

STAFF REPORT TO COUNCIL

Report Prepared By: Jake Belobaba, Director of Development Services
Date: October 30, 2019
Report Reviewed By: Guillermo Ferro, CAO
Meeting Date: November 4, 2019
File No: 3360-02-19
RE: Zoning Amendments to Allow Cannabis Retail

RECOMMENDATION:

That Council:

1. Proceed with first and second reading of Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw 2021;
2. Direct staff to proceed with scheduling and notification of a public hearing for Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw 2021 as required by section 464(1) of the *Local Government Act*;
3. Proceed with first, second and third reading of Ladysmith Fees and Charges Bylaw 2008, No. 1644, Amendment Bylaw No. 7, 2019, No. 2022; and
4. Endorse Cannabis Retail Stores Public Notification Procedures Policy 13-6410-A.

EXECUTIVE SUMMARY:

This report presents to Council for consideration the necessary bylaws and policy required to implement Council's direction to legalize cannabis retail in select areas of Ladysmith.

PREVIOUS COUNCIL DIRECTION

Resolution	Meeting Date	Resolution Details
CS 2019-298	2019/09/16	That Council: 1. ... 2. Direct staff to prepare the necessary bylaw amendments to allow the retail sale of cannabis in a specified area of commercially zoned properties generally described as 1st Avenue and Esplanade between Ludlow and Baden-Powell Streets, as well as at Coronation Square. 3. Direct staff to include in the bylaw amendment to allow the retail sale of cannabis in a specified area of properties zoned light industrial in the area generally described as Ludlow Road and Rocky Creek Road.



Resolution	Meeting Date	Resolution Details
MS 2019-049	2019/09/09	That the Committee recommend to Council that staff be directed to prepare the necessary bylaw amendments to allow the retail sale of cannabis in a specified area of commercially zoned properties including 1st Avenue and Esplanade between Ludlow and Baden-Powell Streets, as well as at Coronation Square.
CS 2019-278	08/19/2019	That Council: 1. Receive the report "Community Survey on Retail Sale of Cannabis" May 2019 (Mustel Group) and summary of social media and PlaceSpeak public engagement regarding the retail sale of cannabis; and 2. Direct staff to review best practices from other municipalities in B.C. and utilize the public engagement results, to report back to Council with recommendations to permit the retail sale of cannabis in Ladysmith.
CS 2019-279	08/19/2019	That Council refer discussion of the results of the survey on the retail sale of cannabis to the next meeting of the Municipal Services Committee.
CS 2019-118	04/01/2019	That Council: 1. Continue with the proposed community consultation on the retail sale of cannabis in Ladysmith.
MS 2019-010	02/25/2019	That the Committee recommend that Council continue with the proposed community consultation on the retail sale of cannabis in Ladysmith.
CS 2018-346	09/17/2018	That Council: 1. Approve the proposed public survey on the retail sale of cannabis in Ladysmith 2. Direct that the survey be mailed to every household in Ladysmith
CS 2018-347	09/17/2018	That Council direct staff to investigate recent regulations regarding cannabis cultivation restrictions and adjust the public survey accordingly if necessary.
CS 2018-113	04/16/2018	That Council establish a budget of \$20,000 to support public consultation on the retail sale of non-medical cannabis in Ladysmith, with the funds to come from surplus, and direct staff to amend the Financial Plan accordingly.
CS 2018-114	04/16/2018	That the Mayor appoint three members of Council, including the Mayor, to an ad hoc Committee of Council to support the public consultation process on the retail sale of non-medical cannabis in the Town of Ladysmith.
CS 2018-115	04/16/2018	That Council direct the ad hoc Committee to use the 'Municipal Guide to Cannabis Legislation' - the framework provided by the Federation of Canadian Municipalities - to develop recommendations on locational or other criteria and a desired public input strategy and scope for Council's consideration with respect to the retail sale of non-medical cannabis in the Town of Ladysmith prior to embarking on a public consultation on the matter.

INTRODUCTION/BACKGROUND:

Recreational Cannabis became legal in Canada on October 16, 2018. Under the regulatory regime established by the federal *Cannabis Act* and the provincial *Cannabis Control and Licensing Act* the Government of Canada, Provincial governments and local governments each have a set of regulatory powers to regulate cannabis retail. Municipalities in BC can regulate cannabis retail stores through zoning, business regulation and “veto” powers related to the issuance of a provincial license. In March of 2017, the Town passed Bylaw 1921, which amended the Zoning Bylaw to prohibit cannabis retail within the Town.

From March 2017 to September 2019, public consultation, which included a survey of residents was carried out. On September 16, 2019, Council directed staff to bring forward zoning amendments to allow cannabis retail in the downtown (in the area between Esplanade, First Avenue, Ludlow Road and Baden-Powell Street), Coronation Square and Rocky Creek Road. Zoning Amendment Bylaw 2021, if approved, would execute these proposed amendments. Companion bylaw amendments and a policy are also required to ensure cannabis retailers can obtain provincial licenses in Ladysmith and to ensure the Town does not bear the cost of processing license referrals.

Under the provincial *Cannabis Control and Licensing Act* and the *Cannabis License Regulation*, cannabis retailers must obtain a provincial retail license to operate. This license cannot be issued without a positive recommendation from the local government— i.e. if a local government refuses to endorse a license application or abstains from considering it, the Province cannot issue the license. Similarly, if a license referral is improperly considered by the local government, the Province may require the local government to reconsider it. When considering a license referral, a local government must:

- Consider each application separately (blanket endorsements are not allowed).
- Gather resident views either by written comments in response to a public notice, a public hearing, a referendum or by another method the local government considers appropriate.
- Make a written submission to the Province, which must include the views of the local government, the views of residents, a description of the method used to gather resident views, a recommendation from the local government and reasons for the recommendation.

The provincial guide for local government approval of licenses is attached to this report and outlines these requirements in greater detail.

A local government can charge a fee to the applicant for processing and considering a provincial license referral. The proposed Cannabis Retail Stores Public Notification

Procedures policy, would establish the process required to comply with provincial license referral requirements and Bylaw 2022 establishes a fee for this process. Each bylaw and policy before Council for consideration is described in greater detail below.

Proposed Zoning Amendment Bylaw

Pursuant to Council resolution CS 2019-298, Zoning Amendment Bylaw 2021 will define the three areas specified by Council as areas where cannabis retail may be permitted; hereafter referred to as the “designated areas”. Since the three designated areas contain properties zones that do not allow retail (e.g. residential, live-work, parks, service station commercial and tourist commercial zones), and the Council resolution speaks to allowing retail on properties zoned “commercial” and “light industrial”, staff have assumed Council’s intention was to further limit cannabis retail to properties with commercial or light industrial zoning that already allows retail. Subsequently, Bylaw 2021 will establish a two part requirement for cannabis retail:

1. It must be zoned C-2 (in the Downtown), C-5 (in Coronation Square) I-1 (Rocky Creek Road); and
2. it must be located in a designated area.

Should Council wish to allow cannabis retail in more zones within the designated areas, ‘Alternative 1’ below, would allow the bylaw to proceed immediately to public hearing “as amended” and without the need to refer the bylaw back to staff. Similarly, ‘Alternative 2’ would remove one or more of the designated areas from Bylaw 2021 and allow the bylaw to proceed straight to public hearing. These alternatives have been provided to allow Council to easily refine the proposed cannabis regulations without needing to refer the bylaw back to staff.

Proposed Public Notification Procedures

The proposed policy establishes a procedure for considering provincial license referrals that complies with legislated requirements. The policy requires:

1. Notice on the subject property at least 14 days prior to the Council’s consideration of the license referral.
2. Mail notification to all owners and tenants of land within 60m of the boundary of the subject property.
3. Two consecutive advertisements in a local newspaper.

Under the proposed policy the applicant would be required to post the sign. Staff will carry out the mail and newspaper notification, however, the applicant is required to pay the mailing and newspaper costs. The proposed policy also outlines information that must be included in the notices listed above. Generally speaking, the notification requirements are similar those required for public hearings, although a public hearing is not required under the policy.

The proposed policy allows public feedback to be submitted in writing pursuant to Section 33(3)(a) of the *Cannabis Control and Licensing Act*. A staff report to Council is not required prior to Council consideration. Council can simply consider the written submissions, render a decision and provide reasons for the decision in accordance with the requirements of the *Cannabis Control and Licensing Act* and *Cannabis Licensing Regulation*. Staff will then prepare and submit the required submittals to the Province. If Council chooses not to endorse the license application, the Province must deny the application. If Council chooses to endorse the application, the Province then makes a final decision as to whether or not to issue the license.

Proposed Fees and Charges

Fees and Charges Amendment Bylaw 2022 establishes a base fee of \$2,000 for considering provincial license referrals. Mailing and advertising costs will be charged on top of this fee. This fee is the same as the fee for rezoning applications. Although quite different in process and requirements, the average cost to the Town (e.g. staff time, legal etc.) of processing both applications is expected to be similar, hence the same fee.

DISCUSSION:

Pursuant to Council's direction, staff have prepared the necessary zoning bylaw amendments and companion bylaw and policy changes to allow cannabis retail to occur in the designated areas. The proposed bylaws and policy are in keeping with Council's instructions and will allow retailers to begin applying for provincial licenses in the areas defined by Council. The OCP predates the legalization of cannabis retail in Canada, however, the proposed regulations would not be inconsistent with the policies of the OCP. Staff recommend adopting these new rules as drafted.

ALTERNATIVES:

Council can choose to:

1. Amend Bylaw 2021 to allow cannabis retail to occur in additional zones found within one or more of the designated areas and give the bylaw first and second reading as amended.
2. Amend Bylaw 2021 to delete:
 - a. clause 1(d)(i) and 1(d)(ii), to remove the Downtown as a designated area,
 - b. clause 1(d)(iii) and 1(d)(iv), to remove Coronation square as a designated area, or
 - c. clause (e), to remove Rocky Creek Road as a designated area.
3. Not approve the proposed bylaws and policy.
4. Refer the proposed regulations back to staff for further review, as specified by Council.

FINANCIAL IMPLICATIONS:

No additional resources (e.g. staffing) have been allocated or requested to process cannabis license referrals. Bylaw 2022 will establish a fee of \$2,000 for processing

provincial license referrals which is expected to cover the average cost of processing provincial license referrals. An opportunity cost is created from processing retail license referrals—i.e. resources to process referrals would otherwise be allocated to development applications, project work etc. However, at this time, the opportunity cost is expected to be manageable.

LEGAL IMPLICATIONS:

The bylaws have been developed with the support of legal counsel to meet legislative requirements. The proposed zoning amendments apply to areas within 800 meters of a controlled access highway and must be referred to the Ministry of Transportation and Infrastructure for approval following third reading. Also, if the zoning amendment bylaw receives first and second reading as recommended, a public hearing will be required.

CITIZEN/PUBLIC RELATIONS IMPLICATIONS:

A public survey was conducted from April 29, 2019 to May 22, 2019 and the results of the survey were considered by Council on August 19, 2019, September 9, 2019 and September 16, 2019.

If the proposed zoning amendment bylaw is approved, the Town will begin receiving referrals from the Province for retail licenses. Collecting and considering public feedback is a provincial requirement for each license application. As noted above, Cannabis Retail Stores Public Notification Procedures Policy 13-6410-A meets these requirements.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS:

N/A

ALIGNMENT WITH SUSTAINABILITY VISIONING REPORT:

- | | |
|--|--|
| <input type="checkbox"/> Complete Community Land Use | <input type="checkbox"/> Low Impact Transportation |
| <input type="checkbox"/> Green Buildings | <input type="checkbox"/> Multi-Use Landscapes |
| <input type="checkbox"/> Innovative Infrastructure | <input type="checkbox"/> Local Food Systems |
| <input type="checkbox"/> Healthy Community | <input type="checkbox"/> Local, Diverse Economy |
| <input checked="" type="checkbox"/> Not Applicable | |

ALIGNMENT WITH STRATEGIC PRIORITIES:

- | | |
|--|---|
| <input type="checkbox"/> Employment & Tax Diversity | <input type="checkbox"/> Natural & Built Infrastructure |
| <input type="checkbox"/> Watershed Protection & Water Management | <input type="checkbox"/> Partnerships |
| <input type="checkbox"/> Communications & Engagement | <input checked="" type="checkbox"/> Not Applicable |

I approve the report and recommendation(s).

Guillermo Ferrero, Chief Administrative Officer

ATTACHMENT(S):

Town of Ladysmith Zoning Bylaw 2014, No. 1860, Amendment Bylaw 2021

Ladysmith Fees and Charges Bylaw 2008, No. 1644, Amendment Bylaw No. 7 , 2019, No. 2022

Cannabis Retail Stores Public Notification Procedures Policy 13-6410-A

'Local Governments' Role in Licensing Non-Medical Cannabis Retail Stores': Liquor and Cannabis Regulation Branch

Previously reviewed