Request for Decision

RECOMMENDATION:

That Council establish as guiding principles that retail sales of cannabis and cannabis related products not be located within:

a. 400 metres of any other location where the retail sale of cannabis and cannabis related products has been authorized by the City or an adjacent jurisdiction;
b. 300 metres of any school;
c. 300 metres of any group daycare;
d. 150 metres of Centennial Park, McAdam Park, Rotary Park, Charles Hoey Park, any adjacent municipal or regional park; and
e. 50 metres of any land zoned LDR (Low Density Residential) zones;

And That Council direct staff to issue a Request for Proposals for Temporary Use Permit applications to authorize the retail sales of cannabis and cannabis related products to run from January 1, 2019, to February 1, 2019, substantially in the form attached to the November 19, 2018 report of the Manager of Planning.

Purpose

In light of the recent changes to Federal and Provincial legislation with respect to the non-medicinal use of cannabis, Council may wish to consider allowing the retail sale of cannabis, by way of Temporary Use Permits (TUP). Staff feels that a TUP is an appropriate tool for conservatively introducing cannabis retail sales.

This report outlines a potential Request for Proposal (RFP) approach for selecting businesses that might receive a TUP. The proposed process is based on similar approaches being undertaken by other Vancouver Island municipalities such as Langford and Cumberland.

Staff recently hosted the surrounding jurisdictions of North Cowichan, CVRD, Cowichan Tribes, Malahat Nation, and the Town of Ladysmith to provide an opportunity for a round table discussion on cannabis retail use and possible options for moving forward with the new legislation. It was determined that each jurisdiction has differing opportunities and challenges for addressing retail sales; however, a TUP approach appears to be preferred. It should be noted that Cowichan Tribes and Ladysmith have already endeavoured to consult their communities with surveys.
Background

The federal *Cannabis Act* came into force on October 17, 2018. Provinces and territories are responsible for determining how cannabis is distributed and sold within their jurisdictions including rules around how cannabis is sold, how retail locations are licensed, and how retail stores must be operated. Provinces and territories have the flexibility to set added restrictions, including:

- lowering possession limits;
- increasing the minimum age;
- restricting where cannabis may be used in public (subject to local bylaws); and
- setting added requirements on personal cultivation.

The *Cannabis Act* provides a strict framework for controlling the production, distribution, sale and possession of cannabis in Canada aiming to:

- prevent youth from accessing cannabis; and
- displace the illegal cannabis market.

Protecting the health and safety of youth is a top priority and the *Cannabis Act* establishes criminal penalties for those who sell or provide cannabis to youth. It also establishes a new offence and strict penalties for those who use youth to commit a cannabis offence. In addition, the *Cannabis Act* also prohibits:

- products that are appealing to youth;
- packaging or labeling cannabis in a way that makes it appealing to youth;
- selling cannabis through self-service displays or vending machines;
- promoting cannabis that could entice young people to use cannabis, except in narrow; and circumstances where it will not be seen by a young person.

To date, the Province has made the following regulatory decisions:

- Local governments will be able to set additional restrictions regarding both the retail and use of cannabis;
- British Columbia’s minimum age to possess, purchase and consume cannabis will be 19 years old (consistent with alcohol and tobacco);
- The Liquor Distribution Branch will be the wholesale distributor of non-medical cannabis in BC;
- Adults aged 19 and above will be allowed to possess up to 30 grams of non-medical cannabis in a public place;
- Use of cannabis, in any form, will also be banned for all occupants in vehicles;
- Landlords and strata councils will be able to restrict or prohibit non-medical cannabis cultivation and smoking at tenanted and strata properties;
- BC will align with the proposed federal legislation and allow adults to grow up to four cannabis plants per household, but the plants must not be visible from public spaces off the property;
- Home cultivation of non-medical cannabis will be banned in dwellings that are also used as daycares;
• Drug impaired driving will continue to be illegal in BC (the Province will increase training for law enforcement and toughen provincial regulations to give police more tools to remove drug-impaired drivers from the road and deter drug-affected driving); and

• British Columbians of legal age will be able to purchase non-medical cannabis through privately run cannabis only retail stores or government-operated retail stores and online sales.

The Province has not yet stated that it will provide additional resources to local governments to offset the anticipated increase in administrative and policing costs. As a result, an additional purpose of this report is to open discussions with Council to provide specific feedback and recommendations for the regulation of retail operations, as well as the location and use of cannabis within the City of Duncan.

Retail Sales Analysis

As a result of the Province unveiling a high-level overview of its regulatory framework for retail cannabis (attached), prospective retailers have begun making applications to the province for licensing. A requirement of this process is that applicants must concurrently have local government approval with respect to zoning and other matters that are valued by the local community. Presently, the City of Duncan Zoning Bylaw No. 3166 prohibits Marijuana Operations in all zones.

If Council opts to permit the sale of cannabis in Duncan (per the Province’s regulations), a way forward may be to consider each retail store on a case by case basis through a TUP process. With a TUP process, Council may retain some control by:

• Limiting the overall number of outlets within the community;
• Allowing for a “pilot” period, (renewable under the Local Government Act once after up to 3 years. After which time a rezoning of the site may be appropriate);
• Imposing conditions to mitigate possible negative effects (before and throughout the life of the permit);
• Providing an opportunity for community feedback (before and throughout the life of the permit)

Location

Should Council choose to proceed with allowing the retail sale of cannabis, establishing the following geographic guiding principles may be helpful and provide the ability to monitor any impacts associated with the new use.

That retail sale of cannabis and cannabis related products be not be located within:

• 400 metres of any other location where the retail sale of cannabis and cannabis related products has been authorized by the City or an adjacent jurisdiction;
• 300 metres of any school;
• 300 metres of any group daycare;
• 150 metres of Centennial Park, McAdam Park, Rotary Park, Charles Hoey Park, any adjacent municipal or regional park;
• 50 metres of any land zoned LDR (Low Density Residential) zones and,

These guiding principles may allow for a limited number of retail sale outlets spread throughout the City in existing areas that are zoned for commercial use, depending on which properties are available for lease or purchase. It is not possible to determine definitively how many outlets are possible given the above criteria; however, staff recommends that during the initial “pilot” period, the total number of retail outlets be capped at three.
Application process

In addition to these geographic requirements, Council may also wish to establish an application process to ensure a rigorous but fair way of determining which cannabis retailers can locate within Duncan.

The application process would require each applicant to provide/demonstrate a number of important factors, including:

- A detailed description of the Proponent’s current business undertakings, including a description of the Proponent’s experience in retail sales in a commercial sector specifically regulated by Canada or British Columbia (e.g., age restricted sales and/or controlled substance sales);

- A detailed description of any enforcement actions or proceedings brought by Canada, British Columbia, a local government, or an agent or branch of any of them against the Proponent in relation to the past or current business undertakings of the Proponent or its principals, or against the past or current business undertakings of third parties with whom the Proponent or its principals were or are associated;

- A detailed description of the Proponent’s proposed business plan for undertaking the retail sale of cannabis products within the City’s boundaries, including a detailed description of the following:
  - Proposed hours of operation;
  - Proposed Plan for Health and Safety:
    - Ensuring that the retail sale of cannabis products is in compliance with the Regulatory Framework and all applicable City bylaws;
    - Providing appropriate security measures associated with the premises from which the retail sale of cannabis products use will occur;
    - Minimizing the impact on the neighbourhood of the retail sale of cannabis products;
    - Addressing nuisance issues relating to public use of cannabis products purposes;
    - Addressing impairment issues relating to public use of cannabis products purposes; and,
    - Providing educational initiatives and materials associated with the above impacts and related social concerns;

- A description of the Proponent’s ability to obtain bonding, if necessary, and a minimum of $5 million insurance coverage;

- While not a requirement, a description of the Proponent’s preferred location or locations for undertaking the retail sale of cannabis products within the City’s boundaries;

- Where the Proponent has a legal interest in the preferred location or locations, or has an enforceable commitment to acquire a legal interest in the preferred location or locations, details of the legal interest or enforceable commitment;

- While not a requirement, information on the potential form, character and design of the proposed retail outlet; and,

- A description of the Proponent’s expected timeframe for commencing the retail sale of cannabis products within the City’s boundaries.

It should be noted that in addition to the above; Council would have the ability to further regulate, if necessary, additional issues through the TUP process.
Staff recommends that the application process would open on January 1, 2019 and close on February 1, 2019.

For full details of the proposed application process, please see the attached RFP (Appendix A).

**IMPLICATIONS:**

Financial:

It is anticipated that the general decriminalization of cannabis will place an extra burden on policing and bylaw enforcement. For example, police officers may be required to perform more roadside checks, may need to provide additional education to the public, and may be given the authority to inspect cannabis retailers to ensure conformance to legislation. Further, smoke and odor from cannabis consumption may elicit additional complaints at City Hall.

Despite this, the Province has of yet not stated that it will provide additional resources to local governments to offset the anticipated increase in administrative and policing costs.

Council, therefore, may wish to ask, as part of the application process, for each potential cannabis retailer to provide their proposed plan for financially assisting the City with policing and bylaw enforcement costs, including the costs of additional training and administrative costs, associated with:

- Ensuring that the retail sale of cannabis products in a particular location is in compliance with the Regulatory Framework and all applicable City bylaws;
- Minimizing the impact on the neighbourhood of the retail sale of cannabis products;
- Addressing nuisance issues relating to public use of cannabis products;
- Addressing impairment issues relating to public use of cannabis products; and,
- Providing educational initiatives and materials associated with the above impacts are related social concerns.

Additionally, there are opportunities for the City to recover some of the financial resources required to pay for the staff time that will spent on processing applications. The City of Kamloops for instance, adopted fees that include a $1,600 application fee for a Retail Cannabis Sales Licenced Permit and Existing Licence Amendment, which matches the current Liquor Licence Permit Application Fee, as well as a $5,000 annual Business Licence Fee. More research in cost recovery through fees will be explored by staff prior to proposing licensing and permitting fees.
Policy/Legislation: The attached RFP for the Retail Sales of Cannabis and Cannabis Related Products was prepared based on the approach being taken by the City of Langford.

Strategic Priority: N/A

Sustainability: If there is an opportunity for the City to benefit over the long term from this use, investment should be made in sustainable initiatives and the long term health of the community.

Communication: N/A

Staffing Implications: A significant initial increase in staff time will be required to implement programs to accommodate Cannabis use regulations and programs

ALTERNATE RECOMMENDATION:
That Council not approve retail sales of cannabis or cannabis related products in any City of Duncan zone, as per the current Zoning Bylaw No 3166, and strongly discourage applications for Zoning Bylaw Amendments for this use.

Appendices:
Attachment 1: Draft Request for Proposal for the Retail Sales of Cannabis and Cannabis Related Products
Attachment B2 B.C. Cannabis Private Retail Licensing Guide