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Corporation of the City of
NEW WESTMINSTER

REPORT
Development Services

To:	Mayor Coté and Members of Council	**Date**:	8/31/2020
From:	Emilie K Adin, MCIP Director of Development Services	**File**:	13.2680.20
		Item #:	291/2020

Subject: **Cannabis Retail Locations: Updates and Bylaws for Readings**

RECOMMENDATION

THAT *Council consider Zoning Amendment Bylaw No. 8215, 2020 (to allow cannabis edibles to be sold where the retail sale of cannabis is permitted) for two readings and waive the holding of a Public Hearing as the Bylaw is consistent with the City's Official Community Plan;*

THAT *Council consider Business License Bylaw Amendment Bylaw No. 8216, 2020 (to allow cannabis edibles to be sold where the retail sale of cannabis is permitted) for three readings and provide notice that Council will be considering an amendment at an upcoming Opportunity to Be Heard in accordance with Community Charter requirements.*

THAT *Council consider Zoning Amendment Bylaw No. 8217, 2020 to allow the retail sale of cannabis at 320 Sixth Street for two readings and direct staff to schedule a Public Hearing;*

THAT *Council consider Zoning Amendment Bylaw No. 8218, 2020 to remove the retail sale of cannabis at 532 Sixth Street for two readings and waive the holding of a Public Hearing as the Bylaw is consistent with the City's Official Community Plan.*

EXECUTIVE SUMMARY

This report provides three updates relating to cannabis retail:

1. General Update on the Status of Cannabis Retail Locations: Two locations are now operating with two more expected to open soon.

2. Monitoring Period and Subsequent Applications: Update on the monitoring period of cannabis retail locations and the potential next steps in consideration of subsequent applications; and

3. Transparent Windows: The Liquor and Cannabis Regulations Branch has now allowed cannabis retail locations to have transparent windows improving safety, security and aesthetics for these businesses.

This report also seeks Council consideration of bylaws that address the two following items:

1. New Application Received in the Uptown Area: As the previous application in the Uptown is unable to proceed, amending bylaws are being brought forward:
   - for a new application Uptown (Reel Reef at 320 Sixth Street) and
   - to remove cannabis retail sale as an approved use at 532 Sixth Street;

2. Edible Cannabis Product, Cannabis Extracts and Cannabis Topicals: Zoning and Business License Amendment Bylaws are being brought forward which would permit the sale of cannabis edible products at cannabis retail locations.

BACKGROUND

In January 2018, the City initiated the process of developing the Cannabis Regulatory Framework. On August 27, 2018 and September 17, 2018 Council adopted the necessary amending bylaws and endorsed the Cannabis Retail Rezoning Policy and the Cannabis Application Evaluation Criteria.

Twenty-two applications were received between October 24 and December 5, 2018 as part of the initial application period. Six applications, including one from BC Cannabis Stores, the Provincial public operator, were endorsed by Council to proceed for further consideration and all applications received first and second readings on the respective Zoning Amendment Bylaws.

DISCUSSION

Update on Applications

Six cannabis retail location applications were selected to move forward for additional consideration, as directed by Council following a report on March 11, 2019 and a report on May 27, 2019. The six applications recommended to move forward, and their current status, are summarized in the table below.

Business Location	Location	Status
Queensborough	540 Ewen Avenue	Operating
Downtown	71 Sixth Street	Operating
Queensborough	805 Boyd Street	Building Permit Issued
Twelfth Street	710 Twelfth Street	Rezoning Completed
Sapperton	451 East Columbia Street	Awaiting LCRB Review
Uptown	532 Sixth Street	Application Withdrawn

Two locations are now operating with two more expected to open soon, however timing depends largely on external agency review timelines. Of those remaining, one application is awaiting reviews from the Liquor and Cannabis Regulation Branch (LCRB) and will be forwarded to Public Hearing once those reviews have been completed. The other application is in the uptown area and has been unable to proceed, and as such, has been withdrawn.

Uptown Location

Despite the time, investment and the best efforts made by the applicant, the cannabis retail location at 532 Sixth Street in the Uptown area has been unable to proceed due to unforeseen concerns regarding the proposed business from the property owner and/or registered interests on title of the property.

As such, consistent with the initial application intake process endorsed by Council, staff has contacted the applicants in the Uptown area which were not selected by Council to proceed ('remaining applications') in order of prioritization based on the Cannabis Rezoning Application Evaluation Checklist (Initial Intake). Two were unable to proceed as one had withdrawn and the other was no longer able to lease the space. As such the applicant at 320 Sixth Street (Reel Reef) was the remaining application in the Uptown area able to proceed at this time.

The Reel Reef cannabis store is proposed to be located on the same property as the Rivers Reach Pub and Liquor Store at the north-west corner of Sixth and Blackford Streets and would be under the same ownership and management. The owner is locally based and has experience with the retail sales of controlled substances. The location would share a vestibule entry with the existing liquor store on site and would include updated signage and

minor façade revisions. The location is relatively small with a publically accessible retail area of 37.2 square metres (400 sq. ft.), a secured storage area, and shared office/management space with the pub and retail liquor store.

The application completed the required security and financial background checks with LCRB on May 21, 2020, and as such, Council is able to direct staff to schedule a Public Hearing for the application. Although the proposed Zoning Amendment Bylaw would be consistent with the OCP and a Public Hearing could be waived, the LCRB requires that feedback from the public be gathered regarding the cannabis location. As with the previous cannabis retail applications, the Public Hearing is the method by which this public feedback has been gathered.

As with other applications selected to move forward for additional consideration, staff would work with the applicant on refining the application to achieve further consistency with relevant design guidelines. Staff recommend that Zoning Amendment Bylaw No. 8217, 2020 to allow the retail sale of cannabis at 320 Sixth Street be considered for first and second readings and be referred to Public Hearing.

As the previously approved application is no longer able to proceed at 532 Sixth Street, the retail sale of cannabis should be removed as a permitted use on this site. As such staff recommend that Zoning Amendment Bylaw No. 8218, 2020, which would remove the retail sale of cannabis at this location, be considered for First, Second and Third Readings and, as this bylaw would be consistent with the Official Community Plan, it is recommended that the Public Hearing for this amendment bylaw be waived.

Cannabis Edibles

When the City's Cannabis Regulation Framework was endorsed by Council, edible cannabis products (which includes cannabis infused products such as candies, gummies, baked goods and beverages), cannabis extracts and cannabis topicals were not permitted by Federal or Provincial regulations. Both levels of government acknowledged at the time of the initial effective date of the Cannabis Act that additional consideration was required for cannabis in these forms. In particular consideration was needed with regards to the potential for unintended over-consumption (potency and delay in effect) and in ensuring the protection of youth and children from accidental ingestion, as many of these products (such as candy or baked good formats) may appear indistinguishable from their non-cannabis counterparts.

Considering this work was unresolved, City regulations deliberately excluded cannabis edible products from being sold at retail cannabis locations through both the Zoning Bylaw and the Business Licence Bylaw. This allowed the City the opportunity to purposefully consider the Federal and Provincial approach for cannabis edibles, extracts and topicals before including these products in local regulations.

On August 10, 2020 Council passed the following motion regarding edible cannabis products:

> ***THAT*** *Council direct staff to bring forward the necessary amending bylaws to allow cannabis retails stores to sell edible cannabis products for off –site consumption and that staff not enforce the local prohibition of the sale of cannabis edibles for off-site consumption pending a decision of Council regarding such amending bylaws*

The Federal Cannabis Act was amended to include regulations to allow the legal production and sale of edible cannabis, cannabis extracts and cannabis topicals came in to effect on October 17, 2019. Licensing and production of these types of cannabis goods began in late 2019 / early 2020 and these products have started to slowly make their way into the cannabis retail marketplace.

The Cannabis Act includes a number of regulations including the following:

- Plain packaging which would not be attractive or enticing for children and youth;
- Child–resistant packaging making it more difficult for children to open;
- Products must not be appealing to youth;
- THC limit to 10 mg per package;
- No added vitamins, minerals, nicotine or alcohol and limits to amounts and source of caffeine;
- Label must include standardized symbols, health warnings, THC/CBC content, possession limits (equivalent to dried cannabis) and list of ingredients and allergens; and
- Products must not make health, cosmetic or dietary claims.

The Canadian regulations are seen as more restrictive, especially when it comes to protecting children and youth, than in other jurisdictions such as Washington, California and Colorado states. At detailed table of the regulations from the Government of Canada is included in Appendix A.

Other local municipalities that have allowed cannabis retail uses include the City of Vancouver, City of Port Moody, Langley Township, District of North Vancouver and the City of North Vancouver have not restricted the sale of edibles, extracts or topicals.

Considering the regulations and protections put in place though the Federal Cannabis Act, staff do not anticipate any additional land use impacts from the retail sale of cannabis edibles, extracts or topicals. As such, staff recommend that Council consider Zoning Amendment Bylaw No. 8215, 2020 and Business Licence Amendment Bylaw No. 8216, 2020 to make the necessary changes to allow existing and future cannabis retail uses to sell edibles, extracts or topicals.

Update on Transparent Windows

There are currently Federal and Provincial requirements that cannabis products within retail locations must not visible from the street. The intent of these requirements is consistent with the City's cannabis regulatory framework which seeks to ensure youth are protected from the promotion of cannabis.

Previously the Liquor and Cannabis Regulation Branch (LCRB) had interpreted these requirements to mean transparent windows would not be permitted in cannabis retail locations. Despite concerns raised by City staff regarding the impact on the safety and improved aesthetics of the city's pedestrian oriented commercial areas, the LCRB indicated that they expected that all windows would have to be opaque, but would continue to work with municipalities on potential future revisions.

Staff worked directly with the applicants to mitigate the impacts of non-transparent window coverings by ensuring that the design of their coverings is as pedestrian scaled and friendly as possible. Applicants have been asked to look for opportunities to incorporated art, and engaging design in the window coverings and were advised that if the requirements regarding nontransparent windows were relaxed in the future that they would be expected to work towards bringing their operation in compliance with the updated regulations.

LCRB policy directive 20-15 was released on June 18, 2020 which now allows cannabis retail locations to have transparent windows, provided all cannabis, cannabis accessories, and packaging and labelling of cannabis and cannabis accessories must not be visible from outside the cannabis retail store.

Staff has begun working with all applicants to update their locations to incorporate the changes from the LCRB. It is anticipated that operators who have recently finished relatively costly building improvements and who are open would be less able to accommodate such change and that applications earlier in the process would have more ability to be refined.

Monitoring Period and Subsequent Applications

As part of the Cannabis Regulatory Framework endorsed by Council on July 9, 2018, staff were directed to monitor the cannabis retail locations for a period of one year following the opening of the first locations. During this period, no additional applications for cannabis retail uses would be recommended. Following this period, staff would report back to Council with any recommended updates to the regulations and policy, and next steps regarding new applications.

The City is sensitive to the impacts on applicants who were not selected to proceed as an initial cannabis retail location and as such on April 8, 2019 Council endorsed the availability of the following supports for these applicants:

- Partial refund of application fees;
- Reduction in the monitoring period from approximately one year to approximately six months after the start of operation of the first locations; and
- If Council supports exploring new applications at that time, allow existing applicants to resubmit their applications at either the same location or a new location with a reduced application payment.

As two locations are currently operating, staff expect to report back to Council in the first quarter of 2021 on whether additional applications should be considered, and if so, the number, locations, and any other revisions to requirements that may be needed.

NEXT STEPS

The next steps in reviewing the rezoning application for 320 Sixth Street are summarized as follows:

1. Council consideration of First and Second Readings of Zoning Amendment Bylaw; (**we are here**);
2. Public Hearings for Zoning Amendment Bylaws, meeting Local Government Act as well as and LCRB consultation requirements; (September 28, 2020);
3. Council consideration of Third Reading and Adoption of Zoning Amendment Bylaws. (September 28, 2020)

Subsequent Approvals:

4. Application for City Building Permits, sign permits, etc. (as required);
5. Applicant to received final approvals from the Liquor and Cannabis Regulation Branch;
6. Issuance of City Business Licence.

Following Council consideration of the Zoning Amendments Bylaw to 1) remove retail sale of cannabis at 532 Sixth Street and 2) to permit the sale of edible cannabis products, notice of the waiver of the Public Hearing would be provided and then the bylaws would return to Council for consideration of third and final readings, once that notification is complete.

In regard to the Business License Bylaw amendment, an Opportunity to be Heard would be scheduled, following which the bylaw would return to Council for consideration of adoption.

INTERDEPARTMENTAL LIAISON

The Development Services Department has consulted the City Solicitor regarding this report.

OPTIONS

The following options are available for Council's consideration:

1. That Council consider Zoning Amendment Bylaw No. 8215, 2020 (to allow cannabis edibles to be sold where the retail sale of cannabis is permitted) for two readings and waive the holding of a Public Hearing as the Bylaw is consistent with the City's Official Community Plan;

2. That Council consider Business License Bylaw Amendment Bylaw No. 8216, 2020 (to allow cannabis edibles to be sold where the retail sale of cannabis is permitted) for three readings and provide notice that Council will be considering an amendment at an upcoming Opportunity to Be Heard in accordance with Community Charter requirements.

3. That Council consider Zoning Amendment Bylaw No. 8217, 2020 to allow the retail sale of cannabis at 320 Sixth Street for two readings and direct staff to schedule a Public Hearing;

4. That Council consider Zoning Amendment Bylaw No. 8218, 2020 to remove the retail sale of cannabis at 532 Sixth Street for two readings and waive the holding of a Public Hearing as the Bylaw is consistent with the City's Official Community Plan.

5. That Council provide staff with alternative direction.

Staff recommends options 1, 2, 3 and 4.

ATTACHMENTS

Appendix A: Federal Regulations Summary Table
Appendix B: Amending Bylaws

This report has been prepared by:
Mike Watson, Senior Development Planner

This report was reviewed by:
Rupinder Basi, Supervisor Of Development Planning

Approved for Presentation to Council

Emilie K Adin, MCIP
Director of Development Services

Lisa Spitale
Chief Administrative Officer

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Appendix A:

Federal Government Regulations Summary Table

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FINAL REGULATIONS:
EDIBLE CANNABIS, CANNABIS EXTRACTS, CANNABIS TOPICALS

	EDIBLE CANNABIS *(EATING OR DRINKING)*	CANNABIS EXTRACT *(INGESTING)*	CANNABIS EXTRACT *(INHALING)*	CANNABIS TOPICAL *(APPLYING TO SKIN, HAIR, NAILS)*
THC LIMIT	▸ 10 mg of THC per package	▸ 10 mg of THC per unit (such as a capsule) or dispensed amount ▸ 1000 mg of THC per package	▸ 1000 mg of THC per package	▸ 1000 mg of THC per package
PRODUCT RULES	▸ No added vitamins or minerals ▸ No nicotine or added alcohol ▸ Limits on caffeine	▸ No added vitamins or minerals ▸ No nicotine ▸ No caffeine ▸ No added sugars, sweeteners or colours	▸ No added vitamins or minerals ▸ No nicotine or alcohol ▸ No caffeine ▸ No added sugars, sweeteners or colours	▸ No nicotine or alcohol ▸ For use only on skin, hair and nails ▸ Not for use in eyes or on damaged skin
PACKAGING	▸ Child-resistant ▸ Plain	▸ Child-resistant ▸ Plain ▸ Maximum package size of 90 mL for liquid extracts if under 3% THC ▸ Must include dispensing device if a liquid and not in unit form ▸ Maximum package size of 7.5 g for extracts if over 3% THC	▸ Child-resistant ▸ Plain ▸ Maximum package size of 90 mL for liquid extracts if under 3% THC ▸ Maximum package size of 7.5 g for extracts if over 3% THC	▸ Child-resistant ▸ Plain
LABEL	▸ Standardized cannabis symbol for products containing THC ▸ Health Warning Message ▸ THC/CBD content ▸ Equivalency to dried cannabis to determine public possession limit ▸ Ingredient list ▸ Allergens ▸ Nutrition Facts Table	▸ Standardized cannabis symbol for products containing THC ▸ Health Warning Message ▸ THC/CBD content ▸ Equivalency to dried cannabis to determine public possession limit ▸ Ingredient list ▸ Allergens ▸ Intended use	▸ Standardized cannabis symbol for products containing THC (and directly on accessories such as vape cartridges) ▸ Health Warning Message ▸ THC/CBD content ▸ Equivalency to dried cannabis to determine public possession limit ▸ Ingredient list ▸ Allergens ▸ Intended use	▸ Standardized cannabis symbol for products containing THC ▸ Health Warning Message ▸ THC/CBD content ▸ Equivalency to dried cannabis to determine public possession limit ▸ Ingredient list ▸ Intended use
OTHER	▸ Must not be appealing to youth ▸ Must not make health claims ▸ No elements that would associate the product with alcoholic beverages, tobacco products, or vaping products ▸ Must not make dietary claims ▸ Must not make cosmetic claims	▸ Must not be appealing to kids ▸ Must not make health claims ▸ No elements that would associate product with alcoholic beverages, tobacco products, or vaping products ▸ Must not make cosmetic claims	▸ Must not be appealing to youth ▸ Must not make health claims ▸ No elements that would associate product with alcoholic beverages, tobacco products, or vaping products ▸ Must not make cosmetic claims	▸ Must not be appealing to youth ▸ Must not make health claims ▸ No elements that would associate product with alcoholic beverages, tobacco products, or vaping products ▸ Must not make cosmetic claims

Disclaimer: This is not a complete list of the regulatory rules for each class of cannabis. It is also not a complete list of product examples. For more information on the amendments to the *Cannabis Regulations*, please visit **Canada.ca/Cannabis**.

Government of Canada / Gouvernement du Canada

Canada

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Appendix B:

Amending Bylaws No. 8215, 8216, 8217 and 8218

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CORPORATION OF THE CITY OF NEW WESTMINSTER
ZONING AMENDMENT BYLAW (CANNABIS EDIBLES) NO. 8215, 2020

A Bylaw to Amend Zoning Bylaw No. 6680, 2001

WHEREAS the Local Government Act authorizes a local government to zone areas of a municipality and to make regulations pursuant to zoning.

NOW THEREFORE THE CITY COUNCIL of the Corporation 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 (Cannabis Edibles) No. 8215, 2020."

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

   a) deleting section 190.48.2(e); and

   b) Replacing sections 190.48.2 (c) and 190.48.2 (d) with the following:

"(c) only be permitted to sell cannabis, cannabis accessories and retail merchandise directly related to cannabis and no other product; and

(d) not be permitted within the same commercial unit as any other use, except for the retail sale of cannabis accessories."

GIVEN FIRST READING this	day of	2020.
GIVEN SECOND READING this	day of	2020.
PUBLIC HEARING held this	day of	2020.
GIVEN THIRD READING this	day of	2020.

ADOPTED this day of , 2020.

_____
MAYOR JONATHAN X. COTE

_____
JACQUE KILLAWEE, CITY CLERK

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CORPORATION OF THE CITY OF NEW WESTMINSTER
BUSINESS LICENCE BYLAW AMENDMENT BYLAW NO. 8216, 2020

A Bylaw to Amend Business Licence Bylaw No. 5640, 1986

WHEREAS the Council of the Corporation of the City of New Westminster has adopted Business Licence Bylaw No. 5640, 1986;

AND WHEREAS Council wishes to amend Business Licence Bylaw No. 5640, 1986 to regulate the retail sale of cannabis as defined herein within the City of New Westminster;

NOW THEREFORE the Council in open meeting assembled ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "Business License Bylaw Amendment Bylaw (Cannabis Regulations) No. 8216, 2020."

2. Business Licence Bylaw No. 5640, 1986 is hereby amended by deleting ", and despite changes to the meaning in the Cannabis Act (Canada) over time, shall not include edible products" from the definition of CANNABIS in section 3;

GIVEN FIRST READING this day of 2020.

GIVEN SECOND READING this day of 2020.

GIVEN THIRD READING this day of 2020.

ADOPTED and the Seal of the Corporation of the City of New Westminster affixed this day of , 2020.

_____
Mayor

_____
Jacque Killawee, City Clerk

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CORPORATION OF THE CITY OF NEW WESTMINSTER
ZONING AMENDMENT BYLAW (CANNABIS REGULATIONS) NO. 8217, 2020

A Bylaw to Amend Zoning Bylaw No. 6680, 2001

WHEREAS the Local Government Act authorizes a local government to zone areas of a municipality and to make regulations pursuant to zoning.

NOW THEREFORE THE CITY COUNCIL of the Corporation 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 (Cannabis Retail Location – 320 Sixth Street) No. 8217, 2020."

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

   a) adding the following into the table in section 190.48.1:

Real Reef	320 Sixth Street	111 sq. metres	005-839-513

GIVEN FIRST READING this day of 2020.

GIVEN SECOND READING this day of 2020.

PUBLIC HEARING held this day of 2020.

GIVEN THIRD READING this day of 2020.

ADOPTED this day of , 2020.

_____
MAYOR JONATHAN X. COTE

_____
JACQUE KILLAWEE, CITY CLERK

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CORPORATION OF THE CITY OF NEW WESTMINSTER
ZONING AMENDMENT BYLAW (REMOVAL OF CANNABIS RETAIL LOCATION – 532 SIXTH STREET) NO. 8218, 2020

A Bylaw to Amend Zoning Bylaw No. 6680, 2001

WHEREAS the Local Government Act authorizes a local government to zone areas of a municipality and to make regulations pursuant to zoning.

NOW THEREFORE THE CITY COUNCIL of the Corporation 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 (Removal of Cannabis Retail Location – 532 Sixth Street) No. 8218, 2020."

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

   a) Removing the following from the table in section 190.48.1:

Muse Cannabis	532 Sixth Street (607 Belmont St)	210 sq. metres	015-226-352

GIVEN FIRST READING this day of 2020.

GIVEN SECOND READING this day of 2020.

PUBLIC HEARING held this day of 2020.

GIVEN THIRD READING this day of 2020.

ADOPTED this day of , 2020.

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MAYOR JONATHAN X. COTE

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JACQUE KILLAWEE, CITY CLERK