

**REGIONAL DISTRICT OF KITIMAT-STIKINE
BYLAW NO. 676**

A Bylaw to Regulate Medical Marihuana Production
Facilities within the
Regional District of Kitimat-Stikine

The Board of the Regional District of Kitimat-Stikine, in open meeting assembled, enacts as follows:

1. Title

This Bylaw may be cited as the “Kitimat-Stikine Medical Marihuana Bylaw No. 676, 2016”.

2. Application

2.1. This Bylaw applies to all *Licensed Producers* that operate *Medical Marihuana Production Facilities (MMPFs)* on land within Electoral Areas A, B, C, D, E and F of the Regional District of Kitimat-Stikine that are subject to any of the following zoning bylaws:

- a. Greater Terrace Zoning Bylaw No. 37
- b. Kispiox Valley Zoning Bylaw No. 53
- c. Lakelse Lake Zoning Bylaw No. 57
- d. Skeena Valley Zoning Bylaw No. 73
- e. Thornhill Zoning Bylaw No. 194
- f. Two Mile Zoning Bylaw No. 320
- g. South Hazelton Bylaw No. 326
- h. Dease Lake Land Use Regulation (Community Planning Area No. 28)
- i. Meziadin Rural Land Use Bylaw No. 316
- j. Kitsault Zoning Bylaw No. 174
- k. Bob Quinn Rural Land Use Bylaw No. 314
 (“Applicable Zoning Bylaws”)

3. Definitions

In this Bylaw, unless the context otherwise requires;

Accessory Use means inside the building used for Medical Marihuana Production areas for the following uses: a small business office, testing lab, processing and drying, packaging and shipping, cloning and anything else directly related to the growing and processing of the medical marihuana and marihuana products for medical purposes.

Church means a building or land where persons assemble for religious worship and which is maintained and controlled by a religious body for public worship and religious education, and may, from time to time, include educational activities, fund-raising activities, recreational activities, or daycare activities. It may also include periodic, but not permanent, use for social events, craft sales, or flea markets.

Community Hall means the use or intended use of a building or structure as a meeting place for individuals within the community. It may include periodic, but not permanent, use for social events, crafts sales, and flea markets.

Community Park means use of land, buildings or structures primarily for recreation, including playgrounds, band shells, skateboard parks, sport fields, field houses, multi-purpose courts and the like.

Daycare Facility means a facility providing group day care, family day care, nursing school, child minding, out of school care, or specialized day care in accordance with the provisions of the *Community Care and Assisted Living Act* or any subsequent Act or Acts which may be enacted in substitution therefor.

Height means the vertical distance from the average finished ground level at the perimeter of a building to the highest point of the roof and in the case of a structure without a roof, to the highest point of the structure.

Licensed Producer means the holder of a license issued under section 25 of the *Marihuana for Medical Purposes Regulations SOR/2013-119*. A licensed producer may

- (a) Possess, produce, sell, provide, ship, deliver, transport and destroy marihuana;
- (b) possess and produce cannabis, other than marihuana, solely for the purpose of conducting in vitro testing that is necessary to determine the percentages of cannabinoids in dried marihuana; and
- (c) sell, provide, ship, deliver, transport and destroy cannabis, other than marihuana, that was obtained or produced solely for the purpose of conducting in vitro testing.

Marihuana means the substance referred to as “Cannabis (marihuana)” in sub item 1(2) of Schedule II to the *Marihuana for Medical Purposes Regulations SOR/2013-119*.

Marihuana for Medical Purposes Regulations or MMPR means the Health Canada’s *Marihuana for Medical Purposes Regulation SOR/2013-119* or any federal enactment that amends or replaces the MMPR.

Medical Marihuana Production Facility means a facility used solely for the cultivation, growth, storage, distribution or destruction of marihuana as lawfully permitted and authorized pursuant to Health Canada’s *Marihuana for Medical Purposes Regulations SOR/2013-119 (“MMPR”)* or any federal enactment that amends or replaces the MMPR.

Natural Boundary means the visible high watermark of any lake, river, watercourse, or other body of water as determined by a British Columbia Land Surveyor where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, watercourse, or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.

Property Line means the boundary of a parcel, lot, block or other area in which land is held or subdivided.

School means a place of instruction maintained at the expense of either the public under the *School Act* or through a privately funded source as regulated under provincial statutes.

Setback means the closest distance from a property line to any part of a building or structure.

Site means

- (a) a building or a place in a building used by a Licensed Producer; or
- (b) an area occupied exclusively by buildings used by a Licensed Producer.

Structure means any type of construction or building whether fixed to, supported by, or sunk into the land or water, including retaining structures of any size but excluding landscaping, fences and paving.

Watercourse means any natural or man-made depression with well-defined banks and a bed 0.6 meters (2.0 feet) or more below the surrounding land serving to give direction to a current of water at least six months of the year and/or having a drainage area of two square kilometers (0.8 square miles) or more upstream of the point of consideration.

4. Administration

4.1. (a) Notwithstanding Applicable Zoning Bylaws, where there is a conflict between this Bylaw and any provisions in an Applicable Zoning Bylaw or where a provision of this Bylaw is more restrictive than a provision in an Applicable Zoning Bylaw, the provisions of this Bylaw will apply.

(b) For the purpose of Section 4.1(a), conflict occurs if a person complying with one bylaw would contravene the other bylaw.

4.2. No structure shall be constructed, reconstructed, altered, moved or extended by the owner, occupier or other person so that it contravenes the requirements of this Bylaw.

4.3. The Bylaw Enforcement Officer or other persons appointed by the Regional District Board may administer this Bylaw and may enter at all reasonable times on any property to which this Bylaw applies to inspect and determine whether the regulations, prohibitions and requirements of this Bylaw are being met.

4.4. A Bylaw Enforcement Officer or other persons appointed by the Regional District Board who observes a contravention of this Bylaw may issue applicable notices and orders to any owner, occupier or other person who appears to have committed or allowed the contravention.

4.5. No person shall prevent or obstruct a Bylaw Enforcement Officer or other persons appointed by the Regional District Board from performing his or her duties under this Bylaw.

4.6. A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable upon conviction to a fine of not more than \$2,000, the cost of prosecution, and any other penalty or order imposed pursuant to the *Local Government Act*, RSBC 2015, c. 1 or the *Offence Act*, RSBC 1996, c. 338.

4.7. Each day during which a violation is continued shall be deemed to constitute a new and separate offense.

4.8. If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

4.9. Nothing in this Bylaw relieves the owner or occupier of the responsibility of adhering to all other legislation which may apply to the land from any authorities that have jurisdiction.

5. General Conditions

5.1. All *Medical Marihuana Production Facilities* and *accessory uses* within the Regional District of Kitimat-Stikine are prohibited on all areas outside of the Agricultural Land Reserve (ALR) except for specific zones within Electoral Area E outlined in section 7 of this Bylaw.

5.2. Application must be made to the Regional District of Kitimat-Stikine to obtain a Building Declaration and Siting Approval Permit prior to the commencement of any construction on property for a Medical Marihuana Production Facility.

5.3. No other uses shall be permitted on the property or within a building containing a *Medical Marihuana Production Facility* that is not specifically mentioned in the definition of *Accessory Use* in this Bylaw unless specifically permitted by the *Provincial Agricultural Land Commission Act* and *Regulations*.

5.4. No accessory structures shall be permitted on property containing a *Medical Marihuana Production Facility*.

6. Agricultural Land Reserve

6.1. All *Medical Marihuana Production Facilities* and *Accessory Uses* within the Agricultural Land Reserve or land subject to the *Agricultural Land Commission Act* must conform to the following:

6.1.1 Siting Requirements:

No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within a 30 meter setback from all property lines of the parcel on which the MMPF is located.

6.1.2 No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within 150 meters from the property line of the parcels containing the following uses:

- a) *Community Halls*
- b) *Schools* or land designated for future schools
- c) *Daycare Facilities*
- d) *Churches*
- e) *Community Parks*

6.1.3 No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within:

- a) 30 meters of any *watercourse* measured from the natural boundary of the watercourse
- b) 60 meters of any residential property lines of parcels that are not within the ALR

6.1.4 Height Limitations:

No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall exceed 15 meters in Height.

6.1.5 Lot Coverage:

No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall exceed 35% of the total parcel area.

7. Electoral Area E

7.1. *Medical Marihuana Production Facilities* and *Accessory Uses* shall be permitted within the M-1 (Light Industrial) and M-2 (Restricted Industrial) zones of Thornhill Zoning Bylaw No. 194.

7.2. All the *Medical Marihuana Production Facilities* and *Accessory Uses* are subject to the provisions of the M-1 (Light Industrial) and M-2 (Restricted Industrial) Zones in the Thornhill Zoning Bylaw No. 194 in addition to the following:

- a) No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within 60 meters of any property line.

- b) No *Medical Marihuana Production Facility* shall be located within 500 meters of the nearest point of any property line on which another *Medical Marihuana Production Facility* is operating or approved under the MMPR or any federal enactment that amends or replaces it.

7.3. No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within 30 meters of the natural boundary of any watercourse.

7.4. No *Medical Marihuana Production Facility* or *Accessory Use* or part thereof shall be located within 150 meters from the property line of the parcels containing the following uses:

- a) *Community Halls*
- b) *Schools* or land designated for future schools
- c) *Daycare Facilities*
- d) *Churches*
- e) *Community Parks*

READ a first time this _____ 24th _____ day of _____ June _____, 2016.

READ a second time as amended this _____ 12th _____ day of _____ August _____, 2016.

A Public Hearing with respect to this bylaw was held on the _____ 19th & 20th _____ day of _____ July _____, 2016 and on the _____ 7th _____ day of _____ September _____, 2016.

READ a third time this _____ 16th _____ day of _____ September _____, 2016.

ADOPTED this _____ 21st _____ day of _____ October _____, 2016.

Chair

Administrator

Certified a true copy of Bylaw
No.676, 2016, at adoption

Administrator