



## TOWN OF SIDNEY

### Report to Committee of the Whole

**TO:** Chair and Committee Members  
**FROM:** Corey Newcomb, Senior Manager of Long Range Planning  
Alison Verhagen, Senior Manager of Current Planning  
**DATE:** May 28, 2019 **FILE NO.:** 0125-20  
**SUBJECT:** Legalization Options for Recreational Cannabis in Sidney

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#### **PURPOSE:**

The purpose of this report is to provide Council with: 1) information regarding the decriminalization of recreational cannabis in Canada, and 2) options to consider for the regulation of recreational cannabis retail sales, production, and distribution within Sidney.

#### **BACKGROUND:**

On June 11, 2018 Council adopted Bylaw No. 2155, a Zoning Bylaw amendment to prohibit “the retail sale, production, or distribution of recreational cannabis” within the Town of Sidney. The intent was that this blanket prohibition would be a stopgap measure that would be put in place until Federal and Provincial legislative and regulatory changes were finalized throughout the second half of 2018. At the time of adoption of Bylaw No. 2155, very little information was available on what the regulatory framework would be in advance of cannabis legalization in October 2018.

Following the Federal Government’s legalization of cannabis on October 17, 2018, all three levels of government are now involved in regulating the production, distribution, sale and consumption of recreational cannabis in Canada, as follows:

#### Federal Government

The Government of Canada adopted legislation to de-criminalize recreational cannabis through the introduction of the *Cannabis Act*, which took effect on October 17, 2018. The *Cannabis Act* provides the broad regulatory framework for the production, distribution, sale and possession of recreational cannabis throughout Canada.

The federal government is responsible for:

- Regulation and licensing for producers growing and manufacturing cannabis;
- Determining health and safety standards including potency, serving sizes and ingredients;
- Establishing industry wide rules and standards, including types of cannabis permitted for sale;
- Regulation of packaging, labelling and promotional requirements; and
- Establishing a tracking system for seeds.

The federal government is also responsible for setting minimum age limits and setting maximum possession and home cultivation requirements. With the *Cannabis Act* now in force, adults who are 18 years or older are able to legally:

- Possess up to 30 grams of dried cannabis or equivalent in non-dried form;

- Share up to 30 grams of cannabis with other adults;
- Purchase dried or fresh cannabis from a provincially-licensed retailer;
- Grow up to 4 cannabis plants per residence for personal use from licensed seed or seedlings; and
- Make cannabis products, such as food or drinks, at home provided that organic solvents are not used.

The federal government has indicated that sales of edible cannabis products and concentrates are expected to be authorized within 12 months following the legislation coming into force (i.e. Fall 2019).

### Provincial Government

Provincial governments can regulate the distribution of recreational cannabis, including licensing distributors and retailers, set more restrictive age and possession rules (than the federal government) if they see fit, prove additional regulations for home growing, and restrict where consumption may occur. On April 26, 2018, the Province announced the introduction of the following legislation:

#### *Cannabis Distribution Act (CDA)*

The CDA makes the Liquor Distribution Branch the wholesale distributor of non-medicinal cannabis in BC, and the operator of provincial cannabis retail stores. This Act also establishes a public wholesale distribution monopoly and public (government run) retail sales, both in stores and online.

#### *Cannabis Control and Licensing Act (CCLA)*

The CCLA is guided by the Province's priorities of protecting children and youth, promoting health and safety, keeping the criminal element out of cannabis, and keeping B.C. roads safe. The CCLA:

- Sets 19 as the provincial minimum age to purchase, 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, as well as at playgrounds, sports fields, skate parks and other places where children commonly gather;
- Prohibits the use of cannabis on school properties and in vehicles;
- Authorizes adults to grow up to four cannabis plants per household. However, the plants must not be visible from public spaces off the property, and home cultivation will be banned in homes used as day cares;
- Establishes cannabis retail licensing similar to the current licensing regime for liquor;
- Provides enforcement authority to deal with illegal sales;
- Creates a number of provincial cannabis offences, which may result in a fine ranging from \$2,000 to \$100,000, imprisonment of three to 12 months, or both; and
- Where necessary, to comply with charter rights and human rights law, exemptions will be provided to individuals who are federally authorized to purchase, possess and consume medical cannabis.

The CCLA also includes consequential amendments to various statutes, including:

- Liquor Control and Licensing Act, to ensure administrative consistency between that act and the CCLA;
- Residential Tenancy Act and Manufactured Home Park Tenancy Act, to prohibit cannabis smoking under existing leases that prohibit smoking tobacco and to prohibit the personal cultivation of cannabis under existing leases, except for federally authorized medical cannabis. For new leases, the existing provisions of each act that allow landlords and tenants to negotiate the terms of leases will apply;

- Police Act, to set provincial priorities for policing and require municipal police boards to take provincial priorities and the priorities of the municipal council into account as they develop their own priorities;
- Community Safety Act, to reflect that with legalization, cannabis will no longer be a controlled substance under the federal Controlled Drugs and Substances Act;
- Provincial Sales Tax Act, to add a reference to cannabis in the definition of “small seller” consistent with liquor; and
- Business Practices and Consumer Protection Act, to recognize that the CCLA is a complete licensing scheme.

#### *Motor Vehicle Act (MVA) Amendments*

B.C. has increased training for law enforcement and toughened provincial regulations to give police more tools to remove drug-affected drivers from the road and deter drug-affected driving, including:

- A new 90-day Administrative Driving Prohibition (ADP) for any driver who police reasonably believe operated a motor vehicle while affected by a drug or by a combination of a drug and alcohol, based on analysis of a bodily substance or an evaluation by a specially trained police drug recognition expert (DRE); and,
- New drivers in the Graduated Licensing Program (GLP) will be subject to a zero-tolerance restriction for the presence of THC (the active ingredient in cannabis).

#### Local Governments

Local governments can regulate various aspect of the cannabis industry, through zoning and business licensing regulations. Zoning allows for the regulation of land use to control the production, processing and sale of cannabis products. In addition, local governments’ business licensing authority allows terms and conditions to be placed on business licences, such as regulating operating hours.

Since the adoption of Zoning Amendment Bylaw No. 2155 in June 2018, the Town has turned away all inquiries related to the production and sale of recreational cannabis and cannabis-related products, even following the legalization of cannabis across Canada in October 2018. However, now that the regulatory environment has been established by senior levels of government and cannabis is a legal (but controlled) substance, staff believe it prudent to revisit Bylaw No. 2155.

A number of potential issues need to be considered at a local government level, including:

1. zoning requirements and where the sales and processing would occur;
2. impacts on business licensing and permit requirements;
3. whether Sidney should consider municipal bylaws regulating cannabis for personal growing;
4. fire safety considerations; and
5. enforcement

Each of the above issues is discussed in turn below. All of these factors impact local communities and how local governments decide to approach recreational cannabis in the community. So far, the Town has not engaged the community on these issues to assist in developing a regulatory framework.

It should be noted that although cannabis is newly decriminalized and may still be stigmatized due to its past, from a regulatory standpoint it is now very similar to liquor. Retail sale of liquor is an outright permitted use in Sidney’s Zoning Bylaw in the downtown commercial area (C1 zoning) and the Town does not currently impose any additional regulations in terms of where a liquor retail premises may locate, what its hours of operation may be, or any other limitation. However, that being said, the Provincial Government, through the Liquor & Cannabis Regulation Branch (LCRB) does have a rigorous system for regulating liquor sales. This system includes potential limitations based on distance from other liquor retail premises, hours of operation, and other limitations that the LCRB may wish to impose.

In addition, for certain types of licences, the LCRB also considers municipal input such as limitations on hours of operations, etc.

## **DISCUSSION:**

### 1. Zoning Considerations

#### **Retail Sales of Cannabis and Cannabis Products**

For Sidney, the logical location for possible cannabis sales is the downtown area, which functions as the only significant retail commercial area in the community. The C1 (Downtown Commercial) zoned area is compact and although it contains residential uses, the Official Community Plan is clear that the primary role of this area is as a commercial hub for the north end of the Saanich Peninsula.

In addition, the downtown commercial area is sufficiently separated from Sidney Elementary School by approximately 250 metres (800 feet) and primarily residential neighbourhoods by the bordering streets of Sidney Avenue/James White Boulevard and Bevan Avenue. However, staff do suggest that the C1 zoned area south of Bevan Avenue not be included if Council decides to proceed with retail sales of recreational cannabis; this area, although zoned C1, continues to be more residential in nature and also includes the Scouts Canada Hall at 9732 Third Street. Staff believe that in the near term, cannabis sales would be more appropriately located only in the two blocks of downtown between Bevan Avenue and Sidney Avenue/James White Boulevard. Further site-specific analysis may be required as the C1 zone also permits childcare and education facilities, which may be sensitive to cannabis retail operations. This analysis process would be undertaken with each cannabis application, if Council chooses to accept referrals from the LCRB.

Given the high level of Provincial regulation for cannabis, as well as the broad discretion of local governments to reject a retail cannabis application regardless of the zoning permissions in place, staff do not believe that a complex zoning regime (i.e. specific regulations pertaining to separations from certain uses, hours of operation, etc.) is necessary. However, a policy to guide staff analysis and Council deliberations on applications may be useful; such a policy would also provide valuable guidance to potential applicants.

Another issue for consideration is the question of whether storefronts on Beacon Avenue should be eligible for cannabis retail stores. Currently, Zoning Bylaw No. 2015 includes a condition that prohibits many non-retail uses from fronting onto Beacon Avenue. This prohibition is intended to ensure that Beacon Avenue remains a primarily retail street with “active” storefronts that are inviting to shoppers and discourage uses such as offices with little to no retail presence. Provincial cannabis regulations stipulate that cannabis products cannot be visible from outside the store; consequently, staff are concerned that cannabis storefronts may tend toward shaded windows or other means of obscuring the interior of the store, which would in turn go against the objective of maintaining a streetscape of “active” retail storefronts along Beacon Avenue. Staff recommend that if zoning allowing cannabis retail is adopted, either cannabis retail be prohibited from fronting onto Beacon Avenue, or that specific policy guidance be developed to require that applicants submit a storefront design for approval. Staff would welcome Council feedback on this question.

#### **Manufacturing and Processing of Cannabis Products**

The manufacturing and processing of cannabis products under a Federal licence is also a potential business the Town must consider. While not appropriate for the C1 (Downtown Commercial) zone, staff believe it would be appropriate to allow a degree of cannabis manufacturing or processing in the M1 (Industrial) zone on the west side of Sidney. This may involve processing of raw cannabis into products such as edibles (once legalized), oils, salves, or other medicinal or recreational products.

The Zoning Bylaw currently includes Plant Nursery and Greenhouse as permitted uses in the M1 zone. However given the limited availability of industrial land in the region and the relative abundance of agricultural land, staff do not believe that the commercial growing of cannabis is an appropriate use for industrially zoned properties and would therefore be recommending a bylaw amendment to prohibit the commercial growing of cannabis plants in Sidney.

## 2. Business Licence Considerations

Although some other municipalities have imposed extremely high business licence fees on cannabis retailers, the majority of these fees pre-date legal cannabis and were intended as a cost recovery mechanism where the municipality bore the brunt of regulation and enforcement activities prior to federal legalization. In keeping with the underlying rationale that cannabis sales are legally analogous to liquor sales, staff propose to keep the same business licence fee of \$100. Enforcement issues around cannabis sales, as with liquor sales, would be dealt with by the LCRB and should not impose any additional burden on Sidney staff. In addition, as with any other business in Sidney, issues ancillary to licencing such as inspections and signage are all covered under the \$100 business licence fee or other permit fees.

Likewise with cannabis product processing, there is an existing regulatory regime at the federal government level that includes compliance and enforcement by Health Canada, so this segment of the industry should likewise impose little to no additional burden on Town of Sidney resources. Link below: <http://www.canada.ca/en/health-canada/services/cannabis-regulations-licensed-producers.html>

## 3. Bylaw to Regulate Personal Growing

The CCLA authorizes adults to grow up to four cannabis plants per household, but the plants must not be visible from public spaces off the property, and home cultivation is banned in homes used as day-cares. While this is Provincial legislation that can be enforced by local police, the Town could potentially duplicate this regulation as a bylaw at the municipal level, allowing Sidney's Bylaw Enforcement Officer to supplement police enforcement of this regulation and respond to residents' complaints regarding this issue. However, staff believe that such a bylaw would essentially duplicate a Provincial responsibility and do not recommend that it be considered at this time.

## 4. Fire Safety Considerations

As with other businesses, fire safety is largely a function of individual businesses' adherence to the BC Building Code and the BC Fire Code. This involves ensuring compliance through inspections by the Town's Building and Fire Safety inspectors when the business is being set up, as well as annual fire safety inspections thereafter. Staff do not believe that retail sales of cannabis present any fire danger over and above any other retail business. Similarly, manufacturing or processing businesses would need to meet all municipal and provincial safety requirements, which are built into the permitting process.

## 5. Enforcement

Staff expect that, similar to liquor retail operations, the Provincial Government would undertake the bulk of enforcement action to ensure compliance with the Province's cannabis regulations. Sidney staff would enforce issues that are directly regulated by Town bylaws, such as compliance with the Sign Bylaw, noise or unsightly premise issues and adherence to business licence requirements. However, staff anticipate that Provincial enforcement of any cannabis retail stores will be quite rigorous (similar to liquor sales) and failure to adhere to Provincial regulations would result in fines or loss of the Provincial licence. Similar to liquor sales, staff anticipate that enforcement action specific to cannabis sales by Town staff will be negligible.

### **Other Local Governments in the CRD:**

The following is a summary of approaches from some other local governments in the CRD area:

#### **Central Saanich:**

Has a general prohibition on retail sales of cannabis, but will regulate future stores through the issuance of Temporary Use Permits which would be valid for up to 3 years. At or near the end of the 3 year term, an applicant could apply to rezone to permit “cannabis retail” as a permanent permitted use. Cannabis production is a permitted use in certain light industrial and agricultural zones.

#### **Colwood:**

A Zoning Bylaw amendment was made in 2016 to prohibit the use of any premise other than a licensed pharmacy and premises licensed under the Marihuana for Medical Purposes Regulations, for the distribution, sale or dispensing of cannabis in any form. In May 2019, Council also resolved to consider site-specific rezoning proposals for new cannabis retail stores on a case-by-case basis.

#### **Esquimalt:**

Currently prohibited and would require a rezoning application on a case-by-case basis for each retail store.

#### **Highlands:**

Cannabis production and sales continue to be prohibited in all zones in the Highlands following a May 2018 amendment to the Zoning Bylaw.

#### **Langford:**

Langford’s Zoning Bylaw was amended to prohibit the retail sale of cannabis in 2018. However the City also issued a Request for Proposals to businesses interested in undertaking the retail sale of recreational cannabis products. The City has now entered into an arrangement with a business and will be receiving a “voluntary financial commitment” from the business as a condition of operating. The use will be approved through a Temporary Use Permit valid for up to 3 years.

#### **North Saanich:**

Allows the “...cultivation, harvesting, processing, composting, destruction, packaging, storage, distribution, or sale of cannabis as permitted as a designated farm use...” on agricultural land within the District, with a \$500 business licence fee. The retail sale of cannabis on non-ALR land is prohibited.

#### **Oak Bay:**

Cannabis production and sales continue to be prohibited in all zones in Oak Bay following a 2018 amendment to the Zoning Bylaw. Oak Bay staff will be bringing forward legalization options for Council’s consideration likely in early 2020.

#### **Saanich:**

Council has directed staff to prepare Zoning Bylaw amendments for an approach similar to Option 3 below (i.e. permitted in commercial zones which allow liquor sales, under a similar regulatory regime). These bylaws are currently being prepared by staff and will be brought before Council shortly.

### **Options for consideration:**

Based on the above information, staff suggest six options that Council may wish to consider, which are outlined below. Each option for consideration is followed by a related option for a Council motion. Note that none of the following options would affect the potential distribution of medicinal cannabis in Sidney through legal channels. Also worth noting is that a Sidney resident would still be able to order recreational cannabis from the government-run BC Cannabis Stores online store, and have the product delivered to a Sidney address.

**1. Maintain the status quo of prohibition on the production, distribution and retail sale of recreational cannabis.**

If Council wishes to not have recreational cannabis sales, production or distribution in Sidney, then no action is required; the current Zoning Bylaw regulations are sufficient and staff will inform the LCRB that the Town is not accepting licence applications. Landowners would still have the right to apply for a zoning amendment to permit cannabis-related uses, and Council would be obligated to consider any rezoning applications the Town receives. In this case, staff would likely bring the application forward with a recommendation that it be denied.

**Alternate motion:** *That the prohibition in Zoning Bylaw No. 2015 on the production, distribution and retail sale of recreational cannabis be maintained and that staff be directed to inform the Liquor & Cannabis Regulation Branch that the Town of Sidney is not accepting applications related to recreational cannabis.*

**2. Undertake community consultation prior to determining a course of action.**

If Council wishes to solicit community input prior to considering any bylaw amendments, staff would undertake a public consultation process to gauge community sentiment on this issue. The process could involve a combination of online and paper surveys, social media posts and potentially a town hall style event to present possible options to the community. Feedback from this process would be compiled and presented to Council at a future Committee of the Whole meeting for consideration.

At this time staff note that this “pre-consultation” process would only be necessary if Council wishes to know the community’s views on a given course of action prior to giving staff direction.

However, if Council wishes to proceed with one of the options below, then a Public Hearing and statutory notification are required in any case, as per the *Local Government Act*. As part of this process staff would place social media and newspaper advertisements and also create a webpage to advise the public of the changes being considered. An open house on a preferred option is also a possibility.

**Alternate motion:** *That staff be directed to undertake a community consultation process on potential options for the legalization of recreational cannabis sales and processing in Sidney and report back to Council with the results.*

**3. Pre-zone specified areas (i.e. the downtown or industrial areas) for one or a combination of the retail sale, production, or distribution of recreational cannabis.**

This is staff’s recommended option, albeit with the condition that retail sales not be permitted south of Bevan Avenue at this time. Staff also suggest that a policy be brought forward identifying some guidelines that Council may wish to reference when responding to a referral on a provincial cannabis licence application. Each application referred to the Town by the LCRB would involve a report to Council to be considered on its individual circumstances, and could be rejected, approved or approved with conditions. Public notification of each application is mandatory and would be very similar to a rezoning application’s notification process.

As stated in the LCRB guide for local governments (*attached as Appendix A*):

*Upon receipt of notice, local governments can:*

- *choose not to make any recommendation in respect of the application for a cannabis retail store licence (Note: this would end a licence application in progress because the LCRB cannot issue a licence unless the local government gives the LCRB a positive recommendation that the licence be issued)*

- *choose to make comments and recommendations in respect of an application for a cannabis retail store licence. Note that:*
  - *if the local government chooses to make a comments and recommendation on the licensee's application to the LCRB, it must gather the views of residents*
  - *if it makes a recommendation to deny the application then the LCRB may not issue the licence*
  - *if it makes a recommendation in favour of the application, then the LCRB has discretion whether or not to issue the licence, but must consider the local government's recommendation.*

In other words, municipalities maintain a high degree of control over the issuance of cannabis licences, even with zoning in place, which effectively provides municipalities with a “veto” over any cannabis application. In addition, municipalities can impose fees if it chooses to consider an application and also impose other regulations in the Business Licence Bylaw. Staff would bring these items forward together with any Zoning Bylaw amendments.

**4. Maintain the current zoning but indicate a willingness to accept applications for recreational cannabis sales, production or distribution on a case-by-case basis, and require a rezoning for each application.**

Staff do not recommend this option, as it is essentially the same as Option 3 but imposes more uncertainty, a longer timeline, and higher application fees on the applicant. While this option would provide Council with the opportunity to hear from the community on a case-by-case basis (each application would include a Public Hearing on the Zoning amendment bylaw) public consultation is required already under Option 3. This option would also lengthen the timeline for approval of an application, as the rezoning process would likely take between 3 to 5 months, as well as resulting in additional application fees for the applicant.

**Alternate motion:** *That staff be directed to indicate to the Liquor & Cannabis Regulation Branch the Town of Sidney's willingness to consider cannabis-related applications, and that each application be processed as individual zoning amendment applications, in the order they are received.*

**5. Consider cannabis sales, production and/or distribution under a Temporary Use Permit regime.**

Another option for Council to consider is approving cannabis sales through Temporary Use Permits (TUP). The advantage of this approach is that TUP's expire after a given amount of time (up to 3 years), after which a retail store or processing facility would no longer be able to operate without either a one-time 3 year extension or permanent rezoning. Council may wish to consider this option if there are concerns about the long-term effects of a cannabis store on the community, i.e. an increase in crime, underage use, unsightliness, or other negative effects. However, staff believe that the regulatory environment established by the Provincial Government precludes most of these possibilities and as a result, this level of caution is likely not warranted. Due to its temporary nature with no guarantee of an extension or permanence, this option would also likely act as a disincentive for investing in a cannabis-related business in Sidney.

**Alternate motion:** *That staff be directed to indicate to the Liquor & Cannabis Regulation Branch the Town of Sidney's willingness to consider cannabis-related applications, and that each application be processed as individual temporary use permit applications, in the order they are received.*

**6. Limit retail establishments to only a single government-run BC Cannabis Store. Consider production and/or distribution on a case-by-case basis, and require a rezoning for each application.**

Like BC Liquor Stores, the Provincial Government intends to operate a chain of government-run BC Cannabis Stores. These stores would have a consistent look, feel, layout and approach to the retail sale of cannabis, and the stores would be designed with Provincial legislation requirements and security in mind. If Council has concerns about cannabis stores being run by small business (i.e. inconsistent approach to advertising, security, or product mix, for example) then allowing only a BC Cannabis Store to operate in Sidney is an option. Limiting sales in Sidney to BC Cannabis Stores only would be best accomplished by maintaining the status quo as per Option 1 above, until a rezoning application is received from BC Cannabis Stores. A specific site could then be approved for the store under the typical rezoning process.

**Alternate motion:** *That staff be directed to provide a negative response to the Liquor & Cannabis Regulation Branch for all private cannabis retail applications, and if received, bring forward a BC Cannabis Stores application for Council's consideration.*

At this time, **staff recommend Option 3** for the following reasons:

- As stated above, staff believe that cannabis is now analogous to liquor sales from a regulatory perspective, and should be treated as such.
- Even with pre-zoning in place, each new application requires not only Council approval but also public consultation, similar to the process for new liquor licences. Although there would be no formal public hearing with Option 3 (except for the initial public hearing on the Zoning Bylaw change to legalize cannabis in Sidney) Council would have the ability to fully consider any public feedback on an application (either written or verbally at a Council meeting) and make a decision specific to each individual application.
- With a strong Provincial regulatory environment similar to the liquor licence process but with an additional “veto” over each application, Council retains the authority to make its own decision on each proposed application, based on the merits of the application.

**STAFF RECOMMENDATION:**

- 1. That staff bring forward a bylaw to amend Zoning Bylaw No. 2015 to allow for the retail sale of recreational cannabis within part of the C1 (Downtown Commercial) zone and the processing of both recreational and medicinal cannabis in the M1 (Industrial) zone within the Town of Sidney.**
- 2. That staff prepare a draft policy for Council's consideration that would guide the consideration of recreational cannabis licence applications in Sidney.**
- 3. That staff prepare an amendment to Land Use Procedures Bylaw No. 1380 to include an application fee for cannabis-related business licence applications.**
- 4. That staff review and if required bring forward amendments to Business Licence Bylaw No. 2119 and Municipal Ticket Information Bylaw No. 1975 to ensure that these bylaws are consistent with the regulation of cannabis within the Town of Sidney.**

Respectfully submitted,

I concur,

I concur,

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Attachments:

Appendix A: LCRB Guide to Local Governments



# Local Governments' Role in Licensing Non-Medical Cannabis Retail Stores

If you have any questions about this document, please contact the Liquor and Cannabis Regulation Branch toll-free at 1-866 209-2111, or email [cannabisregs@gov.bc.ca](mailto:cannabisregs@gov.bc.ca). NOTE: This document will be updated from time to time as additional information surrounding the regulatory framework for cannabis retail sales becomes available. (Last updated 20 December, 2018)

## Non-medical cannabis retail licence

The province will be issuing licences for non-medical cannabis retail stores. A cannabis retail store must be a standalone business. This licence requires input and a positive recommendation from a local government in whose area the proposed store is located.

The province recognizes the importance of ensuring carefully regulated access to non-medical cannabis in all areas of the province, including rural areas.

As a first step, the province will open opportunities to apply for regular retail licences. Once the regional distribution of retail non-medical cannabis stores is known, the province will consider issuing licences to service rural or remote areas that are not sufficiently served by existing retail cannabis stores.

## The role of local governments in the cannabis retail store licensing process

Applicants for a non-medical cannabis retail store licence must submit a licence application to the LCRB. When an application is received, the LCRB will notify the local government of the area where the proposed store will be located.

Upon receipt of notice, local governments can:

- choose not to make any recommendation in respect of the application for a cannabis retail store licence (Note: this would end a licence application in progress because the LCRB cannot issue a licence unless the local government gives the LCRB a positive recommendation that the licence be issue)
- choose to make comments and recommendations in respect of an application for a cannabis retail store licence. Note that:
  - if the local government chooses to make a comments and recommendation on the licensee's application to the LCRB, it must gather the views of residents
  - if it makes a recommendation to deny the application then the LCRB may not issue the licence
  - if it makes a recommendation in favour of the application, then the LCRB has discretion whether or not to issue the licence, but must consider the local government's recommendation.

Local Governments (municipalities, regional districts or Islands Trust local trust committees) have some or all of the following regulatory powers in respect of cannabis retail store licences:

- Impose restrictions in its zoning bylaws regarding the location of cannabis retail stores. Temporary zoning for cannabis retail stores will be accepted provided local governments monitor and enforce the temporary zoning requirements. LCRB must be notified if temporary or permanent zoning for a cannabis retail store is cancelled.
- Regulation of business (municipalities only): by terms and conditions in its business licensing bylaw, a municipality may limit the hours that cannabis retail stores can operate or impose other conditions such specifications regarding signage
- Charge the applicant fees if choosing to assess an application.

The above process applies to all relocations of existing cannabis retail stores.

## **Gathering residents' views**

If the local government decides to consider the notice of application and to provide comments and recommendations as to the location of the proposed retail store, it must gather the views of residents of the area if the location of the proposed store may affect nearby residents. It may gather resident's views by using one or more of the following methods:

- Receiving written comment in response to a public notice of the application
- Conducting a public hearing in respect of the application
- Holding a referendum, or
- Using another method the local government considers appropriate.

It is up to the local government to determine the area, relative to the licensee's application, where resident's views must be gathered.

Please note: Gathering the views of residents of the area/providing a recommendation to the LCRB must be unique to each provincial licence application. In other words, past recommendations cannot be used in a new licensing process. Each individual application must be considered separately by the local government.

## **What must the local government's recommendation include?**

The recommendations and comments the local government provides to the LCRB must:

- be in writing (this may or may not be in the form of a resolution)
- show that the local government has considered the location of the proposed store
- include the views of the local government on the general impact on the community if the application is approved
- include the views of residents if the local government has gathered residents' views, and a description of how they were gathered
- include the local government's recommendation as to whether the application should be approved or rejected and provide the reasons upon which the recommendation is based.

The local government should also provide any supporting documents referenced in their comments.

## **What if the local government does not want to provide a recommendation?**

If a local government does not want to accept the notice of application and provide a recommendation for the proposed retail location, they should notify the LCRB. A licence for a cannabis retail store will not

be issued without a positive recommendation from a local government. If a response is not received, LCRB will not consider the application any further.

### **What if the recommendation does not meet the regulatory requirements?**

If the recommendation does not meet the regulatory requirements, the LCRB will ask the local government to provide new or amended comments that address outstanding issues.

### **How long does the local government have to provide comments?**

Unlike in the process for liquor licensing, local governments are not required to provide a recommendation on a cannabis retail store application within a specific time period. Please note that delays in the application process can have a significant impact on the applicant. If the applicant is the reason for the delay, please notify the LCRB. If the applicant is not trying to move an application forward, the application can be cancelled.

### **Can the local government recommend approval subject to certain conditions?**

In some circumstances, the local government can recommend that the LCRB approve the application as long as certain restrictions (e.g. hours of operation) are placed on the licence. In these situations, the recommendation should clearly explain the rationale for placing restrictions.

If the local government intends to request that the LCRB impose terms and conditions on a licence, prior to sending such a recommendation the local government should consult with the LCRB so that the LCRB can determine whether it has the authority to impose the requested terms and conditions before finalizing their conditional recommendation.

The local government may also have the ability to impose other operating rules on the proposed store through the terms and conditions of the applicant's business licence, zoning or bylaw. The local government is responsible for enforcing these rules.

### **Floor Plans**

Applicants must submit a floor plan with their licence application for approval so the LCRB can identify store features such as sales, storage and delivery areas. Unlike for some kinds of liquor licence applications, local governments are not required to provide occupant load stamps or approve the applicant's floor plans as part of the provincial licensing process for cannabis retail stores.

### **A municipal council or regional district board can delegate authority to their staff to provide comments and a recommendation to the LCRB**

A municipal council or regional district board may delegate its powers and duties to provide comments and a recommendation to the LCRB regarding a cannabis retail store licence application. If a council or board has delegated this authority, a cannabis retail store applicant may ask for comments and recommendations made by delegated staff to be reconsidered by the local government.

**Council as defined in the Vancouver Charter:**

A Council, as defined in the *Vancouver Charter*, choosing to delegate to its staff must establish procedures for a reconsideration of comments and recommendations made by delegated staff, including how a cannabis retail store applicant may apply for reconsideration. In undertaking a reconsideration, the Council will have the same authority as it delegated to staff.

**Right of reconsideration:**

Delegated local government staff must advise the cannabis retail store licence applicant that the applicant has the right of reconsideration of the staff's recommendation by the council or board.

**How local governments inform the LCRB of delegation:**

A local government that has delegated authority to staff should send a copy of the delegation to the LCRB at [Cannabis.Licensing@gov.bc.ca](mailto:Cannabis.Licensing@gov.bc.ca).

Revised  
September  
2018