

Report to Council



Date: Dec 10th, 2018
File: 0610-01
To: City Manager
From: Greg Wise, Business Licencing Manager
Subject: Proposed Cannabis Retail and Cannabis Related Business Licence Bylaw regulations

Recommendation:

THAT Council receives, for information, the report from the Business Licencing Manager dated December 10th, 2018 with respect to proposed draft regulations for the development of a Cannabis Retail and Cannabis Related Business Licence Bylaw.

AND THAT Council directs Staff to bring forward Business Licence Bylaw amendments in line with the report from the Business Licencing Manager dated December 10th, 2018;

AND THAT Council directs Staff to bring forward Bylaw Text amendments for the Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920 as outlined in the report from the Business Licencing Manager dated December 10th, 2018.

Purpose:

To consider proposed licencing regulations and fees for Cannabis Retail Sales and Cannabis Related Businesses within the City of Kelowna and proposed updates to the existing Medical Marihuana Producer Business Licence and Regulation Bylaw No. 10920.

Background:

Staff are proposing new licence regulations for Cannabis Retail sales and Cannabis Related businesses in the City under the guiding principles of protecting youth, supporting community standards, and encouraging business development. This report attempts to provide clarity on the changing cannabis business climate and follows recent zoning updates for Non-Medical Retail Cannabis brought forward earlier this fall, which involved public and stakeholder feedback. Cannabis legalization is a complex process that involves coordination between all three levels of government. The Cannabis industry has experienced a significant change over the past five years with new federal and provincial regulations.

Municipalities around the Province are currently in process of responding to these new Senior Government regulations and its community impacts.

Federal Role:

Non-Medical Cannabis

On Oct 17, 2018, the Federal Government legalized the sale and consumption of non-medical cannabis in Canada subject to specific regulation and provincial or territorial restrictions. The implementation of the new Federal Cannabis Act and associated Regulations has now given the Provinces and Territories legal authority to regulate non-medical Cannabis sale and consumption.

Medical Cannabis

Medical Cannabis will continue to be sold online by federally licensed commercial producers, or accessed for personal medical reasons through Health Canada personal production licenses or designated producer licenses only. Under the Cannabis Act and associated regulations, new classes of production licences have recently been created such as "Micro-Cultivation" and "Nursery" among several others. The Federal Government has committed to conducting a full review of the medical cannabis system in five years' time.

Provincial Role:

Non-Medical Cannabis

The Provincial Government has recently developed a new regime to licence and oversee the distribution and sale of non-medical cannabis and to regulate cannabis consumption subject to conditions under the Cannabis Distribution Act and the Cannabis Control and Licensing Act.

The Cannabis Distribution Act (CDA) assigns the Liquor Distribution Branch as the wholesale distributor of non-medical cannabis in B.C. and will run provincial cannabis retail stores.

The Cannabis Control and Licensing Act (CCLA) is guided by the Province's priorities of protecting children and youth, promoting health and safety, keeping the criminal element out of cannabis, keeping B.C. roads safe, and supporting economic development.

The CCLA Act among other regulations:

- Establishes a private/Gov't cannabis retail licensing regime similar to the current licensing regime for liquor;
- Sets 19yrs as the provincial minimum age to purchase or sell or consume cannabis
- Allows adults to possess up to 30 grams of cannabis in a public place;
- Prohibits cannabis smoking and vaping everywhere tobacco smoking and vaping are prohibited,
- Authorizes adults to grow up to four cannabis plants per household, but plants may not be visible from public spaces off the property;
- Bans home cultivation in homes used as day-cares;
- Provides enforcement authority to deal with illegal sales;

Municipal Role:

With the creation of a new Provincial model for the distribution and sale of non-medical cannabis, municipalities have been given the authority to either prohibit, or allow cannabis retail sales through use of their zoning and licencing authorities. With community and stakeholder input, the City has chosen to licence and regulate cannabis retail sales. The proposed business license regulations are intended to provide oversight relating to public health and safety, nuisance mitigation and ensure correct zoning and Provincial license approvals are met. In addition, the Province will not issue a license to sell non-medical cannabis without support from the Municipality.

Medical Cannabis Production

In Kelowna, medical cannabis production will continue to be regulated under the existing Medical Marihuana Producer Business License and Regulation Bylaw No. 10920. Staff are seeking Council direction to amend this bylaw in early 2019 with updates to reflect changes that align with the new federal legislation and regulations. These amendments will include new production, cultivation and analytical lab categories along with an amendment to update their requirements and associated licence fees.

Non-Medical Cannabis Production - Home

Adults are now allowed to possess restricted amounts of cannabis in public (up to 30 grams) and grow cannabis in their personal homes. Landlords and strata councils can further restrict or prohibit growing non-medical cannabis on their properties. Staff recommend that no licensing of personal recreational cannabis production be considered at this time as this activity is intended for personal use. Anyone found selling product not regulated by the Provincial retail model can face criminal prosecution.

Non-medical Cannabis Retail Sale

Specified commercial zones and select industrial zones have been approved by the City for cannabis retail sales under recent updates to Zoning Bylaw 8000. Included within the proposed Cannabis Retail and Cannabis Related Business License Bylaw are regulations for several categories of Cannabis Businesses that may operate within the City.

Proposed Regulations:

Staff propose the following four Cannabis Business Licence types:

1) "Cannabis Counselling Establishment"

Means an establishment that provides counselling on cannabis and its use by persons who are/or are not medical professionals to prospective clients.

“Cannabis Counselling Establishment”

Proposed Requirements:

- Must meet Zoning allowance for Health Services establishments.
- Consumption of cannabis must not occur in/on premises.
- Operators must not allow persons under the age of 19yrs to enter into/onto the premises.
- Retail sale of cannabis and cannabis derivative products is prohibited in the zone.
- Retail of cannabis paraphernalia and accessories may occur within premises and require a Retail Store (cannabis accessory sales) license.
- No other business category is to operate within the premises other than outlined in the Bylaw.
- The business name cannot imply an association with another business other than an associated Counselling establishment. This applies to signs, trademarks and any type of branding.
- Signage must include the name of the establishment. A business’s name cannot mislead the public about what kind of business it operates. Signage cannot include any pictures, images or symbols that imply the sale of medical cannabis or “apothecary” or “pharmacy”, “medicines”, “drugs”, “drug store”, “dispensary”, or any other words of similar meaning that imply licensing under the Pharmacy Operations and Drug Scheduling Act.

2) “Cannabis-Related business”

Means a business that provides any Cannabis-related services not captured in this bylaw that may relate to promotion, usage, accessories, or assisting with federal and provincial regulation navigation to prospective clients (does not include any production or cultivation of cannabis or cannabis derivatives or the testing and analytical assessment of cannabis)

Proposed Requirements:

- Must meet Zoning allowance associated to the business category type.
- Sale of cannabis and cannabis derivatives or edible products is prohibited.
- Operators must ensure consumption of cannabis does not occur in/on premises.
- The business name cannot imply an association with another business type other than an alternate location. This applies to signs, trademarks and any type of branding.
- Signage must include the name of the business. A business’s name cannot mislead the public about what kind of business it operates. Signage cannot include any pictures, images or symbols that imply the sale of medical cannabis or “apothecary” or “pharmacy”, “medicines”, “drugs”, “drug store”, “dispensary”, or any other words of similar meaning that imply licensing under the Pharmacy Operations and Drug Scheduling Act.

3) “Retail Cannabis Sales Establishment”

Means an establishment that displays, sells, or offers for sale cannabis, cannabis oils, cannabis seeds, and must have a provincial retail cannabis license.

“Retail Cannabis Sales Establishment”

Proposed Requirements:

- Obtain sub-zoning approval by Council for the proposed retail location as per regulations amended in Zoning Bylaw No. 8000 in September of 2018.
- Obtain a Cannabis Retail License from the Province of B.C. associated to the proposed legal address (location) under the business named in the Retail licence application.
- Provide proof of ownership or lease agreement for the proposed business location or approval of property use arrangement in place (Example sublease or lease in the name of one of the applicant’s business partners)
- Must provide other documentation consistent with Provincial Licencing requirements such as security screening for owner(s)/staff, building security requirements, signage, window screening, interior layout and other associated documentation.
- Must operate as a stand-alone business not in association to another business.
- A licensee must not sell other forms of cannabis such as edibles other than as per category description.
- May sell accessories as defined by the federal *Cannabis Act*, such as rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers. The sale of vape e-juice, e-liquid, or e-substance is not allowed.
- Operators must ensure consumption of cannabis does not occur in/on premises.
- No drive through sales permitted.
- On line sales not permitted (B.C. Gov’t retail establishments only)
- Delivery service not permitted or allowed in association with store as per Provincial requirements.

4) “Retail Store (Cannabis accessory sales) Establishment”

Means a Business where cannabis related goods, merchandise and other cannabis promotional material are offered for sale at retail to the general public and includes limited on-site storage to support that store’s operations. Typical products to include accessories as defined by the federal *Cannabis Act*, such as rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers.

Proposed Requirements:

- Must meet Zoning allowance for Retail Store establishment.
- Retail sale of cannabis and cannabis derivative products is prohibited in the zone.
- Operators must ensure consumption of cannabis does not occur in/on premises.
- Operators must not allow persons under the age of 19yrs to enter into/onto the premises.
- Signage must include the name of the store. A store’s name cannot mislead the public about what kind of business it operates. Signage cannot include any pictures, images or symbols that imply the sale of medical cannabis or “apothecary” or “pharmacy”, “medicines”, “drugs”, “drug store”, “dispensary”, or any other words of similar meaning that imply licensing under the Pharmacy Operations and Drug Scheduling Act.

Capacity / Enforcement

As with other levels of government, the City of Kelowna will need to increase or create staff capacity to address matters arising from cannabis retail sales, licensing and consumption. Proposed licencing fees will focus on a cost recovery model and support resources necessary to address application intake and review, operational inspections and ensure regulation compliance annually.

Licensing Fees

With Cannabis taxation revenue sharing between the Province and its Municipal Governments unknown currently at this time, Staff have set a comprehensive proposed licence fee schedule to address community impacts arising from the development of a cannabis retail sales process, the review of each application, its licensing approvals, and to help offset projected community enforcement impacts of consumption. Staff recommend a review of licence fees and general community impact from non-medical cannabis legalization be undertaken in two years' time after which any necessary adjustments may be made.

A chart of Licencing fees from various municipalities is included for comparison review below.

Municipality	Initial Retail Cannabis Licence Fee	Renewal Fee	Additional Fees	
Kelowna	\$9,465.00	\$8,000.00	(\$9,450.00)	One time zoning application fee
Vancouver	\$ 30,000.00	\$30,000.00	\$1,000.00	Compassion club licence fee
Victoria	\$5,000.00	\$5,000.00		
Nelson	\$20,000.00	\$20,000.00		
Kamloops	\$5,000.00	\$5,000.00	\$1,600.00	Retail licence fee
Vernon	\$5,000.00	\$2,000.00		
Penticton	\$5,000.00	\$5,000.00		
West Kelowna	In development	In development		
Peachland	Prohibited	Prohibited		
Squamish	\$5,000.00	\$5,000.00		
New West	\$2,698.00	\$2698.00	\$5400.00	Zoning app fee
Whistler	Prohibited	Prohibited		
Saskatoon	\$20,000.00	\$20,000.00		
Edmonton	\$2,500.00	\$2,500.00		

A draft proposed fee schedule is contained in Schedule "A" of this report

Conclusion:

It is staff's intent to further solidify a Cannabis Retail and Cannabis-Related Business Licence Bylaw following this report and bring forward the draft Bylaw in early 2019 which balances the community's health and life safety standards with the wishes of all stakeholders. Staff are in addition seeking Council direction to amend the existing Medical Marihuana Producer Business License and Regulation Bylaw No. 10920 in early 2019 with necessary recommendations to better align with the new Cannabis Act and Cannabis Regulations (SOR/2018-144)

Internal Circulation:

Community Planning Department Manager
Bylaw Services Manager
City Clerk
Communications Advisor, Community Engagement
Parks Services Manager
Fire Chief
Superintendent RCMP

Legal/Statutory Authority: N/A

Legal/Statutory Procedural Requirements: N/A

Existing Policy: N/A

Financial/Budgetary Considerations: 2019 Budget

Personnel Implications: Short term impacts are anticipated in development application and business license processes.

External Agency/Public Comments: included in planning report September 2018.

Communications Comments:

Alternate Recommendation:

Considerations not applicable to this report:

Attachments:

Schedule "A" - Summary Table of Proposed Licence fees.

Submitted by:

Greg Wise
Business Licensing Manager

Approved for inclusion:



Derek Edstrom Divisional Director, Community Planning & Strategic Investments

cc: