



Committee of the Whole Report

For the Meeting of July 28, 2016

To: Council
From: Chris Coates, City Clerk
Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Bylaws for Marijuana-Related Businesses
Date: July 21, 2016

RECOMMENDATION

That Council:

1. Give first and second reading to the proposed:
 - a. Zoning Regulation Bylaw Amendment, attached as Appendix A,
 - b. Marijuana-Related Business Regulation Bylaw, attached as Appendix C.
2. Give three readings to the proposed
 - a. Land Use Procedures Bylaw Amendment, attached as Appendix B, and
 - b. Ticket Bylaw Amendment, attached as Appendix D.
3. Schedule a public hearing on the bylaw amendments, and invite comments on the additional proposed regulations for businesses via notice to affected businesses in accordance with section 59 of the *Community Charter*.
4. Direct staff to amend the proposed Marijuana Storefront Retailer Rezoning Policy, attached as Appendix E, to remove the buffer zone around child care facilities, and
5. Direct staff to
 - a. Bring forward an amendment to the Five Year Financial Plan Bylaw, 2016 to increase expenditures by \$187,500 for Sustainable Planning and Community Development for temporary additional staffing offset by an equal amount in rezoning fee revenue,
 - b. Include in the 2017-2021 Financial Plan an additional FTE for a bylaw officer and the associated salary and benefits costs offset by an equal amount in business licence fee revenue.

EXECUTIVE SUMMARY

There has been a significant increase in the number of marijuana-related businesses in the city. There are currently 38 known medical marijuana-related businesses operating in Victoria. These include businesses that sell marijuana paraphernalia, provide medical advice or consulting relating to the use of medical marijuana and produce products containing marijuana. 35 of these businesses are currently known to be selling medical marijuana in contravention of federal laws.

On May 12, 2016, Council approved to move forward with a set of regulations for medical marijuana-related businesses that are designed to address concerns related to health and safety, security and neighbourhood impacts. Those regulations were informed by two phases of public engagement and a best practices review. At that time, Council directed staff to bring forward the bylaws necessary to put those regulations into place. The bylaws attached to this report implement this Council direction.

Rezoning applications will follow the Storefront Marijuana Retailer Rezoning Policy (Appendix E) and will begin to be adopted three months out from the adoption of the proposed Zoning Regulation Bylaw Amendments (Appendix A) in order to give the department time to staff up and prepare the necessary processes. The cost of the rezoning process is \$7500. Business Licences will not be issued until the rezoning has been resolved. The proposed Marijuana-Related Business Regulation Bylaw (Appendix C) includes a business licence fee of \$5,000 for storefront retailers and \$500 for marijuana-related businesses. In order to limit operations to the single purpose of medical marijuana related business, only one business licence will be issued per location. The fees were determined on a cost-recovery basis using the estimated cost of the resources required to administer and enforce the new regulatory scheme

The recommendation is to give readings to the planning, land use and business licence bylaws and policy that provide a regulatory scheme for the City to consider permitting marijuana-related businesses on a site-by-site basis. The proposed business bylaws will undergo required public consultation, the zoning bylaw will undergo a required public hearing, and the land use bylaw amendments and rezoning policy will be considered by Council and have an opportunity for public comment. The public input will be brought forward to Council before the new regulations and bylaws are adopted. The financial and resource impacts of the new regulatory scheme are to be added to the appropriate financial plans; the fees for the new business licences and the rezoning process will offset the costs of the additional staff resources required by the regulations.

PURPOSE

The purpose of this report is to bring forward bylaws and related supporting documents for Council consideration that will bring into effect regulations for marijuana-related businesses.

BACKGROUND

Over the course of the last two years, there has been a significant increase in the number of marijuana-related businesses in the city. The Victoria Police Department reports there were only four marijuana-related businesses operating in the city on April 1, 2014. There are currently 38 known marijuana-related businesses operating in Victoria. These include businesses that sell marijuana paraphernalia, provide medical advice or consulting relating to the use of marijuana and/or manufacture products containing marijuana. 35 businesses are known to be selling medical marijuana in contravention of federal regulations. It is not known the degree to which these businesses are selling marijuana related to addressing health concerns or for other purposes. Only eight possess business licences that allow for the sale of paraphernalia or the provision of medical advice. These licences do not authorize the sale of marijuana. The proposed regulatory scheme addresses the retail sale of marijuana regardless of whether for health or other reasons.

The storefront sale of medical marijuana is currently prohibited by federal law, however the federal government has announced an intention of legalizing and regulating marijuana sales in the future. The recommended regulations fall within the City's authority to regulate business activities and land use within its jurisdiction, however the City may be perceived as legitimizing illegal activities.

Complaints have been received by the City and the Victoria Police Department regarding marijuana-related businesses. These include:

- increased foot traffic surrounding businesses
- nuisance to other nearby businesses, potentially impacting their customers
- odour, food safety and other health issues
- exposure of young persons to the sale of marijuana
- infiltration of organized crime, and
- sale to persons without medical need.

The Victoria Police Department is also concerned about the lack of effective or reasonable security measures at these businesses for both the protection of employees and robbery prevention.

On May 14, 2015 Council directed staff to consult with the existing member-based medical cannabis dispensaries in the City of Victoria and bring forward for Council's consideration:

1. Proposed bylaw amendments aimed at mitigating community impacts and concerns associated with the operation of medical marijuana-related businesses at a town hall meeting prior to the consideration of proposed bylaws.
2. A proposed compliance and enforcement strategy consistent with the proposed new regulations.

Since Council direction was received in May of 2015, two phases of engagement and a best practices review have occurred. After considering a set of recommended regulations based on that work, Council gave the following direction to staff on May 12, 2016:

1. Direct staff to bring forward for Council consideration amendments to the Zoning Regulation Bylaw that will prohibit the following uses in any zone of the City unless expressly permitted:
 - a) storefront marijuana retailers, and
 - b) businesses that allow consumption of marijuana on site.
2. Direct staff to bring forward for Council consideration a proposed new Medical Marijuana-Related Business Regulation Bylaw that includes the following regulations:
 - a) Medical marijuana-related businesses must not allow individuals under the age of 19 on the premises.
 - b) Medical marijuana-related businesses must not advertise or promote the use of marijuana to a minor, including through product displays, names, logos or other signage.
 - c) Storefront medical marijuana retailers must post health and safety warning signs on the premises.
 - d) Medical marijuana-related businesses must not allow consumption of marijuana on the premises.
 - e) Any business that keeps marijuana on the premises must install and maintain an air filtration system to ensure odour impacts on neighbouring properties are minimized.
 - f) Storefront medical marijuana retailers must not be open for business between 8 p.m. and 7 a.m.
 - g) The premises of a storefront medical marijuana retailer can only be used for the sale of medical marijuana and accessory uses.
 - h) Any business that keeps marijuana on the premises must submit the following information as part of their initial business licence application and on each renewal:
 - a security plan
 - police information checks for the applicant and every on-site manager
 - proof of a security alarm contract, and

- proof of ownership or legal possession of the premises, including the written consent of the landlord if the premises are leased.
 - i) Storefront medical marijuana retailers must implement the following measures to deter criminal activity while the business is open to the public:
 - at least two employees must be on duty, and
 - windows must not be blocked.
 - j) Any business that keeps marijuana on the premises must implement the following security measures:
 - video surveillance cameras must be installed and monitored
 - a security and fire alarm system must be installed and monitored at all times, and
 - valuables must be removed from the business premises or locked in a safe on the business premises at all times when the business is not in operation.
 - k) The payment of business licence fees that reflect the costs required to administer the Council-approved regulations and compliance and enforcement strategy.
3. Direct staff to bring forward for Council consideration proposed amendments to the Ticket Bylaw that will establish penalties for contravention of the proposed new Medical Marijuana-Related Business Regulation Bylaw that are in keeping with the Council approved policy on the establishment of municipal ticket fines.
 4. Direct staff to provide further details on additional staff resources in the Sustainable Planning and Community Development Department and Bylaw and Licensing Services once Council policy decisions have been confirmed in connection with the suite of regulations under consideration.
 5. That staff prepare an amendment to prohibit advertising, except for minimal store front signage.
 6. That staff prepare an amendment to include licensed child-care facilities in the list of those places requiring a 200 meter buffer zone.
 7. That staff provide a list and map of licensed child care facilities in the City of Victoria when the Bylaw comes forward as well as suggested language relating to a 200 meter buffer zone around child care facilities.

The bylaws attached to this report as Appendices A through D bring into effect items 1(a), 2, 3, and 5. Items 4, 6 and 7 are included in this report and in the Appendices E and F. Item 1(b) will come forward in time for the adoption of the other bylaws.

ISSUES & ANALYSIS

1. *Licensed child care facilities*

As directed by Council, the proposed Storefront Marijuana Retailer Rezoning Policy included as Appendix E has been revised to specify that retailers must be at least 200 m from an established licensed child care facility. Underlining in policy statement 2 highlights the change.

Approximately six current retailers are within 200 m of a licensed childcare facility. The currently licensed child care facilities are included on the map in Appendix F. The data has been compiled from those with current business licences in the City.

The addition of the daycares significantly reduces the number of possible locations for storefront marijuana retailers and does not necessarily address concerns about minors gaining access to marijuana. Given the impacts it has to potential businesses and the minimal exposure of the children given the lack of advertising and on-site consumption, Council may wish to consider amending the policy to remove the buffer zone around licensed child care.

2. Advertising restrictions

Council direction from May 12, 2016 included additional restrictions on advertising. Council directed staff to prepare an amendment prohibiting advertising, except for minimal store front signage. Section 6 of the proposed Marijuana-Related Business Regulation Bylaw brings this Council direction into effect by limiting the number, size and design of the sign displaying the business name. These regulations are in keeping with similar Provincial rules for tobacco advertising. The section also prohibits any other form of advertising.

3. Compassion Clubs

There has been some suggestion that “compassion clubs” or storefront retailers operating on a non-profit basis should be categorized as a distinct type of medical marijuana-related business. There are two long-standing non-profit societies that have been operating as compassion clubs within the City of Victoria at their current locations for at least the past ten years. There appears to be no significant difference in the type of activities conducted at these businesses compared to other storefront medical marijuana retailers; therefore, regulations designed to minimize health and safety concerns, security concerns and neighbourhood impacts should equally apply.

If Council wishes to treat the two longstanding compassion clubs separately in light of their history in the community and their medical focus, Council may wish to consider one of the following options:

- a) allow them to operate as marijuana-related businesses with no storefront retail (e.g. no sales), but they may continue to offer consultation and advocacy,
- b) provide them with a revenue neutral \$5,000 grant to offset their costs associated with Business Licenses, or
- c) initiate their rezoning to save them the rezoning and land use fees, with the understanding that both organizations will need to provide all the required documentation to advance a rezoning application.

Providing a separate category for non-profit businesses would likely not be effective as many other operators would likely find ways to operate as non-profits also, thereby reducing their requirements to follow bylaw regulations and having an unknown impact on forecasted business licence fee revenue. Staff are aware of at least four current businesses that claim to operate on a non-profit basis.

Under s.25 of the *Community Charter*, local governments are precluded from providing assistance to business; therefore, Council may consider option (a), which would allow the compassion clubs to continue to operate in an advisory capacity and operate as a medical marijuana-related business under the new bylaws. If the two compassion clubs would like to operate as storefront retailers, they will be required to undergo the same process and follow the same safety requirements as all other storefront retailers, including rezoning.

4. Rezoning process and potential Community Association Land Use Committee referral

The possibility of Community Association Land Use Committee (CALUC) involvement in storefront marijuana retailer rezonings was canvassed with CALUC representatives at a recent meeting.

Concerns regarding the ability of CALUCs to host these meetings were expressed. Many representatives felt that existing CALUC meeting venues and security arrangements would be insufficient to accommodate the large crowds that would likely wish to attend these meetings; in addition it was felt that additional support may be required at these meetings to discuss health and legal issues. Concerns were also expressed regarding the value of these meetings because proposed rezoning applications would typically be located in existing buildings, therefore there would be little for CALUCs to comment on, other than whether attendees felt the new use was appropriate or not, which would also be the focus of a Public Hearing.

In light of these concerns, staff are recommending a revision to the proposed Storefront Marijuana Retailer Rezoning Policy included as Appendix F that will waive the requirement for a Community Meeting for storefront marijuana retailer rezoning applications, unless the rezoning proposal includes construction of a new building. Underlining in policy statement 6 highlights the proposed change.

Some members of Council have expressed concerns with a “first-come, first-served” approach to storefront marijuana retailer rezonings. Under the Land Use Procedures Bylaw, 2016, Council has a great deal of discretion with regard to how it manages the rezoning process. Council is not obligated to consider each application in the order in which it is submitted to the City. For instance, if Council wishes to consider multiple applications from a certain area or neighbourhood at the same time, it can schedule concurrent public hearings for those applications. Applications would not be managed other than on a first come, first served basis unless further policy was established.

5. Staff resources and fees

Both ongoing and one-time resources are required to implement both the recommended regulations and the Council-approved compliance and enforcement strategy. One permanent additional FTE in the Bylaw and Licensing Services will be required starting in 2017 in order to process business licence applications and monitor compliance through routine inspections. On a temporary basis, the Development Services Division will require additional resources to review and process rezoning applications. These additional resources will be funded on a cost recovery basis through business licensing and rezoning application fees.

A proposed amendment to the Land Use Procedures Bylaw attached as Appendix B includes a storefront marijuana retailer-specific rezoning application fee of \$7,500. This fee would cover the anticipated costs associated with the review of these types of applications and would facilitate the temporary establishment of additional resources. The timeframe for requiring these additional resources will be in direct relation to the number of rezoning applications received. Rezoning applications will begin to be accepted three months out from the adoption of the Zoning Regulation Bylaw Amendments in order to give the department time to staff up and prepare the necessary processes. This will additionally provide potential applicants with time to gather the necessary documentation.

The proposed Marijuana-Related Business Regulation Bylaw attached as Appendix C includes a business licence fee of \$5,000 for storefront retailers and \$500 for marijuana-related businesses. The fees were determined on a cost-recovery basis using the estimated cost of the resources required to administer and enforce the new regulatory scheme. Business Licences will not be issued until the rezoning has been resolved.

6. Compliance and enforcement strategy

On May 19, 2016 in a closed meeting Council approved rising and reporting through this staff report

on a proactive approach towards enforcement of zoning, business licensing and operating requirements for medical marijuana-related businesses. Upon adoption of the necessary bylaws, medical marijuana-related businesses will be formally informed of the new regulations and routine inspections to monitor compliance with new operating requirements will commence.

Storefront retailers will need some time to come into compliance with new zoning and business licensing requirements. Storefront retailers will not be able to begin the process to obtain a rezoning and business licence until after the necessary bylaws come into effect. Additionally, there will be a period of time required in order to "staff-up" in order to be able to begin fully processing these extra rezoning applications. From the point staff are in place and trained, the rezoning process takes at least six months and a business licence will not be issued until the appropriate zoning is in place; however, it is worth noting that given that an influx of applications is anticipated, even with additional staff, it will not be possible to advance all applications simultaneously, so some operators may take longer than others to come into full compliance. No action to enforce zoning and business licensing requirements will be initiated against storefront retailers that have begun operations before the date that new bylaws come into effect, so long as the storefront retailer is demonstrating progress towards obtaining a rezoning and subsequent business licence. Enforcement of operating requirements will begin immediately once the necessary bylaws come into effect. However, as with all bylaw enforcement, voluntary compliance is the first goal and there will be an initial grace period of 30 days while the changes are communicated to businesses and prior to more forceful enforcement.

Storefront retailers that begin operations without the appropriate zoning and business licence in place after the date that new zoning and business licensing requirements come into effect will be directed to immediately cease operations. As soon as possible, staff will seek Council approval for an injunction application if a storefront retailer continues to operate after being directed to cease operations. Should business operations continue, Council could consider a Supreme Court injunction to enforce the business cessation order. Tickets may be seen as "the cost of doing business" and are likely not an effective enforcement tool for this business sector on an ongoing basis.

7. One Business Licence per Location

In order to limit operations to the single purpose of medical marijuana related business, only one business licence will be issued per location. The business will not be able to share space with any other land use, for example operate as a coffee shop, restaurant, lounge or entertainment venue, for example. As part of this single business licence regulation, no vending machines (including cash ATMs) will be permitted inside any medical marijuana related business, as these machines are each required to have their own business licence. Some existing storefront retailers currently have vending machines and cash machines. Vending machines can be difficult to supervise to ensure their use only by those who have been screened by staff.

8. Next steps

Before the proposed amendments to the Zoning Regulation Bylaw can be adopted, a public hearing is required. Because their content is related, staff are recommending that comments on the amendments to the Zoning Regulation Bylaw and Land Use Procedures Bylaw, as well as the proposed Storefront Marijuana Retailer Rezoning Policy, all be solicited at the same public hearing. As the proposed bylaw changes would take effect City-wide, no Community Association Land Use Committee meetings or mail-outs are required. Notice of the public hearing would be provided to all community associations. All of these opportunities for comment will be widely promoted.

In accordance with section 59 of the *Community Charter*, before adopting a bylaw that regulates business, Council must give notice of its intention and provide an opportunity for persons who consider they are affected to make representation to Council. This required consultation can be done “in the form and manner, at the times and as often as the council considers reasonable”. Since the widespread consultation conducted August-September 2015 and February-March 2016, the only changes is the addition of the advertising prohibition. Given the extensive consultation already to date on this project and the minor nature of the changes since that consultation, Council may wish to consider that outreach consisting of posting the updated proposed regulations and draft bylaw sections on our website, through social media, media releases and E-news to be sufficient. Members of the public and businesses could submit written feedback, which will be presented to Council before third reading and adoption of the business regulations. Consultation efforts will focus on the outreach and communication requirements for businesses once the new regulations come into effect.

OPTIONS & IMPACTS

Option 1 – Give the attached bylaws two readings (*recommended*)

Under this option, Council would give readings to the following bylaws:

- Proposed Zoning Regulation Bylaw Amendment (Appendix A)
- Proposed Land Use Procedure Bylaw Amendment (Appendix B)
- Proposed Marijuana-Related Business Regulation Bylaw (Appendix C)
- Proposed Ticket Bylaw Amendment (Appendix D)

The impacts of this option include:

- Proposed bylaws should mitigate concerns related to health and safety, neighbourhood impacts and security.
- Some businesses will need to modify current practices in order to comply with the new bylaws; however, customers should not be significantly impacted.
- Implementation of business licensing requirements for medical marijuana-related businesses will maintain integrity of the City’s business licensing scheme, respond to concerns from licensed businesses and generate revenue that can be used to fund the implementation and enforcement of regulations for this business sector. It is acknowledged that the City is issuing business licences to businesses that are operating in contravention of federal laws. However, the city has no authority to regulate the sale of controlled substances such as marijuana; accordingly this report recommends land use and business regulations and does not seek to regulate the product itself.
- Implementing the bylaws in advance of anticipated changes to federal marijuana laws may have both positive and negative impacts. With regulations already in place, the City will be able to quickly and effectively manage impacts should the federal government decide to legalize storefront sales of marijuana and/or medical marijuana; however, future changes to City regulations may be required to respond to elements of any new federal regulatory scheme.

The next steps of this option include:

- A public hearing will be scheduled for the proposed amendments to the Zoning Regulation Bylaw and the Land Use Procedures Bylaw, likely for September 8.
- Further consultation with businesses would be conducted on the additional proposed changes to the regulations of marijuana-related businesses, with the ability to provide written or electronic comments. This feedback will be provided to Council prior to the bylaw being brought forward for third reading in September.

- The Proposed Storefront Marijuana Retailer Rezoning Policy would be brought forward for adoption with the land use bylaw amendments in September following the public hearing.

Option 2 – Provide additional direction to staff before consideration of the proposed bylaws

Alternatively, Council may wish to provide additional direction to staff before it gives readings to the proposed bylaws.

2015 – 2018 Strategic Plan

The proposed bylaws support Objective 7 from the 2015 – 2018 Strategic Plan: Facilitate Social Inclusion and Community Wellness.

Impacts to Financial Plan

Should Council consider moving forward with the recommended regulatory process, there are a number of impacts to the Financial Plan. Ongoing resources for Bylaw Services will be required starting in 2017 offset by a new business licence fee, and one-time resources will be required in Development Services which will be offset by rezoning application fees.

An amendment to the 2016 Financial Plan will be required for the Development Services resources and the additional bylaw resources would be included in the 2017-2021 Financial Plan.

Official Community Plan Consistency Statement

The proposed bylaws are consistent with various policies outlined in Section 15 of the Official Community Plan: Community Well-Being. These include policy 15.20 (Collaborating with partners to encourage a safe and thriving Downtown and Neighbourhoods) and policy 15.24.2 (Reducing harm to individuals and communities from the sale and use of both legal and illegal substances).

CONCLUSIONS

The proposed bylaws and supporting documents are designed to continue to allow customers access to medical marijuana, while mitigating some of the community impacts and concerns associated with the operation of these businesses in Victoria.

There are risks in proceeding with regulations and business licensing for this sector, as the storefront sale of medical marijuana is currently prohibited by federal law. Although the recommended regulations fall within the City's authority to regulate business activities and land use within its jurisdiction, the City may be perceived as legitimizing illegal activities. The federal government has announced an intention of legalizing and regulating marijuana sales in the future, which means that the City's regulations if enacted may need to be changed in response to a new federal regime.

However, there are also benefits to be achieved in proceeding with regulations at this time. Allowing storefront retailers to continue operations without valid business licences is contrary to the City's overall business licensing scheme. The City will be able to more effectively manage concerns related to health and safety, neighbourhood impacts and security once regulations and business licensing for this sector is in place. With regulations in place, the City will also be able to quickly and effectively manage impacts should the federal government decide to legalize storefront sales of medical marijuana.

Respectfully submitted,



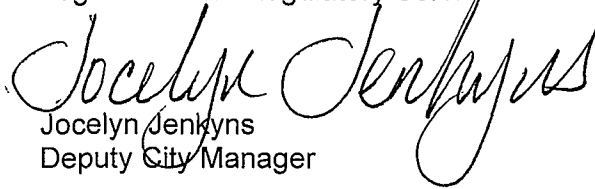
Emilie Gorman
Policy Analyst
Legislative and Regulatory Services



Chris Coates
City Clerk
Legislative and Regulatory Services



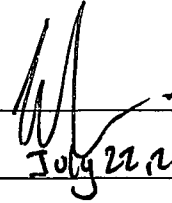
Jonathan Tinney
Director, Sustainable Planning
and Community Development



Jocelyn Jenkins
Deputy City Manager

Report accepted and recommended by the City Manager:

Date:


July 21, 2016

List of Attachments:

- Appendix A – Proposed Zoning Regulation Bylaw Amendment
- Appendix B – Proposed Land Use Procedure Bylaw Amendment
- Appendix C – Proposed Marijuana-Related Business Regulation Bylaw
- Appendix D – Proposed Ticket Bylaw Amendment
- Appendix E – Proposed Storefront Marijuana Retailer Rezoning Policy
- Appendix F – Map of Known Storefront Medical Marijuana Retailers with 200 m Buffer Zones

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Zoning Regulation Bylaw to define "storefront marijuana retailer" as a use and to restrict the location of this use.

The Council of The Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1070)".
- 2 The Zoning Regulation Bylaw No. 80-159 is amended in the General Regulations by adding the following as section 17 (3) of the general regulations:
 - "(3) Without limiting the generality of subsection (1), storefront marijuana retailer, whether as a principal or accessory use, is prohibited in all zones except where expressly permitted under this bylaw."
- 3 The Zoning Regulation Bylaw No. 80-159 is amended in Schedule "A" – Definitions by:
 - (a) adding the following definition after the definition of "**Lowest Storey**":

"**Marijuana**" means cannabis as defined in the *Controlled Drugs and Substances Act* and includes any products containing cannabis.
 - (b) adding the following definition after the definition of "**Split Level Dwelling**":

"**Storefront Marijuana Retailer**" means premises where marijuana is sold or otherwise provided to a person who attends at the premises."

READ A FIRST TIME the	day of	2016
READ A SECOND TIME the	day of	2016
Public hearing held on the	day of	2016
READ A THIRD TIME the	day of	2016
ADOPTED on the	day of	2016

CITY CLERK

MAYOR

Appendix B

NO. 16-059

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Land Use Procedures Bylaw to impose application fees for certain types of applications.

The Council of the Corporation of the City of Victoria enacts the following provisions:

1. This Bylaw may be cited as "LAND USE PROCEDURES BYLAW, 2016, AMENDMENT BYLAW (NO 1)"
2. Bylaw No. 16-028, the Land Use Procedures Bylaw, is amended as follows:

Schedule A, Section 2, base application fee, by adding the following after Subsection (7):

- (8) Notwithstanding subsection (1), the application fee to allow any "storefront marijuana retailer" use is \$7500.

READ A FIRST TIME the	day of	2016
READ A SECOND TIME the	day of	2016
READ A THIRD TIME the	day of	2016
ADOPTED on the	day of	2016

CITY CLERK

MAYOR

NO. 16-061

MARIJUANA-RELATED BUSINESS REGULATION BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to provide for the regulation of marijuana-related businesses to minimize any adverse effects that operation of such businesses may have on the safety, health and well-being of the community in anticipation of changes to the federal laws regarding distribution of marijuana.

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PART 1 – INTRODUCTION

Title

- 1 This Bylaw may be cited as the "Marijuana-Related Business Regulation Bylaw".

Definitions

- 2 In this Bylaw:

"marijuana"

means cannabis as defined in the *Controlled Drugs and Substances Act* and includes any products containing cannabis;

"marijuana-related business"

means carrying on of activity where

- (a) the use of marijuana for medical or any other purposes is advocated or promoted;
- (b) marijuana or paraphernalia used in the consumption of marijuana are sold or otherwise provided to persons for any purpose;
- (c) marijuana is stored for a purpose of sale or distribution; or
- (d) marijuana is consumed in any form;

"shareholder"

means a shareholder with a 10% or greater interest;

"storefront marijuana retailer"

means a marijuana-related business where marijuana is sold or otherwise provided to a person who attends at the premises.

Application of this Bylaw

- 3 The provisions of this Bylaw do not apply to production and distribution of marijuana licensed by Health Canada under the Marihuana for Medical Purposes Regulations or the Marihuana Medical Access Regulations of the *Controlled Drugs and Substances Act* (Canada).

PART 2 - BUSINESS LICENCES

Business licences required for marijuana-related businesses

- 4 (1) A person must not carry on marijuana-related business unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw.
- (2) A person applying for the issuance or renewal of a licence to carry on a marijuana-related business where marijuana is kept or present on the premises must:
- (a) make application to the Licence Inspector on the form provided for that purpose
 - (b) pay to the City the applicable licence fee prescribed under subsection (3)
 - (c) provide a security plan for the premises that, in the opinion of the Licence Inspector, describes adequate security measures to mitigate risk of theft or robbery at the premises;
 - (d) provide proof of a security alarm contract that includes monitoring at all times during the period for which the licence is being sought, and
 - (e) provide proof of ownership or legal possession of the premises, and

- (f) provide a current police information check for:
 - (i) the applicant
 - (ii) if the applicant is a corporation, each shareholder, officer and director, and
 - (iii) each on-site manager.
- (3) The licence fee for purposes of subsection (2)(b) is:
 - (a) \$5,000 for a storefront marijuana retailer, and
 - (b) \$500 for all other businesses where marijuana is kept on the premises.

Licence Inspector's authority to refuse a licence

- 5 (1) The Licence Inspector may suspend or refuse to issue or renew a licence for a business where marijuana is kept on the premises if:
 - (a) the applicant or licensee, or a shareholder, officer, director or on-site manager of the applicant or licensee:
 - (i) was convicted anywhere in Canada of an offence involving dishonesty
 - (ii) was convicted, found guilty of, or liable for any contravention or offence relating to the conduct of a business similar to that to which the licence relates
 - (iii) was convicted, found guilty of, or liable for any contravention or offence, in Victoria, against this bylaw or against any bylaw authorizing the issuance of a business licence or regulating the conduct of a business, or
 - (iv) was guilty of misrepresentation, nondisclosure or concealment of any material fact, relating to the subject matter of the licence or required to be stated in, the application.
- (2) A decision of the Licence Inspector under subsection (1) may be appealed to Council by submitting a request in writing to the City Clerk within 30 days of the decision.

PART 3 - OPERATING REQUIREMENTS

Requirements for all marijuana-related businesses

- 6 A person carrying on a marijuana-related business must not:
 - (a) allow a person under the age of 19 on the premises

- (b) advertise or promote the use of a marijuana to a person under the age of 19
- (c) allow a person to smoke, vape, consume or otherwise ingest marijuana or products containing marijuana on the premises, or
- (d) display any advertising or sign that is visible from outside of the premises except for a maximum of two signs which display no images and contain only:
 - (i) alpha-numeric characters,
 - (ii) the business name, and
 is in a size as permitted under the *Sign Bylaw*.

Requirements for businesses that keep marijuana on the premises

- 7 In addition to the requirements of section 6, a person carrying on a business where marijuana is kept or present on the premises must:
- (a) install video surveillance cameras that monitor all entrances and exits and the interior of the business premises at all times
 - (b) retain video camera data for at least 21 days after it is gathered
 - (c) install a security and fire alarm system that is, at all times, monitored by a licenced third party
 - (d) not allow marijuana, products containing marijuana or other valuables to remain on the premises when the business is not open to the public, unless the marijuana, products and other valuables are securely locked in a safe on the premises, and
 - (e) install and maintain an air filtration system that effectively minimizes odour impacts on neighbouring properties.

Requirements for storefront marijuana retailers

- 8 In addition to the requirements of sections 6 and 7, a person carrying on the business of a storefront marijuana retailer must:
- (a) prominently display a sign on the premises indicating that no persons under 19 years of age are permitted on the premises;
 - (b) ensure that two employees are present on the premises at all times when the business is open to the public, including one manager;
 - (c) not use the premises to carry on business other than the marijuana-related business and accessory uses;

- (d) 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;
- (e) not be open for business between the hours of 8 p.m. and 7 a.m. the next day;
- (f) promptly bring to the attention of the Licence Inspector:
 - (i) the name of any new on-site manager, officer, director or shareholder of the licensee, and
 - (ii) any criminal charge brought against the licensee or an on-site manager, officer, director or shareholder of the licensee, and
- (g) promptly provide to the Licence Inspector a current police information check for any new on-site manager, officer, director or shareholder of the licensee.

PART 4 – GENERAL PROVISIONS

Offences

- 9 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw, and the *Offence Act* if that person
 - (a) contravenes a provision of this Bylaw,
 - (b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw, or
 - (c) neglects or refrains from doing anything required by a provision of this Bylaw.
- (2) Each day that a contravention of a provision of this Bylaw continues is a separate offence.

Severability

- 10 Each section of this Bylaw shall be severable. If any provision of this Bylaw is held to be illegal or invalid by a Court of competent jurisdiction, the provision may be severed and the illegality or invalidity

Transition Provisions

- 11 (1) Notwithstanding section 4(1), a storefront marijuana retailer that was in existence in the same location on the date this bylaw received first reading may continue to operate without a business licence while an application for a rezoning to permit a storefront marijuana retailer use at its location is actively pursued and has not been denied by Council.
- (2) A marijuana-related business that was in existence on the date this bylaw received first reading is not subject to the requirements of section 7 until 60 days after

adoption of this bylaw.

READ A FIRST TIME the day of 2016.

READ A SECOND TIME the day of 2016.

READ A THIRD TIME the day of 2016.

ADOPTED on the day of 2016.

CITY CLERK

MAYOR

Appendix D

NO. 16-069

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Ticket Bylaw to reflect the new offences created under the Medical Marijuana- Related Business Regulation Bylaw.

Under its statutory powers, including sections 260 and 264 to 273 of the *Community Charter*, and B.C. Regulation 425/2003, the Council of the Corporation of the City of Victoria enacts the following provisions:

- 1 This Bylaw may be cited as the "TICKET BYLAW, AMENDMENT BYLAW (NO. 9)".
- 2 Bylaw No. 10-071, the Ticket Bylaw, is amended by adding Schedule S.1 and updating the Schedule A to include the new bylaw and offences attached to this bylaw.

READ A FIRST TIME the	day of	2016.
READ A SECOND TIME the	day of	2016.
READ A THIRD TIME the	day of	2016.
ADOPTED on the	day of	2016.

CITY CLERK

MAYOR

Schedule A

Bylaws & Enforcement Officers

Item Number	Column 1 - Bylaws	Column 2 - Bylaw Enforcement Officers
1	Abandoned Properties Bylaw	Bylaw Officer; Police Constable
2	Animal Control Bylaw -sections 17, 36, 37, 38, 39, 48 and 49	Animal Control Officer; Bylaw Officer; Police Constable
3	Animal Control Bylaw -all provisions except those listed in Item 2	Animal Control Officer; Manager of Bylaw and Licensing Services; Police Constable
4	Bicycle Courier Bylaw	Bylaw Officer; Police Constable
5	Blasting (Construction) Operations Bylaw	Building Inspector; Bylaw Officer
6	Boulevard Tree Lighting Bylaw	Bylaw Officer; Electrical Inspector
7	Building Bylaw	Building Inspector; Bylaw Officer
8	Business Licence Bylaw	Bylaw Officer
9	Commercial Vehicle Licensing Bylaw	Bylaw Officer; Police Constable
10	Dance (All-Night Event) Bylaw	Bylaw Officer; Police Constable
11	Dance (Club) Bylaw	Bylaw Officer; Police Constable
12	Electrical Safety Regulation Bylaw	Bylaw Officer; Electrical Inspector
13	Escort and Dating Service Bylaw	Bylaw Officer
14	Fence Bylaw	Bylaw Officer
15	Fire Prevention and Regulation Bylaw	Bylaw Officer; Fire Prevention Officer; Police Constable
16	Fireworks Bylaw	Bylaw Officer; Fire Prevention Officer; Police Constable
17	Idling Control Bylaw	Bylaw Officer; Police Constable
18	Litter Prohibition Bylaw, 1977	Bylaw Officer
19	Marijuana-Related Business Regulation Bylaw	Bylaw Officer, Police Constable
20	Noise Bylaw	Bylaw Officer; Police Constable
21	Nuisance (Business Regulation) Bylaw	Bylaw Officer
22	Outdoor Market Bylaw	Bylaw Officer
23	Parking Lot Bylaw	Bylaw Officer
24	Parks Regulation Bylaw -sections 6(j), 6(k), 12(3), 12(4) and 17	Animal Control Officer; Bylaw Officer; Police Constable
25	Parks Regulation Bylaw - all provisions except those listed in Item 23	Bylaw Officer; Police Constable
26	Pesticide Use Reduction Bylaw	Bylaw Officer
27	Plumbing Bylaw	Bylaw Officer; Plumbing Inspector
28	Property Maintenance Bylaw	Bylaw Officer; Police Constable
29	Residential Properties Parking Bylaw	Bylaw Officer; Police Constable
30	Ross Bay Cemetery Bylaw	Bylaw Officer; Police Constable
31	Sanitary Sewer and Stormwater Utilities Bylaw	Bylaw Officer

32	Second Hand Dealers Bylaw	Bylaw Officer; Police Constable
33	Sidewalk Cafes Regulation Bylaw	Bylaw Officer
34	Sign Bylaw	Bylaw Officer
35	Solid Waste Bylaw	Bylaw Officer
36	Street Collections Bylaw	Bylaw Officer; Police Constable
37	Street Vendors Bylaw	Bylaw Officer; Police Constable
38	Streets and Traffic Bylaw - sections 20 to 44 inclusive	Manager of Bylaw and Licensing Services; Police Constable
39	Streets and Traffic Bylaw - all provisions except those listed in Item 36	Bylaw Officer; Police Constable
40	Towing and Immobilizing Companies Bylaw	Bylaw Officer; Police Constable
41	Tree Preservation Bylaw	Bylaw Officer
42	Vehicles For Hire Bylaw	Bylaw Officer; Police Constable
43	Zoning Regulation Bylaw	Bylaw Officer

Schedule S.1
Marijuana-Related Business Regulation Bylaw
Offences and Fines

Column 1 –Offence	Column 2 – Section	Column 3- Set Fine	Column 4 – Fine if paid within 30 days
Operate without a valid licence	4 (1)	\$1000	\$1000
Submit false or misleading documents	4 (2)	\$1000	\$1000
Allow person under 19 on premises	6 (a)	\$500	\$500
Advertise or promote to person under 19	6 (b)	\$250	\$250
Allow onsite consumption	6 (c)	\$500	\$500
Display or advertise prohibited sign	6 (d)	\$250	\$250
Failure to install and maintain required surveillance	7 (a)	\$500	\$500
Failure to retain required data	7 (b)	\$500	\$500
Failure to install and maintain security and or fire system	7 (c)	\$500	\$500
Failure to remove or secure product after hours	7 (d)	\$250	\$250
Failure to install and maintain air filtration system	7 (e)	\$500	\$500
Failure to post notice	8 (a)	\$500	\$500
Failure to provide required staff	8 (b)	\$500	\$500
Secondary business not permitted	8 (c)	\$1000	\$1000
Cover windows contrary to regulations	8 (d)	\$250	\$250
Operate outside of permitted hours	8 (e)	\$250	\$250
Fail to report new required personnel	8 (f)	\$500	\$500

Appendix E – Proposed Storefront Marijuana Retailer Rezoning Policy

 CITY OF VICTORIA	COUNCIL POLICY	
	No.	Page 1 of 2
CHAPTER:		
SECTION:		
SUBJECT: Storefront Marijuana Retailer Rezoning		
AUTHORIZED BY:		
EFFECTIVE DATE:		REVISION DATE:

A. PURPOSE

The purpose of this policy is to outline the criteria that may be considered by City Council as part of a rezoning application to allow for a storefront marijuana retailer at a particular location. This policy is intended to guide applicants and City staff as part of the application process but it is not intended to fetter Council's discretion when dealing with individual rezoning applications, each of which will be evaluated on its own merits.

This policy was established in response to the anticipated legalization, or partial legalization, of marijuana by the federal government and the unregulated proliferation of storefront marijuana retailers. It is intended to address potentially adverse community impacts of storefront marijuana retailers, including inappropriate exposure of minors to marijuana and undesirable concentration of storefront marijuana retailers.

B. DEFINITIONS

Applicant means an applicant for a rezoning that would allow for a storefront marijuana retailer at a particular location.

Storefront marijuana retailer means premises where marijuana is sold or otherwise provided to a person who attends at the premises.

C. POLICY STATEMENTS

Rezoning Considerations

1. A storefront marijuana retailer should be in an established or planned retail location to minimize nuisance to nearby residential neighbours. This may be within a large urban village or town centre as identified in the Official Community Plan, within a commercial area identified in a neighbourhood plan or in a location zoned for other retail use.
2. A storefront marijuana retailer should be at least 200 m (in a straight line from closest lot line to closest lot line) from a public or independent elementary or secondary school or an established licensed child care facility.

3. A storefront marijuana retailer should be at least 200 m (in a straight line from closest lot line to closest lot line) from another lot where a storefront marijuana retailer is permitted, whether or not a storefront marijuana retailer is active or not. A reduced distance may be warranted in locations such as a large urban village, town centre or Downtown.
4. The off-street parking requirements applicable to retail stores as outlined in Schedule C of the Zoning Regulation Bylaw will apply to storefront marijuana retailers.
5. Only one storefront marijuana retailer will be allowed per lot.

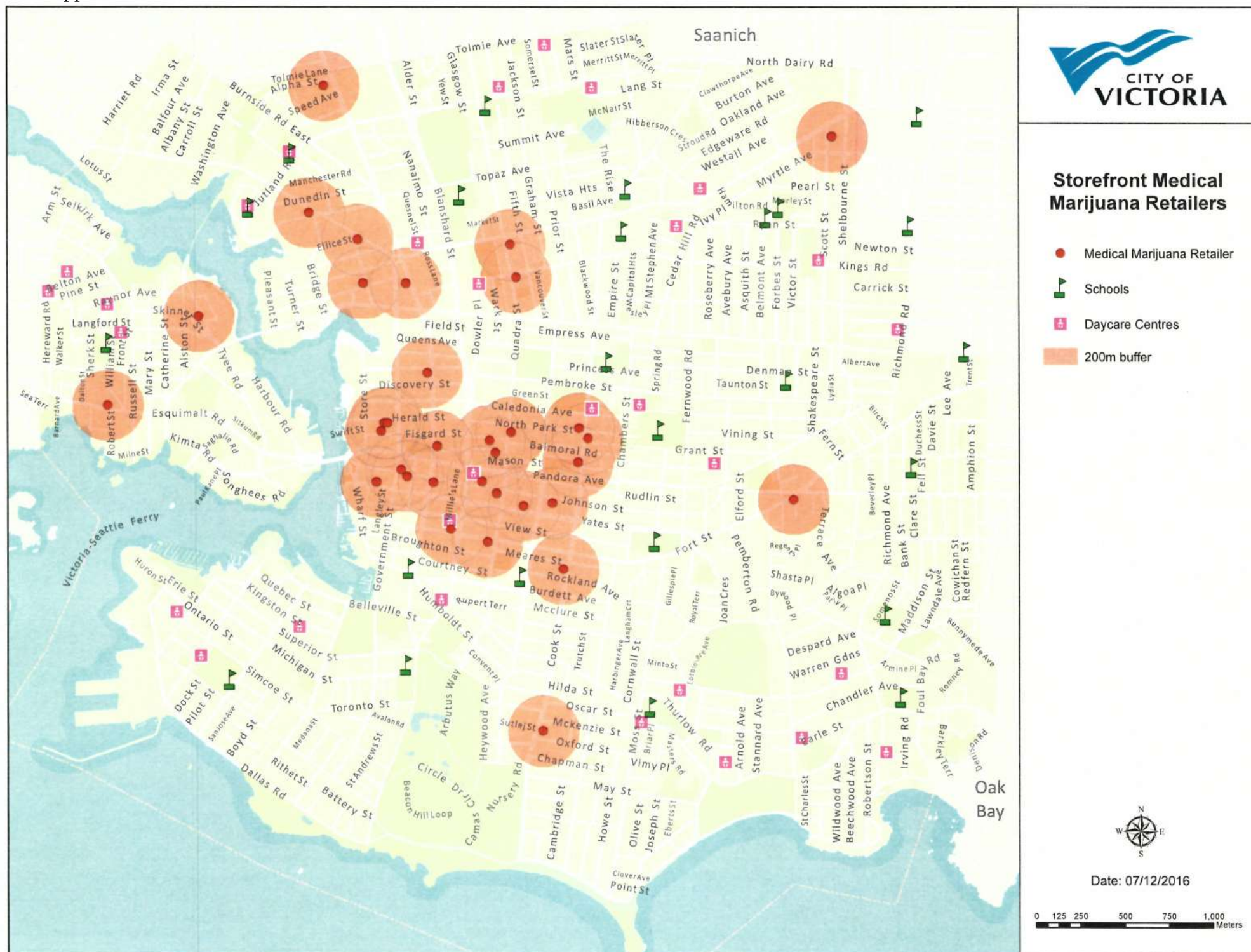
Application Process

6. The applicant must undertake all of the standard processes required for a rezoning application, except that the requirement to arrange and participate in a Community Meeting in relation to a rezoning application is waived unless it involves the construction of a new building, as allowed under section 8 of the Land Use Procedures Bylaw, 2016.
7. The City will refer the application to School District #61 and Victoria City Police for up to 30 days to ensure that their comments are considered in Council's decision.

D. REFERENCES

City of Victoria Land Use Procedures Bylaw, 2016, Bylaw No. 16-028
City of Victoria Zoning Regulation Bylaw, Bylaw No. 80-159

E. REVISION HISTORY



Bylaws for Marijuana-Related Businesses



Background

May 12th Council Direction:

- Proceed with Zoning Bylaw Amendment Prohibiting marijuana retailers and businesses that allow consumption of marijuana in all zones.
- Bring forward Bylaws to establish regulations pertaining to marijuana-related businesses.
- Bring Forward proposed Ticket Bylaw fines for the proposed regulations.
- Provide further details on staffing implications.
- Prepare additional amendments concerning advertising prohibitions and a 200 metre buffer from Licensed Daycare facilities



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Advertising

Council directed to prohibit advertising except for minimal storefront signage

Proposed

- 2 signs max
- No images
- Alpha-numeric only
- Business name only
- In accordance with Sign Bylaw

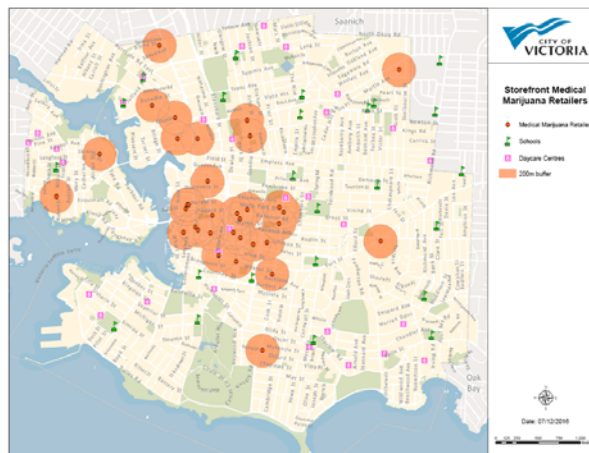


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Daycare – Proposed 200 m Buffer Zone

Council directed adding 200 m buffer zone for licenced childcare facilities

- Greatly reduces possible locations
- Minimal exposure risk to children – outdoor advertising restriction, no consumption
- Suggest consider removing the Licensed Child Care buffer in policy



Appendix F - Map



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Other changes

Compassion Clubs

- May either operate as consultant only, or go through same process as other marijuana-related businesses

One Business Licence

- To stop related businesses, one BL per location – this also means no vending machines (including ATMs)

CALUCs

- No community meeting required unless new building proposed



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Next Steps

- **Bylaws & Policy: Given readings/approval in principle**
 - Zoning Regulations Bylaw Amendment
 - Marijuana-Related Businesses Regulation Bylaw
 - Land Use Procedures Bylaw Amendment
 - Ticket Bylaw Amendment
 - Storefront Marijuana Retailer Rezoning Policy
- **Consultation**
 - Public Hearing scheduled
 - Consult with Businesses
- **Financial & Staffing implications**
- **Back to Council in September for PH, consultation results**



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