

Cannabis cultivation *is* agriculture

Advancing legal and consistent recognition of cannabis cultivation
as an agricultural activity

Briefing Paper
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THE ISSUE

There are inconsistencies and contradictions in legislation and policy across the provincial government and its agencies in the treatment and classification of cannabis cultivation as an agricultural activity. Among the impacts are:

- Local Governments are left to determine for themselves if cannabis cultivation belongs in agricultural, rural, light industrial or commercial zones which creates uncertainty and confusion for both local government and the sector
- Cannabis cultivators are explicitly excluded from programs offerings to farmers
- Cannabis is barred from participation in the provincial and national organic certification programs

BACKGROUND

The inconsistent interpretation of cannabis cultivation as agriculture means that the default response is to bar cannabis cultivators from accessing various programs that provide support to farmers, from technical to financial. It has also given tacit permission to some local governments to exclude cannabis cultivation from their agricultural zones, resulting in additional challenges for outdoor cannabis cultivation.

The Minister of Public Safety and Solicitor General announced in September 2020 the creation of a “farm gate sales” program¹, demonstrating an acceptance of cannabis cultivation as an agricultural activity.

The Agricultural Land Commission recognizes the cultivation of cannabis in soil as an agricultural activity (see [Bulletin IB-04](#)) permitted in the Agricultural Land Reserve. This policy has led some local governments to integrate cannabis production as a permitted use in their agricultural zones.

¹ <https://news.gov.bc.ca/releases/2020PSSG0054-001830>

Nevertheless, the *Classification of Land as a Farm Regulation* under the *Assessment Act* **explicitly** excludes cannabis as a “qualifying agricultural use” ([Schedule 1, section 2](#)). This was introduced into the Regulation to coincide with the legalisation of recreational cannabis in Canada, on October 17th, 2018.

Furthermore, the [Food and Agricultural Products Classification Act](#) **implicitly** excludes cannabis as a farm product through the narrow definitions of “agricultural product” and of “food”, both of which are linked to consumption - the former being defined as “not for human consumption” and the latter as “for human consumption”. Since neither consumption nor inhalation is defined in the legislation, it leaves a grey area where inhalation could be interpreted as consumption but is not. The result is that the cannabis plant does not fall under the definition of “food” nor of “agricultural product”. This disallows cannabis cultivators who adhere to organic practices from certifying under the BC Certified Organic program, since the scope of that program is restricted to agricultural activities as defined in the Act.

These inconsistencies create uncertainty for the sector, exacerbating an already unstable and challenging regulatory and business environment for cannabis licence holders. The financial impacts are considerable: agricultural land tends to be less expensive. In order to avoid the uncertainty, some cultivators may choose to locate on industrial or commercial properties. Unfortunately, this is a trade off that means that they are likely thereby deprived of amenities that allow farms to thrive, including water suitable for irrigation, viable neighbouring ecosystems, and the community of other farmers. Organic cannabis cultivators are not able to access the market opportunities afforded other organic producers.

It should be further noted that other jurisdictions do not classify agricultural activities based on the crop’s final uses - either in how it is consumed nor if it is further processed. For instance, alfalfa is used as feed for humans (sprouts), for livestock (as hay), or as a soil amendment (alfalfa pellets) and yet its production is still seen as agriculture. Likewise, lavender is widely cultivated on farms and regarded as an agricultural product, despite the fact that its dominant use is not consumption by either animals or humans but rather as a common ingredient in aromatherapy essential oils. In Ontario, where tobacco has long been grown to create a product that is inhaled, it is fully embraced as an agricultural crop.

Lastly, there is international precedent for classifying cannabis cultivation as agricultural. The North American Industry Classification System (NAICS), jointly developed by Canada, Mexico, and the United States, clearly locates cannabis cultivation (indoor and outdoor) in Code 111, which covers the agricultural subsector of crop production.²

² <https://www.census.gov/naics/?input=cannabis&year=2022> and <https://www.statcan.gc.ca/search/results/module-search?mc=101v10naics2022&q=cannabis>

OUR ASKS

1. Amend the *Food and Agricultural Products Classification Act* definitions
2. Change the *Classification as a Farm Regulation* Schedule 1 so that cannabis cultivation is a qualifying agricultural use on farm land.
3. Consistently include and interpret cannabis cultivation as an agricultural activity in provincial legislation, policies and programs.
4. Consistently communicate that cannabis cultivation *is* agriculture.

In British Columbia, the Ministry of Agriculture recognizes and supports more than 200 farm commodities, grown in soil or not (aquaponics), indoors or outside in fields. Cannabis needs to be included.

THE OUTCOMES

When these changes are made, it will eliminate the confusion about how to categorise cannabis cultivation and pave the way for the pending farm gate sales of cannabis. Local governments will have a clear signal from the provincial government on the suitability of agriculturally zoned land for cannabis cultivation.

Cannabis cultivators will then be able to qualify as farms under the Assessment Act, enabling them to access the tax benefits provided to other farmers. This change would also open up opportunities to access the technical and program supports that are available to all other agricultural sectors, specifically the Beneficial Management Practices suite of programs.

Amending the definitions in the Food and Agricultural Products Classification Act will also allow the many craft cannabis cultivators who embrace organic practices to be covered under the provincial organic program, as well as sectors who produce agricultural products that are not “consumed”.³

Lastly, including cannabis cultivation as an agricultural activity will afford the sector the protections available to other farmers under the [Farm Practices Protection Act](#). Also known as the *Right to Farm Act*, the Act provides protection to farmers from nuisance complaints by neighbours and others, as long as they are adhering to normal practices for their sector. The knowledge held within BC’s long standing cannabis sector can be drawn upon to develop a clear understanding of what constitutes normal cannabis cultivation, indoor and outdoor. This will provide insight and safeguards for local government, the general public and the cannabis cultivators themselves, and help to ensure that the sector is operating within reasonable parameters.

³ The current definitions in the Products Classification Act also preclude sheep wool, for example, from being certified organic in BC since it is not consumed by animals nor humans.