TO: Regional Board  
FROM: Ron Fralick, Manager of Planning  
DATE: February 17, 2014  
SUBJECT: Text Amendments to Joe Rich Rural Land Use Bylaw No. 1195, 2007  
Joe Rich Rural Land Use Amendment Bylaw No. 1185-09 (Application RLUB-13-02)  
(Regional District of Central Okanagan - applicant)

Purpose:  
This is a Community Services Department initiated text amendment to Joe Rich Rural Land Use Bylaw No. 1195, 2007. The proposed amendments are listed in attached Bylaw No. 1195-09.

Executive Summary:  
Based on feedback received to date, it is proposed that medical marihuana production facilities be restricted to agricultural and/or larger rural designated lands. The amendments related to Temporary Agricultural Worker Dwellings/Accommodations are in keeping with provincial guidelines and initiatives that support agricultural operations in the region. The additional housekeeping items are prepared to respond to highlighted issues identified through day-to-day workings with the Joe Rich Rural Land Use Bylaw.

RECOMMENDATION:  
THAT Joe Rich Rural Land Use Amendment Bylaw No. 1195-09, application RLUB 13/02 be given first reading;  
AND FURTHER THAT the application be scheduled for a Public Hearing.

Respectfully submitted:

R. Fralick, MCIP, RPP  
Manager of Planning

C. Radford  
Director of Community Services

Prepared By: David Widdis, Regional Growth Strategy Coordinator  
Approved for Board's Consideration

Brian Reardon, CAO
Implications of Recommendation:

Organizational:
The application processed in accordance with requirements of RDCO Application Procedures Bylaw No. 944.

Legal/Statutory Authority:
In accord with Section 791 of the Local Government Act (Voting on Resolutions and Bylaws), all resolutions and every reading and the adoption, amendment or repeal of all bylaws must be decided by a majority of the votes cast, and in accord with all applicable provisions.

Strategic Plan:
The RDCO Strategic Plan Vision 2020 – Planning for the Future document articulates the need for the region to respect, protect, and strengthen its agricultural and rural assets.

In recognition of the pending Federal Marihuana Medical Purposes Regulation (MMPR), the RDCO needs to be proactive and anticipate future needs and plan and act in advance to be in a position to meet those needs.

Policy:
The Regional District’s Agricultural Plan (approved June 2005) recognizes the need for seasonal farm worker housing in the region and includes a recommendation to explore options for providing a regulatory context to permit this use.

Background:
An informal policy of the Development Services Department is to review Joe Rich Rural Land Use Bylaw No. 1195 on a yearly or as-needed basis. This on-going review is to ensure that the bylaw remains consistent with Board policy and direction, interpretation issues are corrected and development trends are reflected.

Joe Rich Rural Land Use Bylaw No. 730 was repealed and replaced with Joe Rich Rural Land Use Bylaw No. 1195 in October 2007. Further to the most recent update in 2012 (File: RLUB-12-01), Regional District staff wishes to add Medical Marihuana Production Facilities as a permitted use; to expand bylaw requirements for Temporary Agricultural Worker Dwellings/Accommodations; and to address housekeeping amendments identified through day-to-day workings with the Rural Land Use Bylaw.

Key Bylaw Amendments

Medical Marihuana:
Municipalities and regional districts in the Province are considering a variety of bylaw amendments to address medical marihuana production use under zoning regulation. These zoning bylaw changes are a result of the new federal legislation for Medical Marihuana Production Facilities that come into effect on April 1, 2014. The scale of production for these facilities will be larger commercial operations that require separate building(s). Many municipalities are working towards restricting medical marihuana production facilities to industrial, agricultural and/or rural zoned lands. The various approaches across the province vary depending on opinions and the type of setting of a local government (urban or rural).

It is important to recognize that issues identified from the various discussions among staff, the province, and the federal government will persist, regardless of Board direction. Therefore, it is recommended not to direct a "do nothing" approach, due to the potential for the use being
located inappropriately. It is understood that the present uncertain regulatory environment is a "moving target" for local governments, and bylaws created over this process may need to be amended further.

The Agricultural Land Commission has established that this use is considered a farm use and cannot be prohibited on lands within the Agricultural Land Reserve. At the meeting of November 14, 2013, the Regional Board directed staff to initiate a bylaw amendment where all future applicants would be directed to land use designations that permits intensive agriculture and/or ALR lands for the commercial production of medical marihuana. It is the intent to treat "Medical Marihuana Production Facilities" similar to intensive agriculture operations such that the use will be limited to the LH and RA zones in the Rural Land Use Bylaw. The proposed minimum parcel size of 8 ha and significant setback requirements for medical marihuana use will restrict locations in the RDCO to accommodate a licenced grow operation. Additionally, the requirements will provide further separation from residential use with the intent of reducing potential impacts. Planning staff has prepared a summary information sheet with respect to Medical Marihuana (copy attached).

Under the new Health Canada Regulations, an applicant must notify the local government of their intention to apply for a Licence to Produce Medical Marihuana. To date, the RDCO has received five letters from potential applicants: one is zoned A1 and within the ALR, two are zoned RU2, others are designated LH and RA in the Joe Rich Rural Land Use Bylaw and are located within the ALR.

**Temporary Migrant Farm Worker Housing:**
The availability of farm labour and farm labour housing are fundamental components to agricultural viability for some farm operations. Farm worker housing is needed for:
- Full time and seasonal farm workers
- Domestic and foreign workers

The ability to find seasonal and affordable accommodation for temporary workers has been increasingly challenging for farm operators in our region. The Regional District has processed and considered several Temporary Use Permits over the past five years to allow temporary accommodation for migrant farm workers. Joe Rich Rural Land Use Bylaw No. 1195 does not include specific provisions to accommodate this use and it is therefore prudent that regulations to allow accommodation for temporary farm workers be included in the RLUB consistent with the remainder of the RDCO.

Most recently, local governments have been amending bylaws and policies to ensure seasonal farm worker regulations are consistent with the Provincial Agricultural Land Commission (ALC) legislation relating to permitted uses that support the operation of a farm. The Regional Board was advised that RDCO staff would pursue a bylaw amendment in 2014 based on the Province's template document for migrant farm worker housing.

To this end, the proposed amendment to Joe Rich Rural Land Use Bylaw No. 1195 has been developed to support agricultural operations in the region by allowing temporary workers to be housed as close to the farm as possible. Key changes related to temporary farm worker accommodation include; addition of requirements including various setback provisions, maximum allowable floor area, and confirmation from farm operators that the buildings are for farm workers.
The remainder of the amendments proposed by staff are to ensure that the bylaw remains consistent with Regional Board policy, interpretation issues are corrected and development trends are reflected.

AGENCY REFERRALS:

Planning staff considered all of the feedback received from agencies and incorporated changes to the bylaw where applicable. It is noted that some issues and recommendations from various agencies could not be included in the bylaw as they are outside of the legislative ability and authority of the RDCO.

It is also noted that additional refinements may be considered and made to the bylaw as a result of further agency comments received after first reading is granted by the Regional Board (ie: provided that the changes do not alter use or increase density).

With concurrence of the Regional Board, the local RCMP has committed to attend a future Public Hearing to answer questions from the standpoint of their enforcement of Medical Marihuana operations under the new federal legislation.

Alternatives:

Should the Board choose not to support the staff position, the following alternate recommendation is provided;

That Joe Rich Rural Land Use Amendment Bylaw No. 1195-09, application RLUB 13/02 not be given first reading and referred back to staff for further review.

CONCLUSION:

Land Use bylaws are not intended to be static documents and will require amending from time to time. The attached Joe Rich Rural Land Use Bylaw amendment bylaw addresses some of the issues that have arisen since the last review and update of Bylaw No. 1195 in 2012 and includes amendments previously endorsed by the Regional Board.

Planning staff in consultation with the other departments of the Regional District and other agencies will work to ensure that Joe Rich Rural Land Use Bylaw meets the Region's needs and staff will initiate further reviews and updates as required.

The Community Services Department recommends that Joe Rich Rural Land Use Amendment Bylaw No. 1195-09 be given first reading and that the application be scheduled for a Public Hearing.

Attachment(s):
Bylaw No. 1195-09
Medical Marihuana Summary information Sheet

Considerations not applicable to this report:
General
Financial
WHEREAS the Regional Board of the Regional District of Central Okanagan is desirous of amending Joe Rich Rural Land Use Bylaw No. 1195, 2007 under the provisions of the Local Government Act.

NOW THEREFORE the Regional Board of the Regional District of Central Okanagan, in an open meeting enacts as follows:

1. This bylaw may be cited as Joe Rich Rural Land Use Bylaw Amendment Bylaw No. 1195-09
2. That the Joe Rich Rural Land Use Bylaw No. 1195, 2007 is hereby AMENDED by changing the following:

2.1. Amending SECTION 2 Regulations:

2.1.1. PART 1 – Definitions

1. By ADDING the following new definitions:

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

"Medical Marihuana Production Facility means a facility licensed by the Federal Government under the Marihuana for Medical Purposes Regulation used solely for the production, manufacturing, processing, testing, packaging, and shipping of marihuana and marihuana products for medical purposes. This use is prohibited in all zones except as explicitly permitted under the provisions in this Bylaw."

"Temporary Agricultural Worker Dwellings and Accommodation means a building or manufactured home placed on a temporary foundation or footings with no basement located on agricultural land that is used solely for the purpose of providing cooking, sanitary, sleeping, and living facilities for seasonal farm worker(s) temporarily on a farm operation, as necessary, for the agricultural labour needs of a farm operation."

2.1.2. PART 3 – General Requirements

1. Section 3.5 Home Occupation

1. By ADDING the following new Subsection “3.5.4.3 Medical Marihuana Production Facilities.”

2. By ADDING the following to Subsection 3.5.6 Day Care Facility “[Note: The RLUB does not apply to Facilities Licensed under the Community Care Facility Act. These facilities include day cares for no more than 8 persons, or residence for no more than 10 persons, not more than 6 of whom are persons in care. As a result, these uses cannot be prohibited in any land use designation in the Regional District provided they are licensed under the Community Care Facilities Act. Contact the Ministry of Health for further information.]”

3. By ADDING a new Subsection:
3.17 Medical Marihuana Production Facilities

Medical Marihuana Production Facilities shall only be permitted on lands outlined within the defined zones in Section 2 of this Bylaw or lands within the Agricultural Land Reserve and shall be subject to the following regulations:

3.17.1 The buildings must be licensed by Federal Canada;
3.17.2 The use must be located on a parcel having a minimum area of 8.0 ha (19.7 acres);
3.17.3 All buildings used for Medical Marihuana Production Facilities shall be setback a minimum of 30.0 m (98.4 ft.) from all parcel lines and 15.0 m (49.2 ft.) from all watercourses. Except when the subject property is located in a Development Permit Area or Floodplain, minimum setback from watercourses will be subject to Development Permit Guidelines and/or section 3.28 Floodplain Regulations; and,
3.17.4 The buildings used for Medical Marihuana Production Facilities do not discharge or emit odorous, toxic or noxious matter or vapour; heat, glare or radiation; recurrently generated ground vibration; noise in excess of ambient noise at the property boundary; electrical interference; or any other health or safety hazards."

4. By ADDING a new Subsection

"3.18 Temporary Agricultural Worker Dwellings and Accommodation

Temporary Agricultural Worker Dwellings and Accommodation are subject to the following regulations:

3.18.1 A minimum parcel size of 3.8 ha (9.4 acres) is required to permit a Temporary Agricultural Worker Dwellings and Accommodation.
3.18.2 The Temporary Agricultural Worker Dwellings and Accommodation shall be limited to a maximum building gross floor area of 186 m² (2002.1 sq. ft.), except that where the owner of a farm operation can document by ownership records or copies of leases registered in the Land Title Office that the farm operation is at least 40 ha (98.8 acres) in size, a maximum building gross floor area of 250 m² (2,691.0 sq. ft.) for Temporary Agricultural Worker Dwellings and Accommodation per farm operation shall be permitted.
3.18.3 The Temporary Agricultural Worker Dwellings and Accommodation shall be used for the temporary accommodation of seasonal agricultural workers who are employed by the owner of the parcel to work in the owner's agricultural operation.
3.18.4 The parcel upon which the accommodation is located is classified as a "farm" under the Assessment Act.
3.18.5 A Temporary Agricultural Worker Dwellings and Accommodation is a building or manufactured home placed on a temporary foundation or footings with no basement.
3.18.6 The required minimum setback of a Temporary Agricultural Worker Dwellings and Accommodation building from any parcel line is 15.0 m (49.2 ft.).
3.18.7 The required maximum setback of a Temporary Agricultural Worker Dwellings and Accommodation building from a principal residence is 15.0 m (49.2 ft.).
3.18.8 One parking space for every 30.0 m² (322.9 sq. ft.) of gross floor area of a Temporary Agricultural Worker Dwellings and Accommodation is required in addition to those required for the principal dwelling.

3.18.9 The owner of the parcel shall enter into a restrictive covenant, under the Land Title Act, with the Regional District of Central Okanagan, that states:

a) A statutory declaration shall be filled out with local government annually stating that the building will only be used for Temporary Agricultural Worker Dwellings and Accommodation for a specified period of time;

b) Temporary Agricultural Worker Dwellings and Accommodation shall only be used by temporary farm workers and that the owner will remove or decommission the housing if vacant for two consecutive years; and

c) Temporary Agricultural Worker Dwellings and Accommodation applies to farms registered with a Federal and/or Provincial seasonal agricultural workers program or is for the accommodation of seasonal agricultural workers employed by those farms.

2.1.3. Amending PART 5 – Land Use Designations

1. Section 5.5 – Large Holdings (LH)
   1. By ADDING Subsection 5.5.1.10 “Medical Marihuana Production Facilities (see Section 3.17)”
   2. By ADDING the following new Subsection between Subsections 5.5.2. and 5.5.3.: “Minimum parcel frontage 30.0 m (98.4 ft.)”
   3. By RENUMBERING the subsections accordingly.

2. Section 5.6 – Rural Acreage (RA)
   1. By ADDING subsection 5.6.1.10 "Medical Marihuana Production Facilities (see Section 3.17)"
   2. By ADDING the following new Subsection between 5.6.2 and 5.6.3 “Minimum parcel frontage 30.0 m (98.4 ft.)”.
   3. By RENUMBERING the subsections accordingly.

3. Section 5.7 – Small Holdings 2 (SH-2)
   1. By RENUMBERING Subsection 5.7.1 to be in numerical order.
   2. By ADDING the following new Subsection between Subsections 5.7.2 and 5.7.3 “Minimum parcel frontage 30.0 m (98.4 ft.)”.
   3. By RENUMBERING the Subsections accordingly.

4. Section 5.8 – Small Holdings 1 (SH-1)
   1. By ADDING the following new Subsection between Subsections 5.8.2 and 5.8.3 “Minimum parcel frontage 30.0 m (98.4 ft.)”.
   2. By RENUMBERING the Subsections accordingly.

5. Section 5.9 – Country Residential (CR)
1. By ADDING the following new Subsection between Subsections 5.9.2 and 5.9.3 "Minimum parcel frontage 30.0 m (98.4 ft.)”.
2. By RENUMBERING the Subsections accordingly.

6. Section 5.10 – Recreation Commercial (C-101)
   1. By ADDING the following new Subsection between Subsections 5.10.2 and 5.10.3 “Minimum parcel frontage 50.0 m (164 ft.)”
   2. By RENUMBERING the Subsections accordingly.

7. Section 5.11 – Rural Tourist Commercial (RTC)
   1. By RENUMBERING Subsection 5.11.1 to be in numerical order.
   2. By ADDING the following new Subsection between Subsections 5.11.2 and 5.11.3 “Minimum parcel frontage 30.0 m (98.4 ft.)”.
   3. By RENUMBERING the Subsections accordingly.

READ A FIRST TIME this __________________________ day of __________________________

PUBLIC HEARING HELD PURSUANT TO THE LOCAL GOVERNMENT ACT this __________________________
   day of __________________________

READ A SECOND TIME this __________________________ day of __________________________

READ A THIRD TIME this __________________________ day of __________________________

Approved under the Transportation Act this ______________ day of __________________________

________________________________________
Ministry of Transportation & Infrastructure

ADOPTED this ______________ day of __________________________

Chairman __________________________
Director of Corporate Services __________________________
I hereby certify the foregoing to be a true and correct copy of Joe Rich Rural Land Use Bylaw No. 1195-09 as read a third time by the Regional District of Central Okanagan the __________
day of __________________________

Dated at Kelowna, this __________ day of _________________________________________

_____________________________________
Director of Corporate Services

I hereby certify the foregoing to be a true and correct copy of Joe Rich Rural Land Use Bylaw No. 1195-09 which was Adopted by the Regional District of Central Okanagan on the __________
day of ______________

Dated at Kelowna, this __________ day of _________________________________________

_____________________________________
Director of Corporate Services
Summary: Proposed Federal Marihuana for Medical Purposes Regulations (MMPR)

General Information
The existing MMAR Program has approximately 40,000 (ATP) licences and the new Federal Marihuana Medical Purposes Regulations (MMPR) will replace this program in April 2014. The aim is to reduce health and safety risks, while achieving a more quality-controlled and secure product for medical use. Individuals would not access medical marihuana from Health Canada, but by obtaining the support of a health care practitioner (a physician or, potentially a nurse practitioner) and then purchasing it from licensed commercial producers.

The highlights of Health Canada’s new MMPR program include:
- Production in residential dwellings will no longer be permitted
- All aspects of medical marihuana growth, cultivation, processing, storage, research and development, shipping/distribution and administrative office functions are to be centralized and contained in a seemed facility, which must contain a restricted-access area and 24/7 video surveillance monitoring
- A commercial licensed producer will have the ability to conduct research and development, test and produce a variety of product strains
- Storefronts and retail outlets will not be permitted
- All medical marihuana distribution will be via a secured courier to a registered client
- Key Facility personnel must hold valid security clearance, issued by Health Canada
- Applicants for a commercial medical marihuana production license must provide notice (including location details) to the local government, and police and fire authorities
- Health Canada will ensure that a Facility meets security, safety, quality control, record keeping, inventory and monitoring requirements to avoid product theft

While, Health Canada is not bound by the local government zoning bylaws when issuing licenses, the local governments will encourage licensees to meet all bylaws and zoning requirements. The new MMAR will move Canada from having many small producers to fewer larger commercial producers.

Approvals to date
Health Canada has approved seven facilities

Facility Description
Health Canada advises that there is a huge range in facility sizes, from as small as a few thousand square feet, to industrial buildings as large as 40,000 square feet, to very large green houses. All have grow areas, storage vaults, processing/packaging areas and shipping. Some have call centres. A pure R&D Facility would generally be much smaller scale.

Servicing and Transportation
Health Canada has no insights regarding facility servicing (e.g., water, sanitary, drainage, solid waste activity) and transportation activity (e.g., daily worker, truck and courier traffic to and from facilities). Shipping and vehicular traffic will vary with business size, and different production facilities are making different arrangements to consolidate their outbound shipments with Canada Post or other shippers. There should be no foot traffic other than staff — no retail sales.
Summary of the Agricultural Land Commission's Position
In response to Health Canada's new MMPR, the Agricultural Land Commission (ALC) published an August 2013 information bulletin titled "Medical Marihuana Production in the Agricultural Land Reserve (copy attached).

The ALC advises that in the ALR:
- Licensed Commercial Medical Marihuana "Production Facilities" which may include accessory uses like processing, storage, packaging, testing, shipping, distribution and basic supporting office functions, are consistent with the definition of a "farm use" and do not require the ALC to approve the Facilities though an ALR farm use application;
- License Medical Marihuana "Research and Development Facilities", as they do not focus on plant production, are not a permitted farm use and require an ALR non-farm use application and approval;
- Local governments should consult with the ALC in the preparation of any zoning amendment bylaws that propose to regulate medical marihuana production facilities in the ALR;
- On question, ALC staff advised that any "intensive" agricultural use can be regulated in such a way that the regulations are reasonable and not prohibitive. A minimum lot size can be set for medical marihuana or any intensive agricultural operation within the ALR, noting the ALC prefers the use of setback requirements. With sufficient setback distances, the minimum parcel size required for most intensive agricultural operations would be similar to a reasonable minimum parcel size.

Regional District staff consulted with the Ministry of Agriculture, Agricultural Land Commission and Agricultural Advisory Commission. A formal response had not been received from the ALC at time of preparing the associated staff report. The response from neighbouring Regional District's is identified in the attached table (page 3).

RDCO Agricultural Area:
- In Central Okanagan, the long-term Agricultural Area viability is very important to achieve;
- As Health Canada requires that all facilities be enclosed in buildings which will occupy, but not use valuable agricultural soils, any facilities allowed in the Agricultural Area need to be carefully limited and managed to preserve the valuable agricultural soils for long term agricultural use and future generations;
- As the ALC has determined that Production Facilities are a "farm use" and the RDCO may not be able to prohibit them, staff recommend a rigorous regulatory approach (i.e., a minimum site size of 30 ha). A large minimum size will, it is suggested, assist in accommodating the anticipated large facility buildings and, as many buildings could be placed on a large site, this arrangement may avoid having many smaller licensed Facility sites scattered throughout the Agricultural Area creating an inefficient arrangement. For reference, it is estimated that with a 30 ha minimum site size, 72 sites may be eligible to accommodate a Production Facility in the Agricultural Area;
<table>
<thead>
<tr>
<th>Report Date</th>
<th>Summary</th>
<th>Action</th>
</tr>
</thead>
</table>
| **RDNO** Sept 30/13 | Prepared a ZBL Amendment to permit MM  
1. Create a new definition for Marihuana and Medical Marihuana Production Facilities;  
2. Include Medical Marihuana Production Facilities as a permitted use on properties:  
   a. Within the Agricultural Land Reserve in rural Zones (C.R., N.U. and L.H) subject to the facility meeting agricultural setback requirements;  
   b. Within Industrial Zones including Light Industrial (1.1.), General Industrial (1.2), Industrial Park (1.3) and Agricultural-Industrial (1.4) Zones;  
   c. As a Home Occupation, subject to the provisions of Home Occupation Use.  
3. Prohibit Medical Marihuana Production Facilities in all other zones, unless otherwise permitted | Approved First reading on Sept 30/13 |
| **RDOS** Nov 7/13 | Three options presented  
1. **Status Quo** – The RDOS continue to assess medical marihuana uses as “agricultural” and permitted in the applicable Rural Zones. Any proposal involving a licensed commercial medical marihuana production facility in a zone in which “agriculture” is not a permitted use would be required to seek a rezoning from the Board.  
2. **Regulate** - introduce definitions related to the commercial production of medical marijuana, to direct such uses to agricultural zones (reflecting the ALC’s position on this matter) and industrial zones and to introduce some general regulations related to the operation of such uses  
3. **Prohibit** - Amend the Electoral Area Zoning Bylaws in order to prohibit the operation of medical marijuana facilities within the Regional District. This option may be *ultra vires* and open the Regional District to future legal challenges that would be difficult to defend against | The Board asked staff to write the ALC regarding their decision to consider these a “farm use” and for staff to explore some options regarding the ability to regulate these uses, such as noise & odour regulations and minimum setbacks from residential areas and schools  
*Asked RDOS for an update - January 29/14* |
| **TNRD** Nov 13/13 | Bylaw permits medical marihuana grow operations on lands zoned AF-1, RL-1, 1-2, 1-3 and/or on lands within the ALR, subject to the following conditions:  
1. Health Canada approval;  
2. minimum parcel area of 8 ha on AF-1, RL-1 zoned lands and ALR lands;  
3. minimum parcel area of 4 ha on 1-2 and 1-3 zoned lands; and  
4. building setback of 50 metres from all parcel lines.  
The 8 ha minimum parcel area reflects specific direction provided by the Board. Staff also recommend permitting medical marihuana production in the industrial zones of 1-2 and 1-3 subject to a minimum parcel area of 4 ha. | Board approved ZBL amendment |
Health Canada has proposed the Marihuana for Medical Purposes Regulation (MMPR). It is expected that the current system of personal use licences and designated person licences will be phased out by April 14, 2014. In its place, new Federal licences are anticipated, geared to larger scale production facilities. For further information about the proposed changes see the following websites:


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.

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 this information bulletin 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 permitted 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 marijuana, not all activities associated with its production would necessarily be given the same “farm use” consideration. A building such as a greenhouse building solely used to produce medical marijuana may be different than a building complete with business offices and research and development facilities, or other associated facilities or infrastructure. Although these uses in some instances may be considered accessory to a farm use, this determination is contingent on the uses being necessary and commensurate with the primary function of the property/building to produce an agricultural product.

The ALC would require information with respect to proposed building(s) before it could provide guidance on whether a particular proposal would be considered consistent with the definition of farm use in its entirety. Proponents are therefore advised to communicate with the ALC in the early stages of developing a farm proposal and in advance of approaching a local government for building permits for a specific property that is within the ALR, to determine whether an application is required for permission under the Agricultural Land Commission Act.

If a local government is considering changes to a bylaw to regulate the farm use then it is recommended that the bylaw be forwarded to the ALC for review.