



Committee of the Whole Report For the Meeting of January 13, 2021

To: Committee of the Whole **Date:** December 16, 2021
From: Curt Kingsley, City Clerk
Subject: Review of Business Licensing Fee for Cannabis Retail Stores

RECOMMENDATION

That Council:

1. Direct the City Solicitor to draft necessary bylaws to:
 - a) Amend the *Business Licence Bylaw* to establish a business licensing fee of \$280 for cannabis retail stores and bring it forward for first and second readings.
 - b) Amend the *Business Licence Bylaw* to regulate ground floor commercial display windows to ensure that windows of cannabis retail stores on any street frontage are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements that prevent visibility into and out of the premises and bring it forward for first and second readings.
 - c) Repeal the *Storefront Cannabis Retailer Regulation Bylaw* 19-053, but not before the necessary amendments to the *Business Licence Bylaw*.
2. Direct staff to schedule an opportunity for public comment at a Council meeting.

EXECUTIVE SUMMARY

This report reviews the City's special licensing and operating conditions and associated business licensing fees for cannabis retail stores.

In May 2019, Council directed staff to review business licensing fees for cannabis retail stores once provincial licensing and enforcement stabilized.

Following legalization of cannabis in 2018, the City repealed regulations that duplicated or conflicted with federal and provincial regulations. More time was required for provincial enforcement to come into effect before evaluating the \$5000 business licensing fee which recovered costs associated with municipal enforcement. Staff reviewed this fee now that provincial enforcement is fully implemented. This review includes a brief analysis of current licensing and operating conditions established in the *Storefront Cannabis Retailer Regulation Bylaw* 19-053.

The Bylaw 19-053 sets licensing and operating conditions in addition to the provincial framework, which requires significant on-going enforcement to achieve compliance. Based on this, staff recommend that Council repeal the Bylaw and reduce the fee to \$280. This change would create level playing field with liquor retail stores, which have no special licensing and operating conditions and pay a \$280 business licensing fee. This approach would reduce impact on municipal enforcement staff. It would also reduce revenue by \$80,240 based on current licensing data.

Staff also recommend amending the Business Licence Bylaw 89-071 to maintain a modified licensing condition which ensures visibility into and out of a cannabis retail store. The licensing condition ensures that windows are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements on any street frontage of the premises. A modified licensing condition would allow some window art that does not significantly block visibility. This would support public safety by ensuring visibility into and out of cannabis retail stores, allow cannabis retail stores to beautify their windows like liquor and other retail stores, and support place making objectives such as active land uses.

PURPOSE

The purpose of this report is to seek Council direction about licensing and operating conditions and a business licensing fee for cannabis retail stores.

BACKGROUND

Council direction

On May 9, 2019, Council made the following motion:

That Council direct staff to:

- 1. Bring forward the Storefront Cannabis Retailer Regulation Bylaw 19-053 for first and second readings to the May 9, 2019 Council meeting. (Complete)*
- 2. Schedule an Opportunity for Public Comment at a regular Council meeting as an opportunity to make representations on the proposed bylaw in accordance with section 59 of the Community Charter. (Complete)*
- 3. Provide notice of the intention to adopt the new Storefront Cannabis Retailer Regulation Bylaw by mail to all known storefront cannabis retailers as well as through normal advertising of Council's agenda. (Complete)*
- 4. Undertake a review and analysis of business license fees once Provincial Licensing and Enforcement has stabilized.*

The report from May 9th, 2019 is included as Attachment A.

Regulatory Framework

The BC *Cannabis Control and Licensing Act* establishes licensing and operating requirements for cannabis retail stores. The BC Community Safety Unit is responsible for enforcing provincial regulations. In addition to provincial regulations, local governments may regulate cannabis retail stores to address concerns about impact on community safety and well-being or other matters by establishing licensing and operating conditions.

The City sets licensing and operating conditions for cannabis retail stores under the *Storefront Cannabis Retailer Regulation Bylaw* No.19-053, which is included as Attachment B. The Bylaw regulates hours of operation, staffing levels, air ventilation systems, specific signage, and window requirements. It also sets an annual business licensing fee of \$5000.

Municipal Revenue

As of November 3, 2021, the City has issued business licences to 17 cannabis retail stores in 2021. Municipal revenue from licensing them in 2021 is \$85,000 to date. This is an increase from \$21,616.65 in 2019 and \$60,000 in 2020, as new cannabis retail stores continue to open.

The annual business licensing fee funds bylaw enforcement.

Licensing Fees in Other Municipalities

Staff conducted a review of municipal business licensing fees for cannabis retail stores. Attachment C – Municipal Licence Fees for Cannabis Retail Stores by Region shows selected municipal licence fees in BC. In addition to these fees, municipalities collect fees for work associated with land use decisions, reviewing applications, and other matters.

Like Victoria, many municipalities adopted special licensing and operating conditions for cannabis retail stores which is reflected in higher business licensing fees. Vancouver's annual licence fee is the highest at \$13,500. Chilliwack and Kelowna set licence fees at \$10000 and \$9645, respectively. Abbotsford sets licence fees at \$7500. Many municipalities set licence fees between \$2500 and \$5000. Esquimalt and Saanich both set licence fees at \$2000.

In October 2021, Vancouver reviewed its business licensing fee and implemented a decrease from \$33,958 to \$13,500 in 2022 and a further decrease to \$5000 in 2023. Chilliwack plans to decrease the fee from \$10000 to \$2500 in 2022. In April 2021, Pemberton adopted a phased approach to reduce fees from \$5000 to \$150 by 2023 to align with the retail store rate. Dawson Creek reduced the fees from \$2,500 to \$625 align with the licence fee for liquor stores. Langford, Duncan, Penticton, Port Moody, Nanaimo, and Tofino set fees at a retail store rate.

ISSUES AND ANALYSIS

Rationale for \$5000 Fee

The City established a \$5000 business licence fee to maintain a Bylaw Officer position to support the special licensing and operating conditions, and to recover municipal costs prior to legalization in 2018 which included costs for development of a regulatory framework, administration, licensing, enforcement, and legal costs.

The City's Evolving Role in Regulating Cannabis Retail Stores

When first adopted, the purpose of the City's regulatory framework for cannabis retail stores was to mitigate negative impacts of cannabis retail stores on community safety and well-being in the absence of provincial and federal regulations.

When the federal government legalized cannabis in October 2018, the Province assumed responsibility for regulating cannabis retail stores and as a result many of the City's licensing and operating conditions duplicated or contradicted the new provincial regulatory framework. The City repealed many conditions to align with the provincial regulatory framework. Staff recommended keeping the current remaining licensing and operating conditions because most did not directly duplicate or conflict with the provincial regulatory framework, and licensees did not identify concerns at that time.

Although it conflicted with provincial licensing and operating requirements when the Province first introduced its regulatory framework, Council directed to keep the condition that stores ensure that windows on any street frontage of the premises are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements. In July 2020, the Province changed its regulations which has enabled the City to enforce this condition.

Re-Evaluating the City's Role

Now that provincial enforcement has been fully implemented, staff reviewed the \$5000 business licensing fee.

A new business licensing fee should consider the licensing and operating conditions in the *Storefront Cannabis Retailer Regulation Bylaw 19-053* and the cost of enforcing them. Most cannabis retail stores are not compliant with at least one of the licensing and operating conditions, therefore enforcement is continuous and costly. However, the licensing and operating conditions are in addition to the robust provincial regulatory framework, and there would not be a significant impact if Council repeals them. Table 1 contains an analysis of the impact of repealing the Bylaw.

If the *Storefront Cannabis Retailer Regulation Bylaw 19-053* is repealed, the City would enforce conditions that apply to all storefront retailers in the *Business Licence Bylaw 89-071* and any other bylaws. With this change in approach to municipal conditions for cannabis retail stores, staff recommend that Council adopt a \$280 business licensing fee for cannabis retail stores which is the same amount as the City’s fee for liquor retail stores.

Staff also recommend amending the Business Licence Bylaw 89-071 to maintain a modified licensing condition which ensures visibility into and out of a cannabis retail store. The licensing condition ensures that windows are not blocked by translucent or opaque material, artwork, posters, shelving, display cases or similar elements on any street frontage of the premises. A modified licensing condition would allow some window art that does not block visibility. This would support public safety by ensuring visibility into and out of cannabis retail stores, allow cannabis retail stores to beautify their windows like liquor and other retail stores, and support place making objectives such as active land uses.

The *Official Community Plan* identifies numerous place making objectives, including encouraging buildings adjacent to sidewalks and public plazas to maximize shop windows at ground level to support active land uses and provide interest for pedestrians. Specific design guidelines, such as the *Design Guidelines for Multi-Unit Residential, Commercial, and Industrial*, go into further detail and recommend transparent and unobstructed windows to increase interactions between pedestrians and interior spaces and increase natural surveillance of spaces.

Staff recommend that the unobstructed windows condition currently only apply to cannabis retail stores. If Council wishes to formally establish unobstructed windows as a condition for all stores in Victoria or in the downtown area by bylaw, staff recommend Council first direct staff for a report on the implications. Staff are aware there are other businesses that do not have transparent and unobstructed windows.

Table 1: An overview of the impact of repealing the Bylaw

REGULATION TYPE	CURRENT CONDITION IN THE <i>STOREFRONT CANNABIS RETAILER REGULATION BYLAW</i>	MUNICIPAL CONDITION THAT WOULD APPLY IF CURRENT CONDITIONS REPEALED	IMPACT OF REPEAL
AIR FILTRATION SYSTEM	Install and maintain air filtration system to minimize odour	None	Province prohibits consumption on site and requires well sealed containers. This prevents odour.

STAFFING LEVELS	Requires two staff on site, including one manager	None	Various provincial regulations support safety and security in store. Transparent and unobstructed windows support safety and security.
WINDOWS	Not blocked by translucent or opaque materials, artwork, posters, shelving, display cases or similar items	OCP objectives and Design Guidelines for Multi-Unit Residential, Commercial and Industrial.	Stores may revert to using opaque or translucent materials. Staff recommend maintaining but modifying condition to ensure visibility. Canada/BC rules restrict product visibility. Canada rules regulate advertising to minors.
HOURS OF OPERATION	Allows operations hours between 9am and 10pm	No limit on hours of operation.	Province restricts hours to between 9am and 11pm.
ADVERTISING AND SIGNAGE	No more than two signs visible from outside with additional specifications	Sign Bylaw applies. May have more signs and advertisements visible from outside.	Canada/BC advertising requirements apply, including rules about advertising to minors.

Consultation with Licensees

Under the *Community Charter*, section 59 before adopting a business regulation bylaw, a council must provide an opportunity for persons who consider they are affected by the bylaw to make representations to council. Staff contacted store licensees and prospective licensees for comments. Their responses are included as Attachment D – Comments from Store Operators.

OPTIONS AND IMPACTS

Option 1 – No special licensing and operating conditions and \$280 fee (*Recommended*)

- Significantly reduces impact on Bylaw and Licensing Services staff
- Relies on provincial enforcement of cannabis retail stores
- Same fee as liquor retail store business licence fee
- Different than tobacco and general retail store fee (\$100)

Option 2 – Keep special licensing and operating conditions and \$2000 fee

- Requires significant enforcement to achieve compliance
- Recovers some enforcement costs
- Same fee as Esquimalt and Saanich
- Higher fee than liquor, tobacco, and other retail stores

Option 3 – Status quo – Keep special licensing and operating conditions and \$5000 fee

- Significantly higher fee than for any other retail store rate
- Significantly higher than neighbouring municipalities

Accessibility Impact Statement

The recommendation has not accessibility implications.

2015 – 2018 Strategic Plan

The recommendation has not accessibility implications.

Impacts to Financial Plan

The recommendation would result in a reduction of revenue equal to \$80,240 based on current licensing data.

Official Community Plan Consistency Statement

The recommendation has no OCP implications.

CONCLUSION

Staff recommend repealing most special licensing and operating conditions for cannabis retail stores and a \$280 business licensing fee. The Province is responsible for most licensing and operating requirements for cannabis retail stores. Provincial enforcement is fully implemented and no longer relies on municipal enforcement to supplement it. The Bylaw is in addition to the provincial licensing and operating requirements and requires significant on-going enforcement. The recommendation would mirror the municipal licensing framework for liquor retail stores which do not have any special licensing or operating conditions and pay a \$280 fee.

Respectfully submitted,

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Legislative and Policy Analyst

Curt Kingsley
City Clerk

Susanne Thompson
Deputy City Manager

Report accepted and recommended by the City Manager

List of Attachments

Attachment A: May 9, 2019 Committee of the Whole Report
Attachment B: Storefront Cannabis Retailer Regulation Bylaw No.19-053
Attachment C: Municipal Licence Fees for Cannabis Retail Stores
Attachment D: Comments from Licensees