

DATE OF MEETING DECEMBER 17, 2018

AUTHORED BY DALE LINDSAY, DIRECTOR, COMMUNITY DEVELOPMENT

SUBJECT CANNABIS REGULATION

## **OVERVIEW**

### **Purpose of Report**

To provide Council with an update on the regulation of Cannabis production and distribution in the City of Nanaimo.

### **Recommendation**

That the report titled “Cannabis Regulation”, dated 2018-DEC-17, be received for information.

## **BACKGROUND**

The *Federal Cannabis Act* (Bill C-45) (the “Federal Act”) came into force late this year. The Federal Act, which is intended to legalize, regulate, and restrict access to cannabis, created a framework for controlling the use of recreational cannabis in Canada. Under this framework, the Federal, provincial, and local governments now jointly regulate non-medical cannabis.

The Federal Government is responsible for the licensing of cannabis producers and product regulation. The provincial governments were empowered to enact their own legislative measures consistent with the Federal Act that would authorize and regulate sales within their jurisdiction, including retail distribution.

The Province of British Columbia also passed legislation regarding legal cannabis. The *Cannabis Control and Licensing Act* (Bill 30) (the “Provincial Act”) provides clarity with respect to the proposed licensing scheme, possession/consumption restrictions, and enforcement, including confirmation that:

- possession of recreational cannabis is limited to 30g in a public place for an adult (19);
- the Provincial licensing scheme for retail cannabis stores will be very similar to the process and requirements under the *Liquor Control Act*;
- local government approval for retail cannabis stores is required; and
- the growing of recreational cannabis is limited to four plants per “dwelling house”.

### **Role of Local Government in Retail Cannabis**

In BC, the distribution of recreational cannabis will be through the Liquor Distribution Branch (LDB). As with liquor, the LDB will establish and operate government stores, and the Liquor and Cannabis Regulation Branch (LCRB) will be responsible for the licensing and

monitoring of retail cannabis stores. As outlined in the draft Provincial Act, the Province will make the ultimate determination on which applicants are “fit and proper” to obtain a licence.

As outlined in Section 33 of the Provincial Act, applications for cannabis retail licenses are made to the Province with formal referral to the local government. The General Manager (Province) must not issue a retail licence unless the local government provides a recommendation that the licence be issued. The Provincial Act clarifies that the local government is responsible for gathering the views from residents on how the proposed cannabis store would impact the community before responding (this very closely parallels the liquor licence approval process).

The Province is not capping the number of licences in a community or establishing a maximum density through a store separation distance, as they currently apply to Liquor Stores; however, the Province has been clear that local governments can choose not to allow cannabis stores or cap the number permitted in the community. At this point, the Province has confirmed they are focusing on the establishment of a retail store system and will not be proceeding with licensed consumption lounges or off-site sales (outdoor festivals, etc.) at this time.

Through existing legislation, local government does have the authority to regulate certain aspects of cannabis-related business. Zoning authority under the *Local Government Act*, allows Council to regulate location, size, and siting of cannabis-related businesses, and the regulatory authority under the *Community Charter* allows Council to regulate the licensing and operation of cannabis-related businesses. This could include items such as licence fees, application requirements, hours of operation, restrictions on the age of clientele, and security. Local governments have no authority to regulate or implement regulations specific to the actual sale of cannabis. These types of regulations would include taxation, quality control, labelling, and packaging.

## **DISCUSSION**

### **Cannabis Task Force**

Council, at their regular meeting of 2018-JAN-22, established the Cannabis Task Force (CTF) and approved their terms of reference and membership. The task force was chaired by Councillor Jim Kipp and included one representative from the Vancouver Island Health Authority, the RCMP, the Public Safety Committee, the Planning and Development Committee, the Community Vitality Committee, and two representatives from the cannabis Industry.

The CTF met over the months of April, May, and June of 2018 to review the proposed regulatory framework for cannabis, the implications of cannabis legalization, and the associated options available to local government. At their regular meeting of 2018-JUL-09, Council received the [recommendations](#) of the Cannabis Task Force.

The CTF made a series of recommendations with the key elements being that:

- Cannabis retail stores be considered only through site-specific rezoning;
- That rezoning criteria be adopted to provide guidelines for store location (separation from schools, etc.);

- That cannabis production and processing be allowed as an outright use in the I4 (Industrial Zone);
- That small-scale (craft) production of cannabis be permitted as an outright use in the the I1 (Highway Industrial) and I2 (Light Industrial) zones; and
- That the existing smoking bylaw be amended to regulate the smoking of cannabis in public areas.

Following the receipt of the CTF recommendations, Council proceeded with the associated “Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) amendments. Through the formal bylaw consideration process and as a result of input received at the public hearing, Council directed the rezoning criteria be amended. The criteria, which will be used as guidelines to evaluate applications for cannabis stores, are included as Attachment A.

A revised smoking bylaw (“Smoking Regulation Bylaw 2018 No. 7268”, the “Smoking Bylaw”) has been introduced and received third reading. Staff have recently identified additional amendments to the Smoking Bylaw and will be bringing forward a report to Council in the near future with recommended updates to the Smoking Bylaw.

### **Status of applications**

At the time of this report, the City had received 11 rezoning applications for proposed retail stores. A list of the current applications is included as Attachment C.

Staff are currently completing a review of the applications, including formal referrals to the internal and external agencies (i.e., school board, neighbourhood associations, and the RCMP). It is anticipated that the first of these applications will come before Council early in 2019.

At present, there are no legal licensed stores within the city; recreational cannabis can legally be obtained online through Provincial BC cannabis stores.

### **SUMMARY POINTS**

- The *Federal Cannabis Act* (Bill C-45) and the Provincial *Cannabis Control and Licensing Act* (Bill 30) came into effect earlier this year.
- Through existing legislation, local government does have the authority to regulate certain aspects of cannabis-related business.
- The Council-established Cannabis Task Force (CTF) provided recommendations, and following, associated Zoning Bylaw amendments were made and a new Smoking Bylaw has been introduced and has received third reading.
- The City has received 11 rezoning applications for proposed cannabis retail stores thus far.

## **ATTACHMENTS**

ATTACHMENT A: Cannabis Retail Store Rezoning Criteria  
ATTACHMENT B: Notification that the Province has started issuing licences  
ATTACHMENT C: Rezoning Applications Received  
ATTACHMENT D: Report URLs

### **Submitted by:**

Dale Lindsay  
Director, Community Development