

# Report to Council



**Date:** April 9, 2018  
**File:** 1200-40  
**To:** City Manager  
**From:** Ryan Smith, Community Planning Department Manager  
**Subject:** Cannabis Regulatory Options  
**Report prepared by:** Kimberly Brunet, Planner

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## **Recommendation:**

THAT Council receives, for information, the report from the Community Planning Department dated April 9, 2018, with respect to City of Kelowna considerations regarding the upcoming legalization of cannabis in Canada.

AND THAT Council directs staff to proceed with bylaw and policy development as outlined in the report from the Community Planning Department dated April 9, 2018, with respect to the upcoming legalization of cannabis in Canada

## **Purpose:**

To proceed with bylaw and policy development with respect to the upcoming legalization of cannabis in Canada.

## **Background:**

### The Government of Canada

The *Cannabis Act* (Bill C-45) is scheduled to be voted on by the Senate on June 7, 2018. If passed, royal assent would follow almost immediately and the proposed *Cannabis Act* would be brought into force. The Government of Canada anticipates that provincial and territorial governments would need an additional eight to 12 weeks following royal assent to prepare for retail sales. This could occur as early as late Summer or Fall 2018.

Upon coming into force of the *Cannabis Act*, adults in Canada will be allowed to legally engage in the following activities:

- Purchase fresh or dried cannabis, cannabis oil, plants and seeds for cultivation from either a provincially or territorially regulated retailer, or where this option is not available, directly from a federally licensed producer;
- Possess up to 30 grams of dried legal cannabis or equivalent in public;
- Share up to 30 grams or equivalent of legal cannabis and legal cannabis products with other adults;
- Cultivate up to 4 plants in their own residence (4 plants total per household); and
- Alter cannabis at home in order to prepare varying types of cannabis products (e.g., edibles) for personal use provided that no dangerous organic solvents are used in the process.

Municipalities will be key partners in supporting the implementation of the proposed legislation. It is anticipated that municipalities will work closely with their respective provincial or territorial governments to support the oversight and regulation of cannabis distribution and sales once the *Cannabis Act* comes into force.

### The Government of British Columbia

In preparation for the federal governments legalization of non-medical cannabis, the Province has made a number of decisions about what the provincial regulatory framework will look like. On February 5, 2018 the Government of British Columbia announced the following regulatory decisions:

- British Columbia's minimum age to possess, purchase and consume cannabis will be 19 years old.
- British Columbians of legal age will be able to purchase non-medical cannabis through privately run retail stores or government-operated retail stores and online sales. The BC Liquor Distribution Branch (LDB) will operate the public retail stores, and Liquor Control and Licensing Branch (LCLB) will be responsible for licensing private stores and monitoring the retail sector. The operating rules governing public and private retail stores will be similar to those currently in place for liquor. In urban areas, licensed retailers will not be able to sell cannabis in the same stores as liquor or tobacco.
- Like many other provinces, B.C. will have a government-run wholesale distribution model. The LDB will be the wholesale distributor of non-medical cannabis in B.C.

British Columbia will generally allow adults to use non-medical cannabis in public spaces where tobacco smoking and vaping are permitted. However, to minimize child and youth exposure, smoking and vaping of non-medical cannabis will be banned in areas frequented by children, including community beaches, parks and playgrounds. Use of cannabis in any form will also be banned for all occupants in vehicles. In addition, landlords and strata councils will be able to restrict or prohibit non-medical cannabis smoking and vaping at tenanted and strata properties.

Local governments will be able to set additional restrictions related to cannabis, as they do now for tobacco use. Additional restrictions and requirements may include setting zoning restrictions for cannabis-related businesses and restricting where cannabis can be consumed in public. This approach allows municipalities to take specific local considerations into account.

Municipalities will play an important role in enforcing local zoning and density bylaws, building standards, and matters related to the minimum age of purchase, personal cultivation, personal

possession limits, smoking restrictions, and public nuisance complaints. These will be enforced through municipal bylaws, health and safety inspectors and police.

The Province will permit local governments to decide whether they wish to have a non-medical cannabis retail store in their community. The Province will not be regulating the location of cannabis retail stores. Local government jurisdiction over land use management is recognized, including jurisdiction to set requirements for the proximity of a store to another cannabis store, schools, daycares or other land uses. For the Province to issue a license, applicants must have the support of the local government in the community where the proposed store would be located.

### The City of Kelowna

City of Kelowna considerations relating to cannabis include production (industrial, agricultural and personal), retail, consumption in public and business licensing. The Community Planning Department is seeking direction from Council on the development of regulations and policy in relation to the upcoming legalization of cannabis in Canada.

Provided below is a summary of staff's recommended direction on key areas of Kelowna's municipal operation that will be impacted by cannabis legalization. Based on Council direction, each area will be refined and presented to key stakeholders for feedback. The results of this process will then be forwarded for Council consideration later this spring. These recommendations are based on research of other jurisdictions, including in Colorado and Washington state, where cannabis is now legal.

	<b>Zoning Bylaw Considerations (General)</b>	<b>Zoning Bylaw Considerations (Specific)</b>	<b>Additional Considerations</b>	<b>Engagement</b>
<b>Production: Industrial</b>	Amend the existing Zoning Bylaw language from "Marihuana" to "Cannabis"	Amend Interpretation section to include: <ul style="list-style-type: none"> <li>Industrial Cannabis Production</li> <li>Industrial Cannabis Production (Craft/Boutique)</li> </ul> Add subzones for Industrial Production	Permitting retail sale in Industrial zones to be further evaluated by staff	Select Producers
<b>Production: Agricultural</b>		Amend Interpretation section to include: <ul style="list-style-type: none"> <li>Agricultural Production - Cannabis</li> </ul> Consideration of maximum site coverage for greenhouses or plant nurseries	Farm sales and processing regulations to be further evaluated by staff	Agricultural Advisory Committee
<b>Production: Personal</b>			Adults allowed to grow up to four cannabis plants per	Internal City of Kelowna

			household, but the plants must not be visible from public spaces off the property. Staff to evaluate if further policy or bylaw development would be required.	Departments (including the Bylaw Department – for Business Licensing)  RCMP
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	Zoning Bylaw Considerations (General)	Zoning Bylaw Considerations (Specific)	Inclusion in a Council Policy	Additional Considerations	Engagement
<b>Retail</b>	Amend the existing Zoning Bylaw language from “Marihuana” to “Cannabis”	<p>Amend Interpretation section to include:</p> <ul style="list-style-type: none"> <li>• Retail Store, Cannabis</li> </ul> <p>Hours of operation</p> <p>Add subzones for Cannabis Retail Stores</p> <p>Establishment of exclusion zones for Retail Store, Cannabis locations (Bernard Avenue, South Pandosy Street)</p> <p>Require setbacks from Retail Liquor Sales Establishments</p> <p>Required minimum distances between Retail Store, Cannabis locations</p>	Required minimum distances from schools, major city parks and community centres	Retailing directly from Agricultural Land (Market Agriculture) to be further evaluated by staff	<p>Select Retailers</p> <p>Kelowna Chamber of Commerce</p> <p>Downtown Kelowna Association</p> <p>Uptown Rutland Business Association</p> <p>Pandosy Village Business Association</p>

**Note:** Additional staff recommendations may be presented to Council in relation to consumption/use of cannabis in public and business licensing, as policy and bylaw development is further developed through Council direction. Further issues for consideration may include how second-hand smoke may impact private space (i.e. backyards or condo units), special event licenses, and if a new process may be required for investigating complaints.

**Next Steps:**

Should Council endorse the high-level direction proposed in this report, staff will begin drafting proposed bylaw amendments and then schedule consultation with relevant stakeholder groups to review the amendments in greater detail. Staff would provide a summary of feedback to Council during consideration of the proposed bylaw amendments.

Unless directed by Council, it is not the intention to do general public engagement or surveying, as the Government of British Columbia has recently completed public and stakeholder engagement on the legalization and regulation of non-medicinal cannabis, which received nearly 50,000 feedback forms or written submissions. The feedback collected through this engagement process will help ensure the provincial regulatory framework for non-medical cannabis reflects the needs and values of British Columbians, while prioritizing the protection of young people, health and safety, keeping the criminal element out of cannabis and keeping roads safe.

**Internal Circulation:**

Bylaw Services Manager  
Business License Manager  
City Clerk  
Communications Advisor, Community Engagement  
Parks Services Manager  
Policy & Planning Department Manager  
Sport & Event Services Manager

**Existing Policy:** Related Policy (Liquor Licensing Policy & Procedures – Policy No. 359)

**Financial/Budgetary Considerations:** It is anticipated there will be increased costs for enforcement. These estimated costs will be offset by development application and business license fees.

**Personnel Implications:** Short term impacts are expected in development application and business license processes. Depending on the complexity of regulations desired by Council, there may be longer term impacts.

**External Agency/Public Comments:** Staff suggest initial consultation with representatives from several broad stakeholder groups.

**Considerations not applicable to this report:**

**Communications Comments:** N/A

**Legal/Statutory Authority:** N/A

**Legal/Statutory Procedural Requirements:** N/A

**Alternate Recommendation:** N/A

Submitted by:

R. Smith, Community Planning Department Manager

**Approved for inclusion:** Doug Gilchrist, Divisional Director, Community Planning & Strategic Investments