



Committee of the Whole Report For the Meeting of November 8, 2018

To: Committee of the Whole **Date:** November 8, 2018
From: Chris Coates, City Clerk
Subject: Cannabis Retail Store License Referrals

RECOMMENDATION

That Council direct staff to

1. Forward the Provincial Cannabis Consultation and Fees Bylaw to establish a process, method, and fee for local government recommendations with regard to cannabis retail store applications, to the November 8, 2018 Council meeting for introductory readings.
2. Amend the City of Victoria's *Cannabis-Related Business Regulation Bylaw* to align with and complement the Province of British Columbia's *Cannabis Control and Licensing Act*.

EXECUTIVE SUMMARY

The Government of Canada legalized the distribution of cannabis as of October 17th, 2018. The Province of British Columbia has established a provincial licensing framework for cannabis retail stores. This process requires a local government recommendation before issuing a cannabis retail store licence. This framework provides local governments with the ability to accept or reject cannabis retail stores from operating within their jurisdiction. Affirmative local government recommendations are required by the Province in order for a Provincial License to be approved.

The City of Victoria created the *Cannabis-Related Business Regulation Bylaw* in 2016 to respond to illegal cannabis retail stores operating in Victoria in anticipation of federal rules on cannabis distribution. Since legalization of cannabis and the new provincial responsibility to authorize cannabis licensing and distribution, the City of Victoria requires a process for providing a local government recommendation on a provincial cannabis retail store application. It also requires revisions to the Bylaw in order to reflect a municipality's more limited role in licensing and enforcement since legalization. Given the parallel nature of the provincial cannabis and liquor retail store licensing process, some municipalities have developed a process, method, and fee, similar to their municipal liquor licensing processes.

As Council direction is needed to establish timing, method, and a fee for license referrals, staff recommend that Council approve the use of an opportunity for public commentary for owners and occupants of parcels within a 100 metre notification area on a cost recovery basis, and review the Bylaw to align with and complement the Province of British Columbia's *Cannabis Control and Licensing Act*. This would create a process for providing a local government recommendation for cannabis retail store applications and eliminating repetitive and contradictory municipal rules. Staff

suggest a written notification process, similar to that for liquor licenses, as the public consultation process to enable public comments on proposed Provincial Licenses.

Optimal timing and type public consultation and alignment of municipal with provincial rules will result in more efficient local government recommendation process to fulfil the requirements of the provincial cannabis retail store licensing framework.

PURPOSE

The purpose of this report is to provide information to Council about the provincial cannabis retail store licensing process, and recommend a process for providing a local government recommendation in relation to an application to the Province, a public consultation method, and review the *Cannabis-Related Business Regulation Bylaw* to align with and compliment the Province of British Columbia's *Cannabis Control and Licensing Act*.

BACKGROUND

Legislative framework for cannabis retail stores

The Government of Canada legalized cannabis under the *Cannabis Act* on October 17, 2018. The *Cannabis Act* creates a framework for controlling the production, distribution, sale and possession of cannabis in Canada. Under this framework, each province is responsible for authorizing retailers of legal cannabis products in their jurisdiction.

Consequently, the Province of British Columbia (the Province) adopted the *Cannabis Control and Licensing Act* (the Act) and subordinate regulations establishing a provincial cannabis retail store licensing program. A cannabis retail store licence authorizes sale of dried cannabis, cannabis oil, cannabis seeds and cannabis accessories for non-medical purposes in a private retail store. The Act sets out the power to issue, renew, transfer, or amend licenses, to refuse to accept applications, license applications requirements, mandatory and discretionary requirements, the power to determine if an applicant is fit and proper, and other matters.

In 2016, the City of Victoria (the City) adopted the *Cannabis-Related Business Regulation Bylaw* (the Bylaw) to regulate illegal cannabis retail stores operating in the City in anticipation of federal laws. The purpose of this Bylaw was to minimize any adverse effects that operation of such businesses may have on the safety, health, and well-being of the community. Since the Province adopted the Act, the role of the City in regulation of cannabis retail stores is more limited.

Provincial Licensing Process

A cannabis retail store owner applies for a licence with the provincial Liquor and Cannabis Regulation Branch (LCRB). LCRB refers applications to the local government where the applicant is located for confirmation that a local government is accepting applications and that the proposed location has retail zoning. If the local government is accepting applications and retail zoning is in place, the LCRB conducts a review of the application. An applicant must satisfy a security screening and financial integrity check at some point in the process. In addition to an LCRB review, the local government may choose to provide a recommendation.

Summary of provincial licensing process:

1. LCLB Receives application
2. LCLB contacts local governments asking if they will consider it.
3. Local government provides zoning confirmation. (Zoning is required in order for the application to proceed any further).
4. Province undertakes security screening and financial integrity check.
5. Local Government provides a recommendation, including public consultation.
6. LCLB completes final consideration and issues license or rejects application.

A local government may choose not to make a recommendation, which would end the application, or choose to make a recommendation. A recommendation must include residents' views. If the local government makes a recommendation in favour of the application, LCRB has discretion whether or not to issue the licence, but must consider the recommendation. LCRB cannot issue a license without a positive recommendation.

Under the provincial licensing system, a local government has discretion to choose when to provide a recommendation, if at all, the method of public consultation, and whether to levy a fee in exchange for work done in relation to an application.

Current State

To date, LCRB has referred 7 applications to the City. Each application has retail zoning in place. A process, public consultation method, and fee as well as bylaw revisions are needed before the City of Victoria makes recommendations on these applications.

ISSUES AND ANALYSIS

Consistency with Liquor Retail Store Licensing Framework

The provincial licensing frameworks for liquor retail stores and cannabis retail stores are similar, therefore consistency at the municipal level with regard to process for providing a local government recommendation, choosing a public consultation method, and establishing fees would be logical.

LCRB is also responsible for regulating licensing liquor retail stores in BC. After LCRB refers an application to the City after it conducts security screening and financial integrity check related to a liquor retail store license application. The City of Victoria *Liquor Licensing Policy* attached as Appendix A provides direction about the City's process and fees associated with a review of applications, directs the LCRB on the types of applications that the City will not provide comments on, and directs City staff on application review and public notification criteria for those application that require an opportunity for the public to comment.

This policy requires that:

1. An applicant places a notification for comment at the site for a period of no less than 30 days.
2. The City mails a notice to all residents and businesses within a 100 metre radius and receive written materials in relation to the application.
3. The City notifies the relevant community association.

The City of Victoria *Liquor Licensing Fee Bylaw* attached as Appendix B sets out that for the purpose of recovering the costs incurred by the City, the person making a liquor licence application must pay \$200.00 for a staff assessment of a licence application or \$750.00 for a licence application that requires staff assessment and Council assessment, and an additional fee for the City's costs for public notification of a public consultation process.

Developing a Process for Viable Cannabis Retail Store License Applications

The City has discretion to choose when to provide a recommendation. The Province conducts security screening and financial integrity checks. These checks provide valuable information about the applicant that would allow the Province, the City, and the applicant to determine the merit of public consultation. The Province will not issue a license to an applicant who fails a security screening and financial integrity check. Therefore it is reasonable to develop a recommendation and advance to public consultation after the check. This ensures that public will be invited to comment on viable license applications and prevents the City from having to charge and then reimburse the applicant for fees paid but work not undertaken.

Choosing an Effective Public Consultation Method

The public may comment on an application through an opportunity for public comment, public hearing, referendum or another method. Each method has implications for the quality of input, timeliness of input, and cost of seeking input. The City would collect a fee for costs incurred in relation to the application; therefore, a public consultation method would take into consideration how cost may prohibit an application.

An opportunity for public commentary would be consistent with public consultation on liquor licenses, which requires a business to send out letter to owners and occupants of parcels within 100 metres of the location subject to the application and place a poster on the proposed business location for 30 days. A wider notification area would increase public consultation costs. This approach invites the public to provide detailed comments, provides a two week period to receive input, and is the least expensive option.

Aligning Provincial and Municipal Cannabis Retail Store License Requirements

Since the Province adopted the Act and subordinate regulations, the Bylaw is no longer current. The Act renders some of the Bylaw clauses as redundant or contradictory. An update to this Bylaw would reflect the new provincial framework for cannabis retail store licensing.

Table of Proposed Bylaw Changes

Comparing Provincial and Municipal Rules		
Municipal Bylaw	Provincial Act and Regulation	Action Needed
Purpose refers to anticipation of federal laws	Not relevant	Amend purpose of Bylaw
2 Definition of storefront retailer. Means a cannabis-related business where cannabis is sold or otherwise provided to a person who attends the premise	Licensee means a person who holds a cannabis retail store license	Refer to provincial definition of licensee

4(2)(c-f) Requires security measures, proof of ownership, and police information check	More robust	Repeal from Bylaw
5(1) Sets right of City to refuse a licence in detail based on prior convictions or inaccurate license applications	Sets right of Province and City to refuse a license	Repeal from Bylaw
6 Sets age of consent, advertisement, consumption, and display rules.	Sets these rules	Repeal from Bylaw
7(a-c) Requires video surveillance, retention of video camera data, and security and fire alarm systems that is always monitored by third-party	Sets these rules	Repeal from Bylaw
8(d) Requires transparent and unobstructed windows	Requires opaque windows	Repeal from Bylaw

OPTIONS AND IMPACTS

Option 1: Written Notification within 100 metres of Property (Recommended)

This option proposes using a written opportunity for public commentary after the provincial security screening and financial integrity check. The City would send notices to owners and occupants of parcels within 100 metres of the property and receive written comments for a 2 week period. The applicant would pay a \$750.00 fee for costs incurred in the course of work on an application. All comments received on the referral would be brought forward in a staff report for Council's consideration

This recommendation also proposes a review of the Cannabis-Related Business Regulation Bylaw.

Option 2: Opportunity for public comment within 100 metres of Property

This option proposes using another opportunity for public comment (non-statutory public hearing) after the provincial security screening and financial integrity check. The City would send notices to owners and occupants of parcels within a 100 metre notification area, hold an opportunity for public comment at a specified location, date, and time, and receive written comments until the close of the opportunity for public comment. The applicant would pay a fee for costs incurred in the course of work on an application.

This option also proposes a review of the *Cannabis-Related Business Regulation Bylaw*

2015 – 2018 Strategic Plan

The recommended option aligns well with the City's strategic goals in Economic Development for reducing red tape and barriers for businesses and making it easier to do business in the City of Victoria.

Impacts to Financial Plan

The recommended option proposes a fee for costs incurred for notification. Application review would be covered by a flat fee and existing staff resources in Legislative Services would manage the referral process. The impacts of the referral process are significant and will have ongoing implications that greatly limits Legislative Services staff resources for any additional project work in 2019.

Accessibility Impact Statement

The recommended option has no specific accessibility implications and the recommended public consultation has broad accessibility implications.


CONCLUSION

Public commentary with 100 metre notification area after provincial security screening and financial integrity check would ensure an opportunity for public input in a timely and cost-effective way for viable applications. In addition, a review Cannabis-Related Business Regulation Bylaw would align municipal, provincial and federal rules in regard to cannabis retail stores.

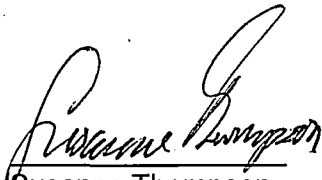
Respectfully submitted,



Monika Fedyczkowska
Legislative and Policy Analyst

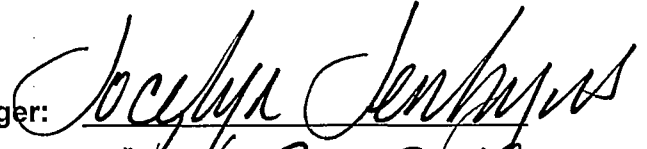


Chris Coates
City Clerk



Susanne Thompson
Deputy City Manager

Report accepted and recommended by the City Manager:



Jocelyn Jenkinson

Date: Nov 2, 2018

List of Attachments

Appendix A – Liquor Licensing Policy

Appendix B – Liquor Licence Fees Bylaw

Appendix C – Draft Cannabis Retail Consultation Fees Bylaw (to follow)