Corporation of the City of
NEW WESTMINSTER

REGULAR MEETING OF CITY COUNCIL

In OPEN WORKSHOP SESSION

Notice is hereby given of the following Regular Meeting of Council:
January 29, 2018 at 12:00 p.m.
Council Chamber, City Hall

AGENDA

For On-Table addition, see item 1a

Call to order.

PRESENTATIONS

1. **Cannabis Workshop: Implementation of Cannabis Legislation**, Acting Director of Development Services
   a. Presentation **(On-Table)**

ADJOURNMENT

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Corporation of the City of
NEW WESTMINSTER

REPORT
Development Services

To:	Mayor Coté and Members of Council in Open Council Workshop	**Date**:	1/29/2018
From:	Jackie Teed Acting Director of Development Services	**File**:	01.0170.20
		Item #:	19/2018

Subject: **Cannabis Workshop: Implementation of Cannabis Legislation**

RECOMMENDATION

THAT *Council provide feedback regarding the preparation of the municipal framework for the regulation of cannabis and direct staff to procced with next steps, including consultation, as identified in this report; and*

THAT *Council consider first and second readings to Zoning Amendment Bylaw No. 7966, 2018 and forward the bylaw to Public Hearing on February 19, 2018.*

EXECUTIVE SUMMARY

The Cannabis Act has been proposed by the Federal Government which would create a legal framework for controlling the lawful production, distribution, sale and possession of non-medical cannabis across Canada. The bill could become law as early as July 2018.

Each Province and Territory will have the authority to regulate certain aspects such as distribution, retail and a range of other matters, in a manner similar to that of tobacco and liquor. Municipalities will have authority to further regulate certain aspects such as retail (through land use and business licensing regulations) and public use (through smoking regulations). The Province of British Columbia announced a number of key decisions related to the anticipated legalization of non-medical cannabis including a minimum age

requirement of 19 years, a wholesale distribution model run through the Liquor Distribution Branch and a retail sale model which includes both public and private retail opportunities. A number of key decisions from the Province however are still outstanding and, although expected prior to July 2018, potentially leave a narrow window of opportunity for local governments to respond and prepare necessary amendments to their regulations.

At this time, staff recommends a two-step approach to prepare for non-medical cannabis legalization:

A. Prepare a framework for regulation based on the provisions currently identified by the Province. This would be refined and implemented relative quickly once the Province has finalized its provisions. Staff has identified three land use approaches which could serve as a framework to regulate the retail sale of non-medical cannabis in New Westminster. The recommended approach is for retail sale to be permitted on a site specific basis, similar to Liquor Primary Licensed Premises. Staff is also recommending corresponding amendments to the Business License Bylaw; and

B. For the short term, maintain and clarify the current prohibition on the retail sale of cannabis within New Westminster. Staff recommends Council consider First and Second Readings of Zoning Amendment Bylaw No. 7966, 2018, attached as Appendix A, which would make the prohibition on the retail sale of cannabis more explicit, update reference to the Access to Cannabis for Medical Purposes Regulations (ACMPR) for the medical production of medical cannabis, and update language in the Zoning Bylaw to match that of the Cannabis Act (e.g. changing references from marihuana to cannabis).

PURPOSE

The purpose of this report is to provide Council with information regarding regulatory options in anticipation of the proposed federal legalization of non-medical cannabis in July 2018 and to receive direction from Council regarding those options, including a Zoning Amendment Bylaw to clarify and maintain the prohibition while public consultation on legalization takes place.

POLICY AND REGULATIONS

Current Federal Cannabis Regulations

Cannabis remains a Schedule II drug under the Controlled Drug and Substances Act under which producing, possessing and distributing cannabis is currently illegal everywhere in Canada.

Production, possession and distribution of cannabis for medical purposes are authorized and regulated under the Access to Cannabis for Medical Purposes Regulations.
Storefront operations selling cannabis (either for medical or non-medical purposes), commonly known as "dispensaries" and "compassion clubs", are not licensed by Health Canada under the current law and are currently illegal.

Zoning Bylaw

Retail Sale of Cannabis

Given the retail sale of both medical and non-medical cannabis is currently illegal, the Zoning Bylaw does not include any zoning district which permits the sale of cannabis as a permitted use. The general retail store use included in the Zoning Bylaw, and which permits the retail sale of goods directly to the consumer in most commercial and mixed use districts throughout the city, is not intended for the sale of controlled substances or illegal substances including, medical and non-medical cannabis.

Medical Marihuana Production Facilities

In December 2012 the Federal Minister of Health announced the Marihuana for Medical Purposes Regulations (MMPR) which permits the commercial production of medical cannabis. The facilities in which medical cannabis may be produced under this regulation are industrial in nature with an emphasis on security. In 2014, Council adopted an amendment to allow the production, but not retail sale, of medical cannabis in the M-2 Heavy Industrial District, subject to the following conditions:

1. That all operations related to the production, storage and processing of medical marihuana must occur within a completely enclosed building.
2. That the site on which the production facility is located must be at least 60.9 meters (200 feet) from any site used for a school or for any residential use.

Business Licence Bylaw

Section 15 of the Business License Bylaw generally requires that every person applying for a business licence must comply with all federal, provincial and municipal laws, bylaws, regulations and rules applicable to that type or class of business. Section 33(1) of the bylaw specifically restricts retail stores from selling cannabis or any other controlled substance or any product related to use or production of such substance.

Given the retail sale of cannabis is currently illegal, the City's current practice is to deny business licence applications for the purpose of retail sale of cannabis and to enforce against those businesses who engage in the retail sale of cannabis without a licence.

Smoking Control Bylaw

Section 3 of the Smoking Control Bylaw prohibits smoking in most public places and within 7.5 metres of any opening into a building, including any door or window that opens and any air intake. This protects against emissions entering these places and protects people as they enter or exit. The Bylaw also prohibits smoking within 15 metres of an outdoor field, skate park, playground lacrosse box, bowling green, stadium, picnic area, water park wading pool, swimming pool or off leash dog area.

Enforcement of smoking restrictions is challenging and therefore is mostly an exercise in public education.

Controlled Substance Property Bylaw

This bylaw prohibits the use of property for the trade, manufacture, ingestion, use, sharing, trade or barter of controlled substances and defines controlled substances in the same manner as the Controlled Drug and Substances Act. It was created to facilitate the dismantling of 'grow-ops', and enforcement of this bylaw is a joint effort involving New Westminster Police and Bylaw Officers.

BACKGROUND

Proposed Federal Non-Medical Cannabis Regulations

The Government of Canada intends to bring the proposed Cannabis Act (Bill C-45) into force no later than July 2018. The Cannabis Act will make the production, sale and possession of non-medical cannabis legal across Canada, subject to restrictions.

Upon coming into force, the Cannabis Act would permit adults to purchase non-medical cannabis from a retailer that has been authorized by the Province to sell and distribute non-medical cannabis. In those Provinces or Territories that have yet to authorize retailers, adults would be able to purchase non-medical cannabis directly from a federally licensed producer by ordering online with secure delivery at home by mail.

The Cannabis Act would permit adults to grow up to four one-metre tall cannabis plants for non-medical use per residence anywhere on a property.

The enactment of the Cannabis Act would not permit cannabis edible products and cannabis concentrates for legal retail sale. However, the Federal Government has indicated that it intends to authorize the legal sale of these, subject to restrictions, within the year following the legalization of the Cannabis Act.

Proposed Jurisdictions

Each Province and Territory will have authority to regulate certain aspects like distribution, retail and a range of other matters, as they do for tobacco and liquor. Municipalities will have authority to further regulate certain aspects like retail (through land use and business licensing regulations) and public use (through smoking regulations).

Under the Cannabis Act, the following is proposed, also summarized in the table below:

- the **Federal** government would be responsible for setting: 1) minimum age of 18 years or older; 2) requirements for production and manufacturing; 3) industry-wide rules and standards related to product type and packaging, serving size and potency, prohibited ingredients and promotion activities, and tracking toward preventing an illicit market.

- **Provinces** and **Territories** would be responsible for setting, if desired within their jurisdictions: 1) a higher minimum age; 2) restrictions on public consumption; 3) a lower possession limit; 4) further regulations for growing cannabis at home (e.g. reduced number of plants per residence); 5) further regulations on the sale and distribution of cannabis; 6) further restrictions related to drug-impaired driving.

- **Municipalities** would be able to further regulate non-medical cannabis through: 1) prohibiting or limiting retail locations (via the Zoning Bylaw); 2) business licensing rules (via the Business Licence bylaw); 3) prohibiting or limiting public consumption (via the Smoking Bylaw); and 4) possibly, further regulations related to production at home (e.g. requiring production in an accessory building).

Activity	Federal	Provincial	Municipal
Possession limits *	✓		
Trafficking	✓		
Advertisement & packaging*	✓		
Impaired driving	✓	✓	
Medical cannabis	✓		
Seed-to-sale tracking system	✓		
Production (cultivation and processing)	✓	✓	✓
Age limit (federal minimum)*	✓		
Public health	✓	✓	
Education	✓	✓	✓

Taxation	✓	✓	
Home cultivation (growing at home)*	✓		
Workplace safety		✓	
Distribution and wholesaling		✓	
Retail model		✓	
Retail location and rules		✓	✓
Regulatory compliance	✓	✓	
Public consumption		✓	✓
Land use/zoning			✓

* Provinces will have the ability to impose additional restriction for these areas under federal jurisdiction.

Existing Federal Access to Cannabis for Medical Purposes Regulations

The Access to Cannabis for Medical Purposes Regulation (ACMPR) was brought into force on August 24, 2016 and replaced the previous Marihuana for Medical Purposes Regulation (MMPR). The ACMPR program continues to allow individuals with a medical need, with the authorization of a health care practitioner, to access quality-controlled dried marijuana through producers licensed by Health Canada.

Under the Cannabis Act, the cannabis for medical purposes regime will continue to exist to provide access for individuals who have the authorization of their health care practitioner to use cannabis for medical purposes.

BC Provincial Regulatory Framework

Between September 25 and November 1, 2017 the BC Provincial government conducted a public engagement initiative to hear the views of stakeholders on a range of issues related to the legalization and regulation of non-medical cannabis in BC. The topics included minimum age, personal possession, public consumption, drug-impaired driving, personal cultivation, wholesale distribution and retail models. New Westminster City Council participated in the process by collectively answering the questionnaire.

On December 5, 2017, after considering input from 48,951 British Columbians and submissions from 141 local and Indigenous governments and a range of other interested stakeholders, the Province announced the following key decisions related to the anticipated legalization of non-medical cannabis in July 2018:

- **Minimum age**
  British Columbia will set the minimum age to possess, purchase and consume non-medical cannabis at 19 years old. A minimum age of 19 is consistent with B.C.'s minimum age for alcohol and tobacco use and with the age of majority in B.C.

- **Wholesale distribution of cannabis**
  Like other provinces, B.C. will have a government-run wholesale distribution model. The BC Liquor Distribution Branch (LDB) will be the wholesale distributor of non-medical cannabis in B.C.

The other areas in which the Province is expected to announce regulations include:

- **Retail Sale of Cannabis**
  The Province anticipates establishing a retail model that includes both public and private retail opportunities which is consistent with how liquor is currently sold. Further details on Provincial retail sale regulations are expected to be released by the Province in early 2018. The City may further regulate private retail use through the Zoning Bylaw and Business License Bylaw.

- **Public Consumption**
  The Province may regulate public consumption, and the City may provide further regulations. The Province may prohibit public consumption (i.e. only permitted in private residences); permit consumption in some or all types of public spaces (e.g. parks, streets); and/ or permit consumption in dedicated establishments licensed for that purpose (e.g. cannabis cafes) similar to establishments with a liquor license (i.e. pubs, bars, restaurants). If public consumption is permitted, the regulations may differ depending on the mechanism used to consume (e.g. smoked, vaped, eaten, lotions, and tinctures). For example, smoking may be regulated similarly to current tobacco smoking/ vaping regulations, which are intended to protect those in the surrounding area from the health hazards and nuisance issues of second hand smoke. Other forms of consumption are less conspicuous and do not pose direct hazards to those in the vicinity, and therefore may be regulated to a lesser degree.

- **Non-Medical Cannabis Production Facilities**
  Federal licenses for the production of cannabis or cannabis products would be required under the Cannabis Act. The processes, conditions and criteria associated with licenses for the production of Cannabis would be developed in association with the Federal licensing process. Provinces and municipalities could set further conditions regarding the non-medical production of cannabis through land use controls.

- **Personal Cultivation**
  The Province may set restrictions on personal cultivation (i.e. where and how cultivation can occur), as well as establish a registry for non-medical production. Local governments may be able to implement further regulations. It is currently legal in Canada to grow tobacco and produce wine or beer at home for personal use with very few restrictions.

- **Possession Limits and Impaired Driving**
  The Province may further regulate possession and set impaired driving laws specific to cannabis. It would be the role of the City's Police Department to uphold these laws.

DISCUSSION

Timing of Regulations

Given the above, the City needs to develop municipal regulations governing cannabis for the New Westminster context. Many details at both the Federal and Provincial levels are still unknown, details are not due to be released until spring 2018, and the legalization of non-medical cannabis is expected in early summer 2018.

Given this, at this time staff recommends a two-step approach:

A. *Prepare a framework for cannabis regulation* based on the provisions currently identified by the Province. This would be able to be refined and implemented through bylaw amendments relative quickly once the Province has finalized its provisions. Staff has identified three land use approaches which could serve as a framework to regulate cannabis retail sale, and consumption establishments in New Westminster. The recommended approach is for retail sale and consumption establishments to be permitted on a site specific basis, similar to how the City currently regulates Liquor Primary Licensed Premises. Staff is also recommending corresponding amendments to the Business License Bylaw; and

B. *For the short term, maintain and clarify the current prohibition on cannabis retail sale and consumption establishments* within New Westminster. Staff recommends Council consider First and Second Readings of Zoning Amendment Bylaw No. 7966, 2018 which would make the prohibition on cannabis retail sale and consumption establishments more explicit, update reference to the Access to Cannabis for Medical Purposes Regulations (ACMPR) for the medical production of medical cannabis, and update language in the Zoning Bylaw to match that of the Cannabis Act (e.g. changing references from marihuana to cannabis). This would be amended when the regulations developed to implement (1) were put in place.

These two steps are further detailed in the following sections.

A. Proposed Regulation Framework

The City's framework for regulating cannabis needs to address the five areas which may be under municipal jurisdiction: 1) cannabis retail sales and consumption establishments; 2) non-medical cannabis production facilities 3) business licensing regulations; 4) public consumption; 5) personal cultivation. An analysis and proposed approach for each follows.

1. Cannabis Retail Sale and Consumption Establishments

The retail sale of cannabis could potentially take two forms. First it could be sold directly to consumers for consumption off site, i.e. a public or privately run dispensary, similar to a liquor store. Second it could be sold to the consumer for consumption on site, e.g. a "cannabis café", similar to a pub or bar. These two forms parallel the existing forms of retail sales for liquor, and the City's current practice for regulating liquor sales and liquor establishments is attached in Appendix B for comparison.

It is expected that the second form would likely not be permitted by the Province, as smoking cannabis indoors would likely not meet existing public health or work safe requirements. However, the Province has neither included nor excluded this use in their provisions released to date, and the Federal Government has indicated that it intends to authorize sale of cannabis edible products and concentrates by July 2019, after which a retail sales model which includes on site consumption could be possible.

Given this, three approaches have been identified for the regulation of cannabis retail sale and consumption establishments as a land use, which would include the legal sale and consumption of cannabis in legal forms.

a) Permitted in Existing Zoning District(s):

Cannabis retail sale and consumption establishments could be permitted within an existing zone or zones. This approach would permit the retail sale of cannabis as an outright entitlement within any of the to-be-determined zoning districts.

This approach would differ from that currently used in New Westminster for retail liquor stores and liquor establishments in that it would not require a rezoning. From a municipal approval perspective, this approach would only require an application for a business license prior to opening.

Should Council decide on this approach, staff would conduct further work to prepare recommendations and identify zones which would be most appropriate for this use and report back to Council with a Zoning Bylaw Amendment at the time the Province has provided full details on Provincial regulations.

Given that the retail sale of cannabis would be a new permitted use and that the land use impacts are relatively unknown, staff recommends not taking this approach, which would eliminate the ability of Council and staff to evaluate the impacts of proposed stores on a case by case basis, as is currently done by the City for liquor stores and establishments.

b) Permitted in a New Zone:

Cannabis retail sale and consumption establishments could be permitted within a new zoning district into which properties would be required to rezone in order to be permitted to use the site for the retail sale of cannabis.

This approach is similar to one of the City's two approaches currently used for regulating retail liquor stores. Currently, liquor stores which wish to operate separate from a Liquor Primary Licensed Premises (LPLP) would be required to rezone into the C-2L zoning district or a comprehensive zoning district.

Should Council decide on this approach, staff would conduct further work to prepare a zoning district for all future cannabis retail/ consumption businesses into which to rezone and bring it forward for Council consideration at the time the Province has provided full details on Provincial regulations.

Given that the retail sale of cannabis would be a new permitted use and that the land use impacts are relatively unknown, staff recommends not taking this approach, as it would be difficult to craft a Zoning Bylaw regulation that would be able to anticipate the full spectrum of potential land use impacts and be able to cover the wide scale of types (densities and forms) of commercial and mixed use zoning.

c) Permitted as an Add-on Use:

A list of properties could be included in the Zoning Bylaw at which cannabis retail sale and consumption establishments would be permitted. In order to have a property included on this list, an application for rezoning would be required.

This approach is similar to one of the City's two approaches currently used for regulating retail liquor stores and establishments. Currently, liquor stores which wish to operate in conjunction with a Liquor Primary Licensed Premises (LPLP) would be required to apply for a text amendment to the Zoning Bylaw to be added to the list of permitted properties.

Should Council decide on this approach, staff would conduct further work to prepare the necessary Zoning Amendments and bring it forward for Council consideration at the time the Province has provided full details on Provincial regulations.

Staff recommends this approach, in which new cannabis retail sale and consumption establishment businesses would be permitted through a rezoning application, which could be evaluated by staff and Council on a site by site basis. This approach is consistent with the City's approach for Liquor Primary Licensed Premises, which is working well.

This proposed approach would be monitored by staff and compared to other approaches used in other municipalities. Staff could report back to Council on the regulations in place in New Westminster after the regulations have been in effect for a period of time.

2. Non-Medical Cannabis Production Facilities

Currently the Zoning Bylaw permits medical cannabis production facilities within the Heavy Industrial Districts (M-2) under the following conditions:

1. must occur within a completely enclosed building; and
2. must be located at least 60.9 meters (200 feet) from any site used for a school or for any residential use.

In addition to the Zoning Bylaw requirements, there are also conditions through the Federal Access to Cannabis for Medical Purposes Regulations (ACMPR) which include:

1. requirements to obtain and maintain a licence
2. establishment and personnel security measures
3. authorized activities, including good production practices, packaging, shipping, labeling, import and export requirements, and record-keeping requirements; and
4. client registration and ordering requirements.

Staff recommends also considering permitting non-medical cannabis production facilities within Heavy Industrial Districts (M-2) with the same Zoning Bylaw conditions as medical cannabis production facilities. However at this time, Federal conditions and requirements for non-medical cannabis production facilities have not been established. Depending on the Federal requirements which are or are not included in the future, additional Zoning Bylaw conditions may be recommended by staff for consideration by Council.

3. Business License Regulations

In response to non-medical cannabis legalization, the City would need to amend the Business License Bylaw to permit cannabis retail sales and consumption establishment businesses.

a) New Definitions:

The Business License Bylaw would need to be amended to include a definition for cannabis retail sales and consumption establishments, consistent with that which ultimately would be

included in the Zoning Bylaw. Conditions of operation would also be included, to limit external impacts of the business.

b) Proposed Conditions:

As a starting point, staff recommends that the business license conditions be similar to those of BC Liquor Stores and private beer and wine stores with respect to hours of operation, staffing, training, and products aimed at youth, as follows:

- Limiting store hours from 9 a.m. to 9 p.m. or 11:00 p.m.;
- Submitting all staff to Criminal Record Searches;
- Requiring all staff to have training comparable to the Serving It Right program;
- Prohibiting other products for sale that would be attractive to youth; and,
- Permitting minors on premises only if accompanied by a parent or guardian, for premises where cannabis is sold exclusively for consumption off the premises.

c) Retain Current Restriction

The Business License Bylaw currently restricts general retail stores from selling cannabis or any other controlled substance or any product related to use or production of such substance. Staff recommends this section remain unchanged to ensure cannabis products and paraphernalia sales continue to be restricted to cannabis retail stores only.

Staff recommends that business license regulations for the retail sale of non-medical cannabis be established similar to the regulations currently in place for liquor stores as outlined above.

4. Public Consumption

Should the Province permit cannabis consumption in public, this right would need to be balanced with the need to protect others from the health hazards and nuisance issues of second hand smoke. Staff recommends limiting consumption to all public spaces where smoking is permitted.

Smoking as defined in the Smoking Control Bylaw includes inhaling, exhaling, burning or carrying of a lighted cigar, cigarette, pipe or other lighted smoking equipment of tobacco or any other weed or plant". Given that cannabis is a plant, and included in this definition, the bylaw would not require an amendment for the purposes of regulating cannabis consumption by smoking. The bylaw would, however, require an amendment to add "vaping" to the definition.

Staff recommends that smoking control regulations be updated to include cannabis and include vaping of all products.

5. Personal Cultivation

Federal regulations would permit adults to grow up to four one-metre tall cannabis plants for non-medical use per residence anywhere on a property. At this time, staff has not identified any land use or building safety concerns over and above any potential impacts associated with the growing of any other plants within a dwelling unit, however, this item will be included in the consultation materials for public comment.

The Controlled Substance Property Bylaw prohibits the use of property for the trade, manufacture, ingestion, use, sharing, trade or barter of controlled substances. It defines controlled substances as "defined and described in Schedules I, II and III of the Controlled Drugs and Substances Act, 1996 c.19. Part of the federal government's work in preparation for July 2018 includes amendments to the Controlled Drugs and Substances Act one of which is repealing item 1 of Schedule II. For this reason an amendment of this bylaw is not required. As such, no amendments have been identified to allow personal cultivation of cannabis.

Staff recommends that no additional restrictions for personal cannabis cultivation above those which would be put in place through Federal regulations.

B. Interim Zoning Bylaw Amendment

Until the legalization of the Cannabis Act, anticipated on July 1, 2018, staff recommend that Council consider a Zoning Amendment Bylaw No. 7966, 2018, attached as Appendix A.

This bylaw would provide clarity that the retail sale of cannabis is not a permitted use until the legalization of the Cannabis Act. The Zoning Amendment Bylaw would define the Retail Sale of Cannabis, and as per City practice with other prohibited uses, the Zoning Amendment Bylaw would also be amended to add 'Retail Sale of Cannabis' to the Public Works, Adult Entertainment and Utility Districts (P-8). This would limit this use to the one site with this zoning, which is the City Works Yard.

The Zoning Amendment Bylaw would also update references in the medical cannabis production facilities to Access to Cannabis for Medical Purposes Regulations (ACMPR) from the previous Marihuana for Medical Purposes Regulations (MMPR). Further, the language in Zoning Bylaw uses 'marihuana' and should be updated to use 'cannabis' and match the language in the proposed Federal and Provincial frameworks.

NEXT STEPS

A. Prepare a Framework for Municipal Regulations

Following feedback received from Council as part of the presentation of this report, the next steps in regards to preparation of the municipal framework for the regulation of cannabis in New Westminster would be as follows:

- Hire a consultant to prepare consultation materials to be used as part of stakeholder surveys and at townhall meeting. (boards, images etc.)
- Conduct online surveys to solicit feedback from the public and businesses regarding the proposed approach to cannabis regulation in New Westminster;
- Conduct a 'townhall' meeting at which the public would be given an opportunity to provide feedback directly to council and staff. This would be setup in Council Chambers similar to a public hearing, where those interested would be given the opportunity to address Council and provide their feedback. Before the meeting, information material would be setup in the lobby area with staff available to answer questions and receive feedback.
- Staff would prepare a report to Council summarizing the feedback received and any further information from the Province in regards to the approach to be used in British Columbia. This report would include the necessary amending bylaws to implement the selected approach for Council consideration prior to the anticipated legalization date of the Cannabis Act.

B. Interim Zoning Amendment

Following Council consideration of Zoning Amendment Bylaw No. 7966, 2018 for first and second readings, the Bylaw would be forwarded to a Public Hearing and then for Council consideration of third reading and adoption on February 19, 2018.

INTERDEPARTMENTAL LIAISON

The Development Services Department has consulted staff from Police Services and the City Solicitor regarding this matter.

OPTIONS

There are two options for Council to consider:

1. That Council provide feedback regarding the preparation of the municipal framework for the regulation of cannabis and direct staff to procced with next steps, including consultation, as identified in this report;

2. That Council consider first and second readings to Zoning Amendment Bylaw No. 7966, 2018 and forward the bylaw to Public Hearing on February 19, 2018; and

3. That Council provide staff with alternative direction.

Staff recommends options 1 and 2.

ATTACHMENTS

Appendix A - Zoning Amendment Bylaw No 7966, 2018
Appendix B - Comparison of Retail Sale of Cannabis to Retail Sale of Liquor

This report has been prepared by:
Mike Watson, Planner
Kim Deighton, Manager, Licensing and Integrated Services

This report was reviewed by:
John Stark, Acting Manager of Planning

Approved for Presentation to Council

Jackie Teed
Acting Director of Development Services

Lisa Spitale
Chief Administrative Officer

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Corporation of the City of
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Appendix A:

Zoning Amendment Bylaw No. 7966, 2018

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CORPORATION OF THE CITY OF NEW WESTMINSTER

ZONING AMENDMENT BYLAW (RETAIL OF CANNABIS)
NO. 7966, 2018

ADOPTED _____

A Bylaw to Amend Zoning Bylaw No. 6680, 2001.

The Municipal Council of the City of New Westminster, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "Zoning Amendment Bylaw (Retail Sale of Cannabis) No. 7966, 2018".

2. Zoning Bylaw No. 6680, 2001 is hereby amended as follows:

(a) Inserting the following as section 120.159.3

"RETAIL SALE OF CANNABIS means the use of a site for the sale or distribution of cannabis, including for medical purposes, in any form but excludes a *medical cannabis production facility*."

(b) Replacing section 120.132.1 with

"MEDICAL CANNABIS PRODUCTION FACILITY means a facility providing for the production, storage, processing and distribution of cannabis; does not include the retail sale of cannabis; and for which Health Canada has issued a license under Access to Cannabis for Medical Purposes Regulations (ACMPR), SOR 2016-230, as amended from time to time."

(c) Replacing section 720.21.1 with:

"Medical Cannabis Production Facility provided that:

(a) All operations related to the production, storage and processing of medical cannabis must occur within a completely enclosed building; and

(b) the site on which the *Medical Cannabis Production Facility* is located must be at least 60.9 metres (200 feet) from any site used for a school or for any residential use."

(d) Inserting the following as section 680.12.1:

"Retail Sale of Cannabis;"

GIVEN FIRST READING this _____ day of _____, 2018.

GIVEN SECOND READING this _____ day of _____, 2018.

PUBLIC HEARING held this _____ day of _____, 2018.

GIVEN THIRD READING this _____ day of _____, 2018.

ADOPTED and the Seal of the Corporation of the City of New Westminster affixed this _____ day of _____, 2018.

_____
MAYOR

_____
CITY CLERK

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Corporation of the City of
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Appendix B:

Comparison of Retail Sale of Cannabis to Retail Sale of Liquor

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Appendix B: Comparison of Retail Sale of Cannabis to Retail Sale of Liquor

The two forms of retail sales for cannabis noted in this report parallel the existing forms of retail sales for liquor: at publically or privately operated retail liquor stores for consumption off-site; and at licensed establishments for consumption on-site.

Currently in New Westminster, a liquor store is generally permitted through one of two circumstances. Both circumstances require an application for rezoning. First, they are permitted adjacent to and in conjunction with a permitted Liquor Primary Licensed Premises (LPLP). As noted above, for a site to be permitted as a LPLP, an applicant is required to apply for a rezoning to list their property as a permitted location for a LPLP.

Second, a liquor store could be permitted through a site specific rezoning where a liquor store is not adjacent to or in conjunction with a LPLP. The C-2L is a zoning district which would permit a Liquor Store in commercial street locations such as Twelfth Street or East Columbia Street.

In regards to on-site consumption at licensed establishments, the process enabling the sale of liquor depends on whether the establishment is a primarily engaged in the service of food (e.g. a restaurant) or primarily engaged in the service of liquor (e.g. a pub). Restaurants, may include the service of liquor in their business model through a Food Primary (FP) Liquor Licence issued by the Liquor Control and Licensing Branch (LCLB) and are primarily engaged in the service of food. Restaurants are permitted in most commercial and mixed use zoning districts throughout the city. Pubs or nightclubs, however, are primarily engaged in the service of liquor and require a Liquor Primary (LP) Licence from the LCLB. Pubs and nightclubs are permitted on a site specific basis throughout the municipality and require a rezoning application to be included on this list.

The retail sale of cannabis would be a new use not before permitted within New Westminster and, as such, the potential land use impacts are relatively unknown. However, given the parallels between cannabis and liquor sales, it would be reasonable to use existing liquor regulations as a starting point for regulating cannabis in New Westminster. Further, this comparison has been reinforced by the announcement from the Province which seems to be structuring their regulations and methods of distribution on those already in place for liquor.

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There is no Report with this Item.
Please see Attachment(s).

NEW WESTMINSTER

ON TABLE
Open Workshop
January 29, 2018
re: Item 1

Non-Medical Cannabis: Proposed Approach and Regulation Workshop

January 29, 2018

Federal Regulations

Currently under Federal regulations, Cannabis is a controlled substance and is illegal, except where medically approved.

The Federal Government intends to enact the Cannabis Act in July 2018 which would make the production, sale and possession of non-medical cannabis legal across Canada. It would:

- allow adults to possess up to 30 grams of legally-produced cannabis;
- allow adults to grow up to four cannabis plants, up to 1m in height per household;
- set the minimum age for purchase and use at 18 years of age, with the option for provinces to increase the age limit;
- enable a regulatory regime for the licensed production of cannabis, which would be controlled by the federal government;
- enable a regulatory regime for the distribution and sale of cannabis, which would be controlled by the provincial government; and
- establish new provisions to address drug-impaired driving.

Provincial Jurisdiction

Provinces and Territories will have authority to regulate certain aspects like distribution, retail and a range of other matters, like they do for tobacco and liquor. So far BC has indicated:

- A minimum age to possess, purchase and consume non-medical cannabis at 19 years old;
- The BC Liquor Distribution Branch (LDB) will be the wholesale distributor of non-medical cannabis ; and
- There will be both private and public retail opportunities.

More decisions from BC are expected in the future.

Activity	Federal	Provincial	Muni-cipal
Possession limits *	✓		
Trafficking	✓		
Advertisement & packaging*	✓		
Impaired driving	✓	✓	
Medical cannabis	✓		
Seed-to-sale tracking system	✓		
Production (cultivation and processing)	✓	✓	✓
Age limit (federal minimum)*	✓		
Public health	✓	✓	
Education	✓	✓	✓
Taxation	✓	✓	
Home cultivation (growing at home)*	✓		
Workplace safety		✓	
Distribution and wholesaling		✓	
Retail model		✓	
Retail location and rules		✓	✓
Regulatory compliance	✓	✓	
Public consumption		✓	✓
Land use/zoning			✓

Municipal Jurisdiction

The City's draft framework for regulating cannabis should focus on all areas which are anticipated to be under municipal jurisdiction, whether or not the Province intends to regulate them:

1. Land use regulations for cannabis retail sales and consumption establishments
2. Land use regulations for non-medical cannabis production facilities
3. Business licensing regulations
4. Public consumption (smoking bylaw)
5. Personal cultivation

Activity	Federal	Provincial	Muni-cipal
Possession limits *	✓		
Trafficking	✓		
Advertisement & packaging*	✓		
Impaired driving	✓	✓	
Medical cannabis	✓		
Seed-to-sale tracking system	✓		
Production (cultivation and processing)	✓	✓	✓
Age limit (federal minimum)*	✓		
Public health	✓	✓	
Education	✓	✓	✓
Taxation	✓	✓	
Home cultivation (growing at home)*	✓		
Workplace safety		✓	
Distribution and wholesaling		✓	
Retail model		✓	
Retail location and rules		✓	✓
Regulatory compliance	✓	✓	
Public consumption		✓	✓
Land use/zoning			✓

Workshop Objectives:

Staff seek direction from Council in two areas:

A. Developing a draft regulatory framework for Cannabis in New Westminster ahead of the legalization of the Cannabis Act;

and

B. Interim Zoning Bylaw Amendment to clarify that retail sale of cannabis, including both for consumption on site and consumption off-site, will continue not to be permitted until the enactment of the Cannabis Act.

1. Land Use Regulations for Retail and Consumption

Retail sale land use regulations would cover both:

- the sale of cannabis for consumption off-site (e.g. a cannabis dispensary); and
- the sale of cannabis for consumption on-site (e.g. a 'cannabis café').

Recommended approach:

- *Land use regulations consistent with the City's current method used for the retail sale of liquor. For this approach a list of properties permitting retail sale and consumption establishments would be included within the Zoning Bylaw.*
- *Rezoning applications would be required to add a property to this list (initially this list would be empty).*

This approach has several advantages including:

- consistent with City's liquor regulations which are relatively simple and are working well;
- flexibility to allow wherever appropriate and ease of administration;
- requires community consultation and Council approval; and
- allows the community, staff and council to evaluate the potential land use impacts on a site by site basis

1. Land Use Regulations for Retail and Consumption

Recommended approach:

- *Land use regulations consistent with the City's current method used for the retail sale of liquor. For this approach a list of properties permitting retail sale and consumption establishments would be included within the Zoning Bylaw.*
- *Rezoning applications would be required to add a property to this list (initially this list would be empty)*

Does Council support this approach as the basis for public consultation?

2. Non-Medical Cannabis Production Facilities

- Medical cannabis production is currently permitted in the M-2 zone, subject to strict Federal and Provincial requirements and City conditions.
- Should the Province permit private production facilities, the City would need to address further regulations.

Recommended approach:

- *Non-medical cannabis production facilities permitted within Heavy Industrial Districts (M-2) with the same Zoning Bylaw conditions as medical cannabis production facilities:*
  - *must occur within a completely enclosed building; and*
  - *must be located at least 60.9 meters (200 feet) from any site used for a school or for any residential use.*
- *Additional conditions may need to be considered depending on the Federal requirements which may be included in the future.*

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  - *must occur within a completely enclosed building; and*
  - *must be located at least 60.9 meters (200 feet) from any site used for a school or for any residential use.*
- *Additional conditions may need to be considered depending on the Federal requirements which may be included in the future.*

Does Council support this approach as the basis for public consultation?

3. Business Licence Regulations for Retail Sale of Cannabis

- Business license regulations would cover both:
  - the sale of cannabis for consumption off-site (e.g. a cannabis dispensary); and
  - the sale of cannabis for consumption on-site (e.g. a 'cannabis café').
- Include the following business license conditions:
  - hours from 9 AM to 9 PM or 11 PM;
  - Criminal Record Searches;
  - staff required training comparable to Serving It Right;
  - prohibiting sale of products which would be attractive to youth; and
  - permitting minors only if accompanied by a parent or guardian (only applicable for premises where cannabis is sold exclusively for consumption off-site).
- Maintain restrictions on general retail stores from selling product related to the use or production of cannabis.

Recommended approach:

That business license regulations for the retail sale of non-medical cannabis be established similar to the regulations currently in place for liquor sales.

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Does Council support this approach as the basis for public consultation?

4. Public Consumption: Smoking Control Regulations

- Current City smoking control regulations prohibit smoking in public places, within 7.5 metres of openings to a building, and within 15 metres of park assembly areas.
- Provincial regulations regarding public consumption may differ based on the method of consumption. For example, smoking may be regulated similarly to current tobacco regulations, where as other less conspicuous forms such as edibles, may be regulated to a lesser degree.

Recommended approach:

- *Maintain existing smoking control regulations and apply them to cannabis;*
- *Update smoking control regulations to apply to vaping of all products, including cannabis.*

4. Public Consumption: Smoking Control Regulations

Recommended approach:

- *Maintain existing smoking control regulations and apply them to cannabis;*
- *Update smoking control regulations to apply to vaping of all products, including cannabis.*

Does Council support this approach as the basis for public consultation?

5. Personal Cultivation

- Federal regulations would permit adults to grow up to four one-metre (3.3 feet) tall cannabis plants for non-medical use per residence anywhere on the property.
- At this time, staff has not identified any land use or building safety concerns over and above any potential impacts associated with the growing of any other plants within a dwelling unit.

Recommended approach:

- *No additional restrictions for personal cannabis cultivation above those which would be put in place through Federal or Provincial regulations.*

5. Personal Cultivation

Recommended approach:

- *No additional restrictions for personal cannabis cultivation above those which would be put in place through Federal or Provincial regulations.*

Does Council support this approach as the basis for public consultation?

B. Interim Zoning Bylaw Amendment

Until the legalization of the Cannabis Act, staff recommends Council consider a Zoning Amendment Bylaw which would:

- provide clarity that the retail sale and consumption establishments of cannabis are not a permitted uses until the Cannabis Act is enacted and regulations are updated to reflect that;
- update reference to the Access to Cannabis for Medical Purposes Regulations (ACMPR) for the medical production of medical cannabis; and
- update language in the Zoning Bylaw to match that of the Cannabis Act (e.g. changing references from marihuana to cannabis).

Recommended approach:

Council consider a Zoning Amendment Bylaw No. 7966, 2018 as attached in the report as Appendix A.

Next Steps

1. Council Consideration of Interim Zoning Amendment Bylaw

2. Community and Stakeholder Consultation
    - Hire a consultant to prepare consultation materials;
    - Prepare and conduct an online survey; and
    - Hold a 'townhall' meeting.

3. Staff to prepare a report to Council for consideration which would include:
    - summary of the feedback received,
    - updates regarding any further information provided by the Province; and
    - amending bylaw.