity in or from the premises would be contrary to any City by-law.

Suspension or Cancellation of a License

20. (1) A License may be suspended or cancelled by Council or the Inspector for reasonable cause.
- (2) Without limiting Subsection (1), any one of the following circumstances may constitute reasonable cause:

- (a) the holder fails to comply with a term or condition of the License;
 - (b) the holder is convicted of an offence indictable in Canada;
 - (c) the holder has ceased to comply with a by-law or has otherwise ceased to meet the lawful requirements to carry on the activity for which the holder is Licensed or with respect to the premises named in the License; and
 - (d) in the opinion of the Council or the License Inspector, the holder has engaged in misconduct that warrants the suspension or cancellation of the License.
21. (1) Before suspending or cancelling a License, the Council must give the License holder notice of the proposed action and an opportunity to be heard.
- (2) A suspension under Section 20 is for the period determined by the Council or the Inspector, and the Council or the Inspector may impose additional conditions on the License that relate to the reasons for the suspension and that will apply after the period of suspension.
- (3) In the case of a suspension or cancellation of a License by the Inspector, the Inspector must notify the holder of the right to have the suspension or cancellation reconsidered by Council.
- (4) The obligations under Subsections (1) and (3) are satisfied if a reasonable effort is made to mail or otherwise deliver the notices.
22. If the Inspector has suspended or cancelled a License, the License holder who is subject to the decision is entitled to have Council reconsider the matter.

Part 3
Offences and Penalties

Offences

23. Every person who violates any of the provisions of this By-law or who suffers or permits any act or thing to be done in contravention of this By-law or who neglects to do or refrains from doing any act or thing which violates any of the provisions of this By-law shall be liable to the penalties hereby imposed and each day that such violation is permitted to exist shall constitute a separate offence.

Penalties

24. Any person who violates any of the provisions of this By-law shall upon summary conviction, be liable to a penalty of not less than \$100 and not more than \$5,000 plus the costs of the prosecution.

Part 4
General Provisions

Prohibited Acts

25. It shall be unlawful for any person to:
- (a) distribute Medical Marijuana without a License;
 - (b) obtain Marijuana from a person who is not a Licensed person;
 - (c) take Marijuana for medical use in any form in plain view of, or in a place open to, the general public, and for the purposes of this By-law, places open to the general public include without limitation any property owned, leased or used by a public entity, retail malls, businesses open to the public, common areas of a building or in vehicles visible from a place open to the general public;
 - (d) produce, distribute or possess more Medical Marijuana other than allowed under applicable law;
 - (e) make any changes, or for the Licensee to allow any changes to be made, to the items included in the plans submitted with the License application and approved by the City, or the individuals identified in the application, without prior written approval of the City.

Costs of Inspection and Clean-up

- 26. In the event the City incurs costs in the inspection or clean-up of any premises whether or not they are premises producing Marijuana, the responsible person shall reimburse the City all actual costs incurred by the City of such inspection and/or cleanup.

Commencement

- 27. This By-law shall come into force on the date of final adoption hereof.

PASSED FIRST AND SECOND READING on the 13th day of June, 2011.

PASSED THIRD READING on the 13th day of June, 2011.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 27th day of June, 2011.

_____ MAYOR

_____ CLERK