

DATE OF MEETING | August 13, 2018 |

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SUBDIVISION |

SUBJECT | CANNABIS ZONING REGULATION |

OVERVIEW

Purpose of Report

To present Council with proposed amendments to City of Nanaimo "Zoning Bylaw 2011 No. 4500" in order to regulate the sale, production, processing, and distribution of cannabis in the city of Nanaimo.

Recommendation

1. That "Zoning Amendment Bylaw 2018 No. 4500.127" (To regulate the sale, production, processing, and distribution of cannabis within the city of Nanaimo) pass first reading;
2. That "Zoning Amendment Bylaw 2018 No. 4500.127" pass second reading; and
3. That Council direct Staff to proceed and advertise a Public Hearing related to "Zoning Bylaw Amendment No. 4500.127" and the 'Cannabis Retail Store Rezoning Criteria'.

BACKGROUND

At their regular meeting of 2018-JUL-09, Council received eleven recommendations from the Cannabis Task Force ("the task force") regarding the regulation of production, distribution and consumption of cannabis in the city of Nanaimo. A number of the proposed recommendations require Zoning Bylaw amendments in order to recognize and regulate the use of a Cannabis Retail Store and Cannabis Production and Processing Facility within the Zoning Bylaw.

The Zoning Bylaw currently includes a definition for Medical Marihuana Growing and Production and permits it as a site-specific use within the I4 (Industrial) zone for a number of properties on Maughan Road operated by Tilray Inc. The Medical Marihuana Growing and Production definition was written in response to the *Federal Marihuana for Medical Purposes Regulation* (MMPR), which has since been superseded by the *Federal Cannabis Act* (Bill C-45) that will come into force on 2018-OCT-17. The previous MMPR limited cannabis production to medicinal cannabis only and distribution was only permitted through the mail. Bill C-45 will permit the production, growing, and the storefront retail sale of recreational cannabis in conjunction with Provincial regulations.

DISCUSSION

In order to respond to the change in Federal regulation regarding the production and distribution of recreational cannabis, and the task force recommendations, a number of Zoning Bylaw amendments are necessary, including the following:

- adding a definition of Cannabis and Cannabis Retail Store and clarifying that Cannabis Retail Stores are a separate use from retail;
- replacing the existing use of “Medical Marihuana Growing and Production” with “Cannabis Production and Processing” and permit this as a use in the I4 (Industrial) zone; and
- allowing Micro Cannabis Production in the I1 (Highway Industrial) and I2 (Light Industrial) zones subject to the development of an odour abatement strategy.

Retail Sale of Cannabis

The task force has recommended that Cannabis Retail Stores (CRS) be permitted as a site-specific use only. Like liquor retail stores, all proposed CRS operators will be required to submit a rezoning application to permit the use on a property. In order to regulate the use, a definition must be added to the Zoning Bylaw. The proposed amendment includes the following definitions for ‘Cannabis’ and ‘Cannabis Retail Store’:

CANNABIS – means cannabis as defined within the *Federal Cannabis Act*.

CANNABIS RETAIL STORE – means a retail store licensed under the *British Columbia Cannabis Control and Licensing Act (Bill 30)* where cannabis is sold or otherwise provided to a person who attends at the premises but is not consumed on the premises.

By adding the definition of Cannabis Retail Store to the Zoning Bylaw and not adding it as a permitted use within any zone, the bylaw will only permit a CRS as a site-specific use through rezoning. The bylaw will also be amended to clarify that cannabis and liquor sales are a separate use from retail by amending the definition of retail store as follows:

RETAIL STORE – means a store in which any type of goods or wares are sold or rented to the final consumer, provided that the product may be stored or sold from within a building. This definition specifically includes *Personal Service Use* and *Pharmacy*, but excludes Cannabis Retail Store and Liquor Store.

In order to provide guidance related to a rezoning application for a CRS as recommended by the task force, Staff have created rezoning criteria for consideration of a CRS (see Attachment A). The proposed policy includes a number of siting criteria for a CRS including:

- The CRS should be located on, or in close proximity to a major road or in an urban node, commercial centre, or corridor as designated in the City’s Official Community Plan;
- A minimum 150m separation from a school or licensed daycare as measured from the front door of the CRS to the school or daycare property line;
- Not permitting a CRS on a lot located adjacent, or in close proximity to a nightclub or liquor retail store; and
- A recommended minimum 300m separation from another CRS as measured between the front doors of each CRS.

School District 68 recommends a greater separation of 300m between a CRS and a school or daycare facility. While the proposed CRS rezoning policy will not form part of the bylaw, Staff recommend the policy be presented at the public hearing for discussion along with the amendment bylaw.

Commercial Production and Processing

The amendment bylaw will replace the existing definition of ‘Medical Marihuana Growing and Production’ with the following definition of ‘Cannabis Production and Processing’:

CANNABIS PRODUCTION AND PROCESSING - means the commercial growing and production of cannabis or cannabis products as permitted by *Bill C-45 (the Federal Cannabis Act)*, and any subsequent regulation or acts which may be enacted in substitution therefore. The definition shall also include the wholesale or mail order distribution of cannabis products produced on the property.

The above definition will permit the growing, production, and processing of both recreational and medicinal cannabis as permitted within Bill C-45. If the amendment is approved, “Cannabis Production and Processing” will be allowed on all properties within the I4 zone without the need for rezoning. As noted in the 2018-JUL-09 report, cannabis production is consistent with the intent of the zone and in keeping with other heavy industrial uses. As a result of this change, cannabis production and processing will be permitted at the Tilray facility (1100, 1110, 1120, and 1140 Maughan Road) so that the site-specific provision for medical marihuana production and processing is no longer needed and will be deleted from the Zoning Bylaw.

The Zoning Bylaw will also permit smaller micro cannabis producers to operate within the Highway Industrial (I1) and Light Industrial (I2) zones. To distinguish between a micro cannabis producer and a larger operation, the bylaw amendment includes the following definition of ‘micro cannabis production and processing’:

MICRO CANNABIS PRODUCTION AND PROCESSING - means a small-scale *Cannabis Production and Processing* facility contained entirely within a building where the production and growing of cannabis products is limited to no more than 200m² of gross floor area per lot.

The 200m² gross floor area restriction is in keeping with the Federal Government’s own definition of a micro cannabis producer. The Zoning Bylaw will clarify that micro cannabis production may only occur within a building, and an odour abatement plan will be required as a condition of use, to be provided through the business licence or building permit.

SUMMARY POINTS

- “Zoning Amendment Bylaw 2018 No. 4500.127”, if adopted, will amend “Zoning Bylaw 4500” to regulate the production, processing, distribution, and retail sale of cannabis in the city of Nanaimo.
- The proposed zoning amendments respond to new Federal and Provincial regulations and to the City’s Cannabis Task Force recommendations, as presented to Council on 2018-JUL-09.
- Cannabis Retail Stores will be permitted only as a site-specific use and will require rezoning. The Cannabis Retail Store Rezoning Criteria will provide Staff and Council direction in reviewing Cannabis Retail Store rezoning applications.

ATTACHMENTS

ATTACHMENT A: Cannabis Retail Store Rezoning Criteria |
“Zoning Amendment Bylaw 2018 No. 4500.127”

Submitted by:

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Concurrence by:

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