INFORMATION BULLETIN
MEDICAL MARIHUANA PRODUCTION
IN THE AGRICULTURAL LAND RESERVE

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 http://www.hc-sc.gc.ca/dhp-mps/marihuana/index-eng.php and http://gazette.gc.ca/rp-pr/p1/2012/2012-12-15/html/reg4-eng.html.

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 Ac*t 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.