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## TOWN OF SIDNEY

### Report to Council

**TO:** Mayor and Council  
**FROM:** Corey Newcomb, Senior Manager of Long Range Planning  
Yazmin Hernandez, Municipal Planner  
**DATE:** July 3, 2019 **FILE NO.:** 0125-20  
**SUBJECT:** Overview of Proposed Cannabis Bylaws and Policy Framework

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#### **PURPOSE:**

The purpose of this report is to provide Council with an overview of the proposed bylaws and policy to regulate recreational cannabis in Sidney and the proposed public consultation approach in advance of the public hearing on the bylaw.

#### **BACKGROUND:**

At the June 10, 2019 regular Council meeting, Council considered a number of options related to the legalization of the retail sale, production and distribution of cannabis in Sidney. Following their deliberations, Council directed staff to proceed with the following approach:

1. *That staff bring forward a bylaw to amend Zoning Bylaw No. 2015:*
  - a. *to allow the retail sale of recreational cannabis within the Downtown Sidney C1 zone (Commercial), excluding businesses fronting onto Sidney Avenue, James White Boulevard and on the streets south of Bevan Avenue;*
  - b. *to allow the commercial processing and commercial distribution of cannabis in the West Sidney M1 zone (Industrial);*
  - c. *to exclude the commercial growing of cannabis in Sidney; and*
  - d. *to exclude the processing, distribution and retail sale of cannabis edible products in 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; and*
5. *That staff bring forward, when the bylaw is presented for Council's consideration, a plan for communication on public awareness of the process for these bylaw and policy changes, including the opportunities for the public to submit their feedback in writing, online and at Council meetings.*

Following the Council meeting, staff proceeded with preparing the necessary bylaws, policy and public consultation approach.

In addition to establishing a regulatory process for approval of a cannabis retail licence, both the proposed policy and fee bylaw also establish a process and fees for liquor licence applications. Although Town staff and Council have considered liquor licence applications in the past, there has been no formal policy or fees associated with this work. The Town has previously absorbed the costs associated with these applications, including the costs for public notification.

## DISCUSSION:

### 1. Bylaw No. 2174 (Zoning Bylaw Amendment No. 38)

This bylaw amendment effectively legalizes the retail sale of recreational cannabis as well as the value-added processing of cannabis products within Sidney. It makes the following amendments to Zoning Bylaw No. 2015:

1. Removes the prohibition on the “retail sale, production, or distribution of recreational cannabis” in Sidney and replaces it with a prohibition on the “cultivation or production of Cannabis or Medical Cannabis” with the exception of plants permitted for personal use. This revised prohibition is intended to preserve valuable and limited industrial land while allowing value-added processing of cannabis products (i.e. manufacturing of creams, oils, etc.).
2. Adds definitions for Cannabis, Cannabis Retail and Cannabis Processing.
3. Adds “Cannabis Retail” as a conditional permitted use to the C1 (Downtown Commercial) Zone, with the condition that Cannabis Retail is not permitted within premises having a main or principal entrance opening on to Sidney Avenue or James White Boulevard and is not permitted on any property south of the centerline of Bevan Avenue.
4. Adds “Cannabis Processing” as a conditional permitted use to the M1 (Industrial) Zone, with the condition that Cannabis Processing shall be conducted entirely within a building and may not produce any fumes, odors, smoke or dust that is detectable outside of a building.
5. Includes a prohibition on “the processing, distribution and retail sale of cannabis edible products” in Sidney. However, staff recommend that Council remove this section of the bylaw prior to giving it first reading, *unless it is Council’s intention to continue prohibiting the sale of edibles beyond federal and provincial legalization*. Edibles are currently illegal in Canada and as a result a municipal bylaw prohibiting them is unnecessary; enforcement of the edibles prohibition would be undertaken by the LCRB and police regardless of a municipal bylaw. The only reason to include a prohibition on edibles in Bylaw No. 2174 is if Council intends to continue to prohibit them even after they become legal at senior government levels (the Federal Government has indicated that some edible products are expected to become available in late 2019). If Council intends to allow the sale of edibles as they become legal federally, the most efficient course of action is to remove this section of Bylaw No. 2174 prior to considering first reading.

Staff stress that any cannabis retail business wanting to operate in Sidney must still have their application considered by Council; a public consultation process and Council resolution would be necessary for a cannabis retail business to receive their provincial licence. However, a cannabis processing business in the M1 (Industrial) zone would be able to operate as per federal requirements without Council approval; a business licence is also required in both cases (issued by staff).

### 2. Liquor & Cannabis Licensing Policy

The proposed policy, “DV-015 – Liquor & Cannabis Licensing” (*attached as Appendix A*) establishes a formal process for both staff and Council to follow when receiving, processing and providing comments and recommendations on both liquor and cannabis licence application referrals from the LCRB. Some key aspects of the policy include:

- The establishment of criteria for the intake of an application referred to the Town by the LCRB.
- Clear procedures and timelines for the processing of an application, and specific criteria for both staff and Council to consider in evaluating the application.
- Establishment of a process for public consultation on applications and reference to the specific form of response required by the LCRB.
- Establishment of more specific guidelines related to retail cannabis applications; specifically, criteria for evaluating the proposed appearance, location and context of a proposed cannabis retail store.

The policy will be brought forward for consideration and possible adoption by Council following the public hearing on Bylaw No. 2174.

### 3. Bylaw No. 2175 (Cannabis and Liquor Licensing Fee Bylaw)

Although the Council resolution directs staff to bring forward a bylaw to amend the Land Use Procedures Bylaw No. 1380 to implement a fee structure for cannabis-related applications, further investigation by staff resulted in the decision to bring forward a separate fee bylaw for two reasons:

1. Land Use Procedures Bylaw No. 1380 is currently specific to only planning and land use applications and references the *Local Government Act* for its authority. The ability for municipalities to charge a fee for cannabis-related applications resides in the *Cannabis Control and Licensing Act*. Rather than make significant changes to Bylaw No. 1380, staff believe a separate bylaw is more appropriate.
2. The Town does not currently charge a fee for liquor licence-related applications and creating a separate fee bylaw for both of these related categories of application types would be more efficient than significant amendments to Bylaw No. 1380. The amount of staff time and cost to process cannabis and liquor licence applications is expected to be similar.

Bylaw No. 2175 sets the fees for both cannabis and liquor applications as follows:

- a) \$100.00 for a staff assessment of a licence application (i.e. Building Official determination of maximum occupancy load);
- b) \$250.00 for a Council assessment of a licence application for a change to an existing licence or for a special occasion licence (i.e. request to change hours of operation);
- c) \$450.00 for a Council assessment of a licence application for a new licence;
- d) In addition to the fees required in (b) and (c) above, a deposit of \$1,500.00 for the Town's costs for public notification as part of the public consultation process required by the Act or requested by Council to complete the Council's assessment of a licence application.

### 4. Review of Ancillary Bylaws

Staff have reviewed both *Business Licence Bylaw No. 2119* and *Municipal Ticket Information Bylaw No. 1975* and have determined that no amendments to these bylaws are required at this time. Staff do not anticipate any additional business licence requirements for cannabis businesses and do not see the need for a different business licence fee structure at this time. Cost recovery for the initial provincial licence referral will be covered under Bylaw No. 2175 discussed above.

As noted in the previous staff report related to cannabis regulation, the Provincial Government has included significant enforcement powers within the *Cannabis Control and Licensing Act*. Any enforcement issues related to the retailing of cannabis products (i.e. the sale of unapproved product) would fall under the jurisdiction of the LCRB and not the Town of Sidney. As a result, what the Town would be responsible for enforcing are issues commonly encountered with any business, such as non-conforming signage, operating without a business licence or operating contrary to permitted uses in the Zoning Bylaw. These enforcement categories already exist in the MTI Bylaw.

### 5. Public Engagement Process

Following Council giving Bylaw No. 2174 first and second reading, staff will undertake the following public engagement/information process:

1. Develop a dedicated page on Sidney's website for cannabis-related information. This page will detail the background, status and proposed approach to cannabis within the community, as well as provide detailed information on dates for Council decision making (i.e. public hearing, etc.) This webpage would also be used to provide the public with information on future liquor and cannabis related applications received by the Town if the bylaw amendments are adopted.
2. Include an informational article in the July 2019 issue of Town Talk. Due to the schedule for Town Talk, this article has already been finalized and provides only general information. However it does direct readers to the following webpage: [www.sidney.ca/cannabis](http://www.sidney.ca/cannabis) in order to allow residents to get updates and information on the proposed changes.

3. Social Media: staff will begin a series of social media posts providing general background information, as well as specific information regarding key decision points/dates for the proposed cannabis bylaw and policy. Each post will also refer to the Town's webpage where more detailed information will be available.
4. Newspaper advertisements: Staff propose a series of three newspaper advertisements, one informational and two statutory (as required by the *Local Government Act* to advertise for the public hearing). The first advertisement will be to provide general information on what is proposed, and the second and third advertisement will provide specific bylaw and public hearing information.
5. In addition to newspaper advertisements, staff propose to send letters providing an overview of the proposed changes and requesting comment from the following organizations:
  - School District No. 63
  - Sidney Downtown Business Improvement Area Society
  - Saanich Peninsula Chamber of Commerce
  - Island Health
  - The District of North Saanich
  - Victoria International Airport Authority

All public communications noted above will include contact information for staff so that the public may obtain additional information, submit questions or provide comments. All comments related to the proposed bylaw will be collected and summarized for Council's consideration prior to the public hearing.

**STAFF RECOMMENDATION:**

**That this report be received for information.**

Respectfully submitted,



Yazmin Hernandez, MCIP RPP  
Municipal Planner

Respectfully submitted,



Corey Newcomb, MCIP RPP  
Senior Manager of Long  
Range Planning

I concur,



Randy Humble, MCIP, RPP  
Chief Administrative Officer

Attachments:

Appendix A: Liquor & Cannabis Licence Policy DV-015

<b>TITLE:</b>			
<b>LIQUOR &amp; CANNABIS LICENSING</b>			
<b>Type:</b>	Council	<input checked="" type="checkbox"/>	Administrative
<b>Approved:</b>			Ref: DV-015
<b>Amended:</b>			Page: 1 of 4

**PURPOSE:**

The purpose of this policy is to establish process and procedures for the Town of Sidney to follow when responding the provincial license referrals received from the Province of British Columbia's Liquor and Cannabis Regulation Branch (LCRB).

**POLICY:****1. APPLICATION PROCEDURE**i. Application Intake

All applicants shall submit to the Town the following documents and pay the associated fees and deposits. An appointment is required to submit an application, and only complete applications will be accepted. Complete applications must contain the following information:

- Copy of a complete LCRB application form
- Recent title search (less than 30 days)
- Copy of any charges on title
- Company Search (if property owner and/or applicant(s) are a company name)
- All liquor related license applications must also include:
  - Letter to Mayor & Council generally outlining the proposal
  - Person capacity analysis of the premises
  - Existing and proposed hours of operation/liquor service of the establishment
- All cannabis retail license applications must also include:
  - Letter to Mayor and Council – *The letter must outline whether the applicant is aware of any potential negative impacts the proposed cannabis retail store may have on the community/adjacent properties and any efforts to mitigate said impacts.*
  - Proposed hours of service
  - Site plan showing entrances, exits, accessory buildings or structures, garbage enclosures and delivery areas
  - Colour Building Elevations
  - Signage Plan
- Proof of payment of all applicable application fees & deposits

ii. Fees & deposits

Fees required for the review of all LCRB applications are outlined in Bylaw No. 2175, as amended from time to time.

iii. Processing time

Once a complete liquor related license application is received the Town of Sidney will sign the applicant's LCRB application, initiating a 90-day period to gather public input in accordance with Section 71 of the Liquor Control and Licensing Regulations.

The Town of Sidney is required to contact the LCRB in writing in any of the following cases:

- If more than 90 days are required to provide comment.
- If the applicant refuses to provide the Town with the information needed to be able to consider the application.
- If the Town of Sidney opts out from providing comment, or is the applicant.

iv. Referral Process

Upon receipt of a complete application, staff shall provide the local RCMP detachment with a 15 day period for review and comment prior to preparing a report to Council.

v. Staff report

At the council meeting where the resolution is to be considered, staff shall present a comprehensive report and draft resolution for Council's consideration. As required by the LCRB, a Council resolution must provide information relevant to the following issues:

- Impact on the community (including but not limited to traffic, noise, parking and zoning) if the application is approved;
- Views of residents and a description of how they were gathered;
- Local government recommendations (including whether the application should be approved) and associated rationale.

A staff report on a Liquor Primary & Liquor Primary Club License application must also provide information relative to:

- The location, person capacity, and hours of liquor service of the establishment; and
- Impact on the community in the immediate vicinity of the establishment.

A staff report on a Cannabis Retail License application must also provide information relative to:

- The location, person capacity, and hours of operation of the establishment;
- Impact of noise on the community in the immediate vicinity of the establishment, if the application is approved;
- Adherence of the storefront/exterior building modifications and signage plan with the Town's Official Community Plan policies and applicable Development Permit Area Guidelines; and,
- Proximity to sensitive sites (including schools, parks, playgrounds, childcare facilities) and existing cannabis retail stores.

A staff report on an Amendment to an Existing Food Primary License application must also provide information on whether the application will result in the establishment operating in a manner contrary to the primary purpose of the establishments, which is the service of food.

A staff report on a Temporary Amendment (Event) to Liquor Licenses application must include a draft recommendation in the form of objection or no objection and must provide information relevant for Council's comment on the impact (including, but not

limited to noise) on the community in the immediate vicinity of the establishment, if the application is approved.

vi. Public Notification & Public Input Session

In the case of an application which requires public comment (e.g. a new Liquor Primary / Liquor Primary Club / Cannabis Retail License Application) the Town will give written notice, at least 10 days prior to the date on which Council will consider the application, to the owners as shown on the assessment roll as at the date of application for the permit, and to any tenants in occupation, as at the date of the mailing or delivery of the notice, of all parcels, any part of which is:

- a) The subject of the application; or
- b) Within 100 metres (328 feet) of the part of the land that is the subject of the application

The Town shall advertise in 2 consecutive issues of a local newspaper, the last publication to appear not less than 3 days and not more than 10 days before the date Council is to consider the application. The advertisement shall advise the public of the nature of the application and their opportunity to be heard by Council at a future Council Meeting date.

On the date identified in the notice, Council will hear the applicant and any person deemed to be affected or having an interest in the application.

vii. Council Resolutions

Resolutions passed by Council shall take the form required by the Province, as outlined by the LCRB under Section 71 of the Liquor Control and Licensing Regulations and Division 3 of the Cannabis Control and Licensing Act.

Council may pass a resolution based on a specific term or condition; however, prior to doing this Council shall ensure that the term or condition is within the legislative jurisdiction of the LCRB to impose or enforce.

Council's official resolution or comment on the application shall be forwarded to the LCRB and the applicant. Staff shall also provide the LCRB and applicant with any reports that are referenced in, or used to determine, the resolution/comment.

## **2. COUNCIL EVALUATION & APPROVAL GUIDELINES FOR CANNABIS RETAILERS**

In order to provide direction to the community regarding cannabis retail licensing in the Town of Sidney, the following general guidelines are provided. All aspects of each application shall be evaluated on a case-by-case basis with respect to the expected impact of the license on the immediate area and the community as a whole.

i. Location

- a. Council will only review applications for properties where cannabis retail is listed as a permitted land use in Zoning Bylaw No. 2015.
- b. When reviewing an application, Council will consider the impact the cannabis retailer will have when they are located within 100 metres (328 feet) of other cannabis retailers, liquor stores, child care facilities, daycares, educational facilities, libraries, public recreation centres, public community centres, parks, places of worship and other family-oriented facilities.

c. Only one cannabis retailer will be permitted per lot.

ii. Store/building facade & treatment

a. The size of a cannabis retail store should be consistent with the nature of the immediate area and the size of existing retail stores within the area.

b. The proposed retail store front must present an attractive, pedestrian-friendly face to the street by providing multiple points of visual interaction through doorways, clear windows and other pedestrian-oriented features that promote activity and transparency.

c. Any addition or alteration to an existing storefront (including new signage) or the construction of a new storefront to accommodate a cannabis retailer store must meet any applicable development permit area guidelines as outlined in the Town's Official Community Plan Bylaw No. 1920.

d. Signs should be integrated into the design of building façade, but must not obscure windows, cornices or other architectural elements.

iii. Community impact

a. Council will consider whether the proposed cannabis retail store complements or improves conditions existing in the surrounding area.

b. Council will consider the input from property owners/occupiers of land within 100 metres (328 feet) of the proposed cannabis retail store, as well as, the input from community members at large.

c. Council will consider the referral response and feedback from the local RCMP detachment.

d. Council will take into account any specific measures identified by the applicant to minimize or prevent any negative community impacts from occurring, including but not limited to, efforts to prevent service to minors, minimize odours, prevent smoking or cannabis consumption on or near the premises, property maintenance and beautification programs designed to prevent unsightliness, etc.

iv. Safety & security

a. The store façade, exterior and site layout should maximize safety and security by adhering to the principles of Crime Prevention Through Environmental Design (CPTED).