Minute No. 371
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 7, 2018

Item No. 6 Zoning By-law Approaches for the Cannabis Retail Sales Use in the City of Winnipeg

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That the Public Service proceed with Option 1, as discussed in this report, and make no amendments to the City's Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law in respect of the retail sale of cannabis within the City of Winnipeg. The selection of retail store locations will be subject to the existing mechanism in place when selecting liquor store locations, Growth Enterprise & Trade and Manitoba Liquor and Gaming Authority will review and approve retail cannabis store locations after a detailed assessment, including input from the Social Responsibility Location Review Process and a City of Winnipeg designate.

2. That, within two years following the date on which cannabis is legalized, the Public Service report back to Council with respect to all Cannabis Retail Sales businesses / locations within the City of Winnipeg, the report shall include a discussion of any land use issues, complaints received and recommendations for amendments identified by the Public Service. (The Provinces' intent is to allow 3 to 4 locations within the City of Winnipeg per the 4 approved retail organizations to a maximum of 16 (sixteen) stores. This number will be revisited by the Province at a later date.)

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 7, 2018

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 15, 2018, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 7, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Zoning By-law approaches for the Cannabis Retail Sales use in the City of Winnipeg

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	J. Kiernan	N/A	D. McNeil

EXECUTIVE SUMMARY

The federal government had initially committed to passing legislation to legalize cannabis effective July 1, 2018. The Senate has pushed this date ahead to August 2018 at the earliest. The Cannabis Act (the "Act"), if passed, would make it legal to produce, sell and cannabis across Canada.

The purpose of this report is to provide Council with the necessary background information on and the implications of the Act, including the general responsibilities of all three levels of government, a synopsis of best practices and a review of three (3) possible approaches to the establishment of cannabis retail sales within the City of Winnipeg.

While two of the three approaches discussed in this report involve amendments to the City of Winnipeg's (the "City") zoning by-laws, the Public Service is not recommending that any amendments be made at this time and that the Province of Manitoba's Social Responsibility Location Review Process, through the Growth Enterprise & Trade Department, be the recommended process used to determine the placement of cannabis locations. This will result in the retail sale of cannabis being considered a retail sales use, permitted wherever retail sales uses are permitted without necessitating a public hearing. This is consistent with how the retail sale of liquor is treated under the City's zoning by-laws.

Through adoption of the Social Responsibility Location Review Process, designated provincial staff review the proposed cannabis store locations, with input from a City of Winnipeg designate, and look at select adjacencies such as schools, recreational centres and places of worship. If the location is approved by both the Province and municipality, the retailer is notified by letter from the Province and the City can then proceed with issuing any permit or license, should one be required, by the municipality. The Public Service is confident in this process given that the Province has demonstrated sound judgement and care with the placement of liquor stores throughout communities across the City.

The Provincial intent is to allow 3 to 4 locations within the City of Winnipeg per retail organization to a maximum of 16 (sixteen) stores. Retail stores will be required to follow stringent licensing rules, including ensuring age restrictions are followed. In addition, retail stores will have the highest of standards including opaque windows, controlled access, and basic signage and will reflect a high-end shopping environment that has a bright open concept.

Consultation through the Social Responsibility Location Review Process may also result in additional conditions of operation attached to the specified location. Growth Enterprise & Trade and the Manitoba Liquor and Gaming Authority (LGA) always leave the door open for additional consultation as required throughout the operational life span of the retail location. The LGA will be doing regular audits of locations for certain controls.

While this report only discusses options for the land use for retail sales of cannabis, the Public Service will provide a report to Council in regards to the regulatory impact assessment that considers the implications of the cannabis legislation, as well as potential avenues for cost recovery.

RECOMMENDATIONS

1. That the Public Service proceed with Option 1, as discussed in this report, and make no amendments to the City's Winnipeg Zoning By-law or the Downtown Winnipeg Zoning By-law in respect of the retail sale of cannabis within the City of Winnipeg. The selection of retail store locations will be subject to the existing mechanism in place when selecting liquor store locations, Growth Enterprise & Trade and Manitoba Liquor and Gaming Authority will review and approve retail cannabis store locations after a detailed assessment, including input from the Social Responsibility Location Review Process and a City of Winnipeg designate.

2. That, within two years following the date on which cannabis is legalized, the Public Service report back to Council with respect to all Cannabis Retail Sales businesses / locations within the City of Winnipeg, the report shall include a discussion of any land use issues, complaints received and recommendations for amendments identified by the Public Service. (The Provinces' intent is to allow 3 to 4 locations within the City of Winnipeg per the 4 approved retail organizations to a maximum of 16 (sixteen) stores. This number will be revisited by the Province at a later date.)

3. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

The Cannabis Act, if passed, would make it legal to produce, use, and sell cannabis across Canada, and the City will be responsible for land use and zoning regulations in respect of the production, use and sale of cannabis within the boundaries of the city of Winnipeg. The Public Service has prepared three possible approaches to the retail sale of cannabis based on a cross-jurisdictional analysis of best practises, meetings with the City's cross-departmental working

group, public and Council consultation and a review of the federal and provincial rules and regulations.

The Public Service is seeking direction from Council with respect to how to approach the retail sale of cannabis so that any required amendments to the City's zoning by-laws can be prepared prior to August, 2018.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of this report are concurred in, no amendments to the City's zoning by-laws will be prepared and the retail sale of cannabis will be treated as a retail sales use.

If the recommendations of this report are not concurred in, the Public Service will prepare any required text amendments to the City's zoning by-laws and bring them forward for public hearing and consideration under a separate report.

HISTORY/DISCUSSION

In January 2018, Manitoba Municipal Relations prepared a resource guide, Zoning for Cannabis: A Guide for Manitoba Municipalities (the "Guide") to assist Manitoba municipalities in amending their existing zoning by-laws to regulate the siting and operation of the production and retail sale of cannabis within their communities. The introduction to the Guide gives a good overview of the ongoing process towards Canadian legalization of the production, use and sale of cannabis:

> *'The federal government has committed to legalize cannabis. The Cannabis Act, if passed, would make it legal to produce, use, and sell cannabis across Canada by July 2018. The Government of Canada's goal for legalizing, strictly regulating, and restricting access to cannabis is to keep cannabis out of the hands of Canadian youth, and to prevent organized crime from continuing to profit from the illegal cannabis market.*
>
> *Each level of government will have various responsibilities, as well as have some shared areas of responsibility (Table 1). The federal government will continue to provide oversight of the medical cannabis regime, as well as set the rules around possession limits, advertising, trafficking, the tracking of seed to sale, establishing minimum age limits and personal cultivation. The provincial and territorial governments will govern many aspects of the legalization framework, including wholesale and retail distribution, and selection of a retail model. Provinces will also have the ability to set more restrictive age or possession limits.*
>
> *Municipal regulations will stem from the federal and provincial frameworks. Although the legal framework for cannabis has not been finalized, municipal governments will play an important role in local implementation.'*

The Federal government will leave the 'on the ground' zoning and land use regulations to the various jurisdictions to work out within the federal framework. Municipalities can choose to be more or less permissive of cannabis-related facilities located within their municipality.

The resource guide highlights three key areas of responsibility for local municipalities:

1. Retail location and rules;
2. Public consumption; and
3. Land use planning and zoning.

In preparation for this upcoming ground-breaking legislation, the City of Winnipeg struck a cross-departmental Working Group on Cannabis Legalization, which began meeting in November of 2017 with representation from the Office of the CAO; the Planning, Property and Development Department; the Office of Public Engagement; the Winnipeg Police Service; the Winnipeg Fire Paramedic Service; the Community Services Department; and the Legal Services Department. Several meetings have been held to date with discussions centering around the Provincial and Federal roles, zoning, licensing, policing, fire prevention, public engagement and political will.

In terms of the planning and zoning context for the City of Winnipeg, a sub-committee was struck to initiate a cross-jurisdictional analysis, included as Section 2.0 in Appendix A, and to discuss options for the City of Winnipeg specifically around allowing the retail sale of cannabis within the city after July 1, 2018.

The Provincial intent is to allow 3 to 4 locations within the City of Winnipeg per retail organization to a maximum of 16 (sixteen) stores.

Based on the Federal mandate, the Provincial legislation and role, as well as a cross-jurisdictional analysis of best practices under similar provincial / municipal hybrid models, and discussion with the Cannabis Coordination Committee, the Public Service has identified the following three potential regulatory options to facilitate the retail sale of cannabis within the city of Winnipeg.

Option 1:

- No amendment to the City's existing zoning by-laws but utilizing the Province of Manitoba's Social Responsibility Location Review Process.
- The retail sale of cannabis would be considered a "Retail Sales" use under both the Winnipeg Zoning By-law and the Downtown Winnipeg Zoning By-law, would be permitted wherever "Retail Sales" uses are currently permitted and would not require a public hearing to be established unless a fairly substantial variance was required with the proposed development
- This approach is consistent to how the retail sale of liquor is dealt with in the City's zoning by-laws
- Through adoption of the Social Responsibility Location Review Process, designated provincial staff reviews the proposed cannabis store locations, with input from a City of Winnipeg designate, and look at select adjacencies such as schools, recreational centres and places of worship. If the location is approved by both the Province and

municipality, the retailer is notified by letter from the Province and the City can then proceed with issuing any permit or license, should one be required, by the municipality.

- Retail stores will be required to follow stringent licensing rules, including ensuring age restrictions are followed. In addition, retail stores will have the highest of standards including opaque windows, controlled access, and basic signage and will reflect a high-end shopping environment that has a bright open concept.

- Consultation through the Social Responsibility Location Review Process may also result in additional conditions of operation attached to the specified location. Growth Enterprise & Trade and Manitoba Liquor and Gaming Authority always leave the door open for additional consultation as required throughout the operational life span of the retail location. The LGA will be doing regular audits of locations for certain controls.

Option 2:

- Create a "Cannabis Retail Sales" permitted use with Use Specific Standards

- Both zoning by-laws would be amended to add a "Cannabis Retail Sales" use

- Cannabis Retail Sales would be permitted in specific zoning districts

- Public hearing would only be required to establish a Cannabis Retail Sales use if the Use Specific Standards were not met

Option 3:

- Create a "Cannabis Retail Sales" conditional use

- Both zoning by-laws would be amended to add a "Cannabis Retail Sales" use

- Cannabis Retail Sales would be a conditional use in specific zoning districts

- Public hearing before the Board of Adjustment would be required for each application

- Decisions of the Board of Adjustment could be appealed to the Appeal Committee.

These options are discussed in detail in Appendix "A". Any amendment to a zoning by-law requires a public hearing be held in accordance with the City of Winnipeg Charter.

While this report only discusses options for the land use for retail sales of cannabis, the Public Service will provide a report to Council in regards to the regulatory impact assessment that considers the implications of the cannabis legislation, as well as potential avenues for cost recovery.

FINANCIAL IMPACT

Financial Impact Statement Date: May 1, 2018

Project Name:
Zoning By-law approaches for the Cannabis Retail Sales use in the City of Winnipeg

There are no financial implications associated with this report.

"Original Signed By"
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

The Office of the CAO
Cannabis Coordination Committee
Office of Public Engagement
Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg
Context + Opportunities

Subsection 'Living in a Growing Community' states;

'A growing population provides us with the opportunity to think more strategically about ways to accommodate residential, employment, commercial and other kinds of growth.'

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning
Prepared by: James Veitch, Principal Planner
Date: May 1, 2018

Attachments: Appendix A – Retail Cannabis

Appendix 'A' Retail Cannabis

1.0 Background

The federal government has committed to legalize cannabis. The Cannabis Act, if passed, would make it legal to produce, use, and sell cannabis across Canada by August 2018. The Government of Canada's goal for legalizing, strictly regulating, and restricting access to cannabis is to keep cannabis out of the hands of Canadian youth, and to prevent organized crime from continuing to profit from the illegal cannabis market.

1.1 Legislative Framework: Federal Legislation

- Medical cannabis was first legalized in Canada in 1999 under the Access to Cannabis for Medical Purposes Regulation (ACMPR). The medical cannabis regime will continue to operate in parallel to the recreational cannabis sector.
- Bill C-45 "The Cannabis Act" will decriminalize recreational cannabis and provide for the federal government to continue licensing producers, just as it licenses producers for the medical market.
- Security considerations and the like for producers will be considered as part of the federal licensing process for cannabis cultivation operations and as part of the provincial licensing process for cannabis warehousing facilities.
- The federal government will continue to provide oversight of the medical cannabis regime, as well as set the rules around possession limits, advertising, trafficking, the tracking of seed to sale, establishing minimum age limits, and personal cultivation.
- The sale of recreational cannabis and related public health and safety responsibilities are delegated to the provinces and territories.
- Bill C-45 will legislate the following
    1. Possession and use of cannabis:
        - The minimum age is 18 years or older to possess cannabis and adults may possess up to 30 grams of dried legal cannabis in a public place and may grow up to four plants per household to a maximum height of 100 cm. Provinces will have the ability to introduce more stringent rules, such as increasing the minimum age, setting lower limits for the amount that can be possessed in a public place, and a reduction in the amount of permitted plants.
    2. Illegal activities:
        - There will be strict criminal penalties for anyone operating outside of the legal system. Minor offences (such as carrying more than 30 grams but less than 50 grams) will carry a $200 fine.
    3. Restrictions on advertising, promotions and packaging:
        - The advertising, packaging and labeling cannot be appealing to youth and cannot contain false or misleading promotion. The display of cannabis and accessories at the point of sale will also be restricted.

4. Commercial production:
    - Health Canada will continue to license the commercial production, import, export and sale of cannabis. Licensed producers can grow and sell product for both the medical and recreational markets.
5. Retail of recreational cannabis:
    - Provinces and territories will be given the authority for the sale of recreational cannabis which will allow them to determine their own regime for distribution and retail, as well as the regulation and inspection of those outlets.
6. Protection of public health and safety:
    - The Non-smokers' Health Act will be amended to prohibit the smoking and vaping of cannabis in regulated places, similar to the restrictions in place for tobacco smoking.
7. Edible cannabis products:
    - Bill C-45 does not address edible and drinkable cannabis products although the federal government has indicated its intent to introduce legislation around edibles soon after Bill C-45 is proclaimed. Edible products will not be legal for retail sale.

Proposed Federal Cannabis Regulations:

- To support the implementation of the proposed Act, regulations would need to be enacted in a number of areas. The federal government is proposing to build upon the established regulatory requirements that are currently in place for medical producers.
- The proposed regulations will address:
    1. Licences, permits and authorizations:
        - Cultivation, processing, sale (federal level), analytical testing, import/export and research will require federal licensing.
    2. Security clearances:
        - Personnel associated with licences issued by Health Canada will be required to hold a valid security clearance.
    3. Cannabis tracking system:
        - Cannabis will be tracked throughout the supply chain to prevent the diversion of cannabis into, and out of, the legal market.
    4. Cannabis products:
        - Rules and standards will be established for the production of cannabis products to enable retailers to provide products with known potency; reduce the appeal to the youth market; and to prevent the accidental consumption of cannabis by young persons.
    5. Packaging and labelling:

- Packaging and labelling requirements would promote informed consumer choice and allow for the safe handling and transportation of cannabis. Strict limits on the use of colours, graphics, and other special characteristics to reduce the appeal to youth are also proposed.

6. Cannabis for medical purposes:
    - A distinct system for medical cannabis will be maintained to continue to provide patients with reasonable access to cannabis for medical purposes.
7. Health products and cosmetics containing cannabis:
    - The use of cannabis-derived ingredients in cosmetics is currently prohibited but the regulations propose that cosmetics containing cannabis-derived ingredients would be subject to the provisions of the proposed Cannabis Act

1.2 Legislative Framework: Provincial Legislation

- The provincial and territorial governments will govern many aspects of the legalization framework, including wholesale and retail distribution, and selection of a retail model. Provinces will also have the ability to set more restrictive age or possession limits.
- The Province of Manitoba has announced that it will adopt a hybrid retail and distribution model.
- The Liquor and Gaming Authority and the Manitoba Liquor and Lotteries Corporation will play key roles in the sale and distribution of cannabis.
- *The Cannabis Act* will decriminalize recreational cannabis and provide for the federal government to continue licensing producers, just as it licenses producers for the medical market. The sale of recreational cannabis and related public health and safety responsibilities are delegated to the provinces and territories.
- The role and mandate of the Liquor and Gaming Authority (LGA) will be expanded to include cannabis. All retail cannabis stores will be required to apply to the LGA for a licence.
- As part of the licensing requirement, the LGA will ensure that the retail stores comply with all applicable municipal bylaws and zoning requirements, and that the applicant has obtained all required licences, permits and approvals.
- The LGA will be responsible for licensing cannabis stores and distributors, and its inspectors would be responsible for compliance enforcement.
- The licence terms and conditions may include requirements pertaining to sales areas, storage facilities and security requirements. Licencing will also include criminal background checks of the applicant.
- Manitoba Liquor and Lotteries Corporation (MBLL) will be responsible for acquiring all cannabis for retail sale, and only cannabis sourced through them may be sold. To do so, they will:

1. work closely with licensed producers to coordinate production and delivery cycles consistent with demand;
2. offer secure, safe onsite storage and shipment of cannabis products;
3. be authorized to enter into agreements with licensed cannabis distributors;
4. assume responsibility for the administration of retail orders and procurement of supply; and
5. ensure suppliers provide product in retail ready packaging.

Bill 25: The Cannabis Harm Prevention Act

- Bill 25 amended several Acts to address health or safety concerns arising from the legalization of cannabis.
- Bill 25 received royal assent in June 2017. Parts 2, 3, 5, and 6 of the Act will come into force on a day to be fixed by proclamation.
- The amended Acts included:

Part 1 – The Child Sexual Exploitation and Human Trafficking Act:

- Cannabis is expressly stated to be a controlled substance.

Part 2 – The Drivers and Vehicles Act:

- Permits the registrar of motor vehicles to suspend the licence of a driver if the person receives a 24-hourroadside suspension for being under the influence of a drug.

Part 3 – The Highway Traffic Act:

- Creates restrictions on the transportation of cannabis in motorized vehicles and prohibits the consumption of cannabis in motorized vehicles. Also permits an officer to implement a 24-hour roadside suspension when the officer believes on reasonable grounds that the person is under the influence of a drug.

Part 4 – The Mental Health Act:

- Cannabis is expressly listed as an intoxicant and a prohibition on providing intoxicants to residents in a mental health facility still applies when cannabis is legalized.

Part 5 – The Non-Smokers Health Protection Act:

- Prohibits people from smoking cannabis in enclosed public places.

Part 6 – The Off-Road Vehicles Act:

- Creates similar transportation and consumption prohibitions for off-road vehicles.

Part 7 – The Public Schools Act:

- Cannabis is added to the list of prohibited products

Bill 11: The Safe and Responsible Retailing of Cannabis Act

- Bill 11 amends The Liquor and Gaming Control Act and The Manitoba Liquor and Lotteries Corporation Act to authorize and regulate the retail sale of cannabis in Manitoba. Bill 11 was given First Reading December 5, 2017 and will come into force on a day to be fixed by proclamation
- This Bill sets the framework for Manitoba's private retail model by legislating:
    1. The Liquor and Gaming Authority of Manitoba to be renamed the Liquor, Gaming and Cannabis Authority of Manitoba which will now be responsible for licensing cannabis stores and cannabis distributors.
    2. Cannabis may only be sold by a person who holds a retail licence. The holder of a retail license must ensure that the operation does not contravene a municipal by-law. Cannabis stores may only sell cannabis that has been grown by federally authorized producers.
    3. The Manitoba Liquor and Lotteries Corporation (MLCC) will acquire cannabis for resale. All cannabis sold in cannabis retail stores must been purchased from MLCC.
    4. A municipality may hold a plebiscite to prohibit the sale of cannabis from a cannabis store in the municipality. The plebiscite may be held before January 1, 2022 on a date specified by council.

1.3 Provincial Process for Selection of Retail Cannabis Store Locations

- Growth Enterprise & Trade will enter into separate business contracts with each the 4 retail organizations selected as part of the recent bidding process.
- Identifying acceptable retail locations will form part of those business contracts. The intent is to allow 3 to 4 locations within the City of Winnipeg per retail organization to a maximum of 16 (sixteen) stores.
- Similar to the existing mechanism in place when selecting liquor store locations, Growth Enterprise & Trade and Manitoba Liquor and Gaming Authority will review and approve retail cannabis store locations after a detailed review and input from the Social Responsibility Location Review Process and our City of Winnipeg designate.
- A key commitment stated in the retail location / approval process is that this due diligence will align with all municipal regulations.
- Identification and selection of retail locations may include additional consultation with appropriate stakeholders connected to each location. The consultation may result in additional conditions of operation attached to the specified location.
- Growth Enterprise & Trade and Manitoba Liquor and Gaming Authority always leave the door open for additional consultation as required throughout the operational life span of the retail location. The LGCA will be doing regular audits of locations for certain controls.
- The Province has indicated they want to eventually move to an 'open market' for Cannabis Retail however they have not provided guidance on how that will occur. The

City of Winnipeg needs assurance that we will have an appropriate 12 month or more notice prior to this 'open market' concept to ensure we have time to review, consult, and make the appropriate changes to our regulatory framework.

1.4 Implications for Municipalities

- Municipal regulations will stem from the federal and provincial frameworks.
- Although the legal framework for cannabis has not been finalized, municipal governments will play an important role in local implementation, including land use planning and zoning for cannabis-related facilities. Municipalities have the authority to regulate land use and businesses through their zoning bylaws.
- Canadian municipalities have begun taking steps to prepare for the legalization of cannabis. A detailed cross-jurisdictional review is presented in section 3.0 of this report.

2.0 Cross-Jurisdictional Review

The following sections provide an overview of approaches being taken by Canadian provinces and territories, and municipalities.

2.1 Provinces and Territories

The provinces and territories are required to implement a cannabis retail and distribution model by July 1, 2018. All provinces and territories have undertaken public consultations. As shown in Table 2, some jurisdictions are proceeding with a public retail model (including Ontario, Quebec, New Brunswick and the Yukon), some with the private retail model (including Alberta, Manitoba and Newfoundland Labrador), and the remaining provinces and territories are unknown at this time.

Location	Retail Model		
	Public	Private	Unknown
British Columbia	X	X	
Alberta		X	
Saskatchewan			X
Manitoba		X	
Ontario	X		
Quebec	X		
New Brunswick	X		
Nova Scotia			X
Prince Edward Island			X
Newfoundland Labrador		X	
Yukon	X		
Northwest Territories			X
Nunavut			X

2.2 Municipalities

Some Canadian municipalities have updated their zoning bylaws in anticipation of the legalization of cannabis, as well as to accommodate legal medical cannabis operations. The various municipalities have taken different approaches to achieve the result best for their municipality: cannabis-related uses permitted within existing zones; as a new defined use with specific provisions; or as a site-specific zoning bylaw amendment.

Edmonton, Alberta

- In Alberta, the province is moving forward with a hybrid model that allows consumers to purchase cannabis from a single online supplier run by the government and at privately-run storefronts. The Government of Alberta requires that cannabis stores be separated a minimum of 100 meters from provincial health care facilities, schools and municipal/school reserve land. Under the provincial legislation, municipalities are able to set further separation distances.
- In summer 2017, the City of Edmonton updated their Zoning By-law to include definitions for various cannabis related uses, including cannabis production and distribution, retail sales and consumption lounges. The by-law amendments were intended to provide clarity of interpretation and did not assign these new uses to zones, nor did they set out specific development regulations, or mitigation approaches within the by-law.
- More recently, the City of Edmonton introduced to the public a draft land use framework for cannabis stores, including a proposed text amendment to the City's Zoning By-Law. The City is circulating the proposed framework and accepting feedback from the public through email.
- Under the proposed land use framework, cannabis retail stores would be permitted in commercial zones to allow cannabis stores in corridor, suburban, and strip mall commercial locations. The City is also proposing a 200 metre separation distance between cannabis stores to prevent clustering of cannabis retail uses on any single block. In addition, cannabis retail stores must not be located within 200 metres of schools or libraries, and 100 metres within a provincial health care facility, public park, public recreation facility, and liquor store. The City's proposed separation distances are intended to limit access of children and youth to cannabis stores and prevent the negative health effects of combined use of cannabis and liquor products. Cannabis production would be handled has a general industrial use.
- Cannabis retail sales would be discretionary in commercial mixed use zones where residential development is allowed. In mixed-use zones, the Development Officer would review the application and determine the appropriateness of permitting the use based on impacts to surrounding land uses.
- In discretionary areas, the Development Officer could grant or refuse an application based on potential land use impacts, such as parking and traffic, or compliance with area plans. The Development Officer could also apply conditions to a discretionary development that must be met by the applicant. Adjacent landowners would be notified of the application.
- A limited variance power would be provided to the Development Officer to deal with situations where cannabis store locations do not quite comply with the proposed

separation distances and would have no adverse land use impacts. In such instances, the Development Officer could reduce the separation distance by no more than 20 metres.

- The Development Officer would also have the ability to require lighting, signage or screening measures to ensure the proposed development would be compatible with adjacent or nearby Residential Uses or Commercial Uses. A *Crime Prevention Through Environmental Design (CPTED) Assessment* may be required and reviewed by the Development Officer prior to the issuance of a Development Permit to ensure that development on the site provides a safe urban environment, taking into account land use impacts including, but not limited to, exterior illumination, landscaping, screening, signs, and access.
- To open a cannabis retail store, applicants would have to obtain:
    1. A development permit and potential building permit from the City of Edmonton.
    2. A business license from the City of Edmonton.
    3. A licence from the Province through the Alberta Gaming and Liquor Commission (AGLC).
- At this time, the City of Edmonton has not established application requirements to determine a complete application to the City of Edmonton for a cannabis retailed use, nor has the City determined application fees.
- The City is circulating the proposed land use framework described above to internal and external stakeholders, and accepting feedback until March 21st. The City has identified May 7 has a potential public hearing date to present Zoning Bylaw changes to City Council.

British Columbia

- The Province of British Columbia has unveiled their plans regarding provincial legislation in response to federal legalization of cannabis. Under the proposed regulations, the minimum age to possess, purchase, and consume cannabis will be 19 years old. The retail cannabis framework would include privately run retail stores or government-operated retail stores and online sales. The BC Liquor Distribution Branch (LDB) would operate the government run retail stores, and the Liquor and Licensing Branch would be responsible for licensing private stores and monitoring the retail sector. The operating rules governing public and private retail stores would be similar to those currently in place for liquor. In urban areas, licensed retailers would not be able to sell cannabis in the same stores as liquor or tobacco.
- Cannabis consumption would be allowed in public spaces where tobacco smoking and vaping are currently permitted. However, to minimize child and youth exposure, smoking and vaping of non-medical cannabis will be banned in areas frequented by children, including community beaches, parks and playgrounds. Use of cannabis, in any form will also be banned for all occupants in vehicles. Local governments will be able to set additional restrictions, as they do now for tobacco use. In addition, landlords and strata councils will be able to restrict or prohibit non-medical cannabis smoking at tenanted and strata properties. The provincial government is not restricting the location of retail stores under its licensing regulations.

- Although the sale of cannabis has not yet been legalized, some BC municipalities such as Victoria and Vancouver have already passed reactive city zoning regulations for cannabis businesses already in operation. These approaches are outlined below:

Victoria: In September, 2016, Victoria City Council passed zoning regulations for cannabis dispensaries. Although the operation of a storefront cannabis retail business is contrary to federal law, Victoria passed the zoning regulations to reduce the community impacts of businesses that were already operating as such. Victoria's regulations are for businesses selling cannabis. They do not legalize or permit the sale of cannabis because this is the jurisdiction of the Federal Government.

- Victoria established three categories of cannabis uses:
    1. Storefront Cannabis Retail:
        - A retail business where cannabis is sold or provided to a person who attends the premises.
    2. Cannabis-Related (Cannabis Onsite):
        - A business where cannabis is: promoted, advocated, paraphernalia used in the consumption of cannabis is sold or provided; and cannabis is stored onsite.
    3. Cannabis-Related (No Cannabis Onsite): A business where cannabis is promoted, advocated, and/or where paraphernalia used in the consumption of cannabis is sold or provided.
- All cannabis businesses must obtain a Cannabis Business License, and follow the regulations set out in the Cannabis-Related Business Licence Bylaw.
- All storefront cannabis retailers must be zoned for this use, and accordingly new outlets will require a Rezoning approval through City Council. Each property zoned for a cannabis use is only permitted one storefront cannabis retailer per lot.
- Only one cannabis business license is allowed per location (i.e. no co-location of a cannabis retail and other business, for example an arcade); and no ATMs or Vending Machines are allowed in the premises.

Vancouver:

- In April, 2015, Vancouver City Council passed regulations for cannabis retail dealers.
- The first cannabis related business opened in 1997. By 2015, Vancouver had over 80 confirmed cannabis related businesses operating without a business license.
- In response, the City passed regulations relating to:
    - the Building By-law and Fire By-law to protect life safety;
    - Zoning and Development By-law to regulate land use and location;
    - The License By-law to regulate the manner in which businesses may operate, and how many may be allowed; and

  - Health By-law to regulate where people may smoke (or vaporize).
- Under the regulations, a cannabis dispensary would be allowed to establish in any commercial-retail zoning district – subject to a Conditional Use approval by the Director of Planning.
- Development permits for such uses are approved by the Director of Planning, unless the Director sees fit to refer the application to the Development Permit Board.
- In addition to the land use regulations, a business license is also required to operate a cannabis business, which requires:
  - standard application information (i.e. names, contact information);
  - annual Police Information Check for the applicant and all employees;
  - a fee of $30,000 per year (based on cost recovery for regulation); and
  - a Good Neighbour Agreement.
- The sale of food products is explicitly prohibited under Vancouver's cannabis licensing requirements.

Denver, Colorado:

- In November, 2012, "Amendment 64" was passed which amended the Colorado Constitution and directed the Colorado Department of Revenue to promulgate rules governing businesses that cultivate and sell retail cannabis.
- Under the state rules, in Denver, retail cannabis stores require a Public Needs and Desires Hearing coordinated by Denver Excise and Licenses (licensing department). Any cannabis cultivation uses require a public hearing at the Director's discretion.
- In terms of zoning, in Denver, retail cannabis dispensaries are permitted in commercial retail zones.
- Denver also established a separate use category for cannabis consumption under a "Cannabis Consumption Pilot Program". Under this Pilot Program, the consumption use cannot be located indoors, cannot be visible to the public, and must comply with the location requirements for cannabis retail dispensaries; and cannabis sales cannot occur in the same location (i.e. no co-location of retail and consumption).
- Denver also prohibits retail advertising of cannabis and cannabis businesses. This includes no retail advertising allowed anywhere visible from public view (i.e. no billboards, mounted signs, hand held signs, portable signs, leaflets or flyers. No deceptive, false or misleading advertising is allowed, and businesses cannot appeal to minors or cannot advertise products as being safe. Cannabis businesses are allowed to advertise in print magazines, and incidental advertising through a sponsorship is also allowed.
- In addition, an applicant wishing to obtain a license to establish a cannabis retail use must submit a "Community Engagement Plan" to create positive impacts in the community, including policies to address complaints. For example, approved Community Engagement Plans have included Christmas Toy-Drives; food drives for Thanksgiving;

adopting a shopping center clean-up plan; adopting a street; sponsoring a community garden; donating money to a food bank; giving hiring preferences to local residents; and agreeing to answer any complaints against the business within 24 hours.

Listed below are key areas of regulation which are being implemented in Victoria, Vancouver, and Denver Colorado.

	Edmonton, AB	Victoria, BC	Vancouver, BC	Denver, CO
Approval Process	Permitted or Discretionary (Conditional) Use by Development Officers.	Rezoning to Cannabis Zoning District.	Permitted as Conditional Use by the Director of Planning.	Permitted in any Commercial Retail Zone.
Minimum distancing from sensitive uses	200m from schools or libraries. 100m from health care facilities, parks and recreation facilities, and liquor stores.	200m from schools.	300m from a school, community centre or neighbourhood house.	312m (1,000 ft.) from schools.
Minimum distancing from other Cannabis Retail uses	200m from another dispensary.	400m from another dispensary.	300m from another dispensary.	312m (1,000 ft.) from another dispensary.
Signage Regulations	Discretionary	Maximum of 2 signs with letters or numbers only.	N/A.	12” X 12” sign required at all entrances, with half inch letters stating “Do Not Enter – Limited Access Area”.
Window Regulations	Discretionary	Must be transparent and not blocked by artwork, posters, shelving, display cases etc.	Must be transparent; no translucent or opaque window covering or shutters.	No products can be seen from outside the licenses premises.
Limited Operating Hours	9:00 AM – 11:00 PM.	7:00 AM – 8:00 PM.	8:00 AM – 10:00 PM.	8:00 AM – 7:00 PM.

Figure 1: Cross Jurisdictional Chart comparison of Various City’s Regulations

3.0 Approaches to Regulating Cannabis Retail in the Winnipeg Zoning By-law No. 200/2006 and the Downtown Winnipeg Zoning By-law No. 100/2004

The following sections identify three (3) different approaches to regulating Cannabis Retail in both the Winnipeg and Downtown Winnipeg Zoning By-laws. The three approaches are organized from the "least restrictive" to "most restrictive".

3.1 Retail Sales Use

- This approach would simply consider a "Cannabis Retail Sales" as a "Retail Sales" use under both the Winnipeg and Downtown Winnipeg Zoning By-laws, which is consistent with how the retail sale of liquor is dealt with under both zoning by-laws.
- "Cannabis Retail Sales" would not need a specific definition as this use would be a "Retail Sales" use and permitted wherever "Retail Sales" uses are currently permitted.
    - A permitted use does not require a public hearing to be established unless a fairly substantial variance is required with the proposed development.
- Under the Winnipeg Zoning By-law No. 200/2006 the existing use specific standards for "Retail Sales" uses would also apply.
- Figures 2 and 3 below provide an overview of where "Retail Sales" uses are permitted in the Winnipeg and Downtown Winnipeg Zoning By-laws respectively and include the applicable use specific standards.
- Parking and signage regulations would remain consistent with those that apply to "Retail Sales" uses as currently stated in each Zoning By-law.
- Employing this approach would mean that no Zoning By-law amendments would need to be undertaken to allow for the retail sale of cannabis.

	RMU	TOD	C1	C2	C3	C4	CMU	MMU	M1
Retail Sales	P*	P*	P*	P*	P*	P	P*	P*	P*

* Use Specific Standard, see below – 90 1), 2) & 3)

Figure 2: Winnipeg Zoning By-law No. 200/2006

Use Specific Standards for Retail Sales

90 (1) In the RMU and C1 zoning districts, retail sales uses (unless otherwise listed):

(a) are limited to a maximum of 5,000 square feet of gross floor area;

(b) are limited to operate between the hours of 9:00 am to 9:00 pm.

(2) In the TOD, C2, CMU, MMU, and M1 zoning districts a retail sales use is limited to a maximum of 40,000 square feet of gross floor area.

(3) In the C3 zoning district a retail sales use is limited to a maximum of 120,000 square feet of gross floor area.

	Multiple Use	Character	Downtown Living	Riverbank
Retail Sales	P	P*	P*	A to Park Uses

* Conditional Use if not directly accessible from public sidewalk or if exceeding 3,000 square feet of floor area.

Figure 3: Downtown Winnipeg Zoning By-law No. 100/2004

3.2 Create a "Cannabis Retail Sales" Use that is permitted with Use Specific Standards

- Using this approach, "Cannabis Retail Sales" would be added as a use to both Zoning By-laws.
- A definition of a "Cannabis Retail Sales" would need to be added. A definition similar to the one used in the Liquor and Gaming Control Act should be considered in both Zoning By-laws:

  "Cannabis Retail Sales" means the premises specified in a retail cannabis licence where the retail sale of cannabis is authorized.
- Specific zones where cannabis stores may be permitted in the Winnipeg Zoning By-law will need to be considered. Generally speaking, commercial zones that allow for higher intensity commercial development may be best suited for cannabis stores because these zones are usually located on substantial corridors, such as Portage Avenue, Pembina Highway, or McPhillips Street. Further, the range of uses permitted in these zones tends to be compatible with cannabis stores.
    - Within this option, use specific standards could also be considered. Examples from other jurisdictions generally focus on separation distances from schools and other cannabis stores.
- The significance of having use specific standards is that if the required standard is not met, then the application cannot proceed without a public hearing.
- Signs could be regulated in accordance with the requirements of the relevant zone in the Winnipeg Zoning By-law.
- Parking could be regulated in the same manner as "Retail Sales" uses in the Winnipeg Zoning By-law (Parking Category: 1 parking space for each 250 square feet of floor area over 2,000 square feet).
- In the Downtown Winnipeg Zoning By-law, cannabis stores could be considered wherever retail sales are permitted. Sectors that are intended to accommodate a range of uses and activities may be the most suitable for cannabis stores.
- Parking and signage could be regulated in a manner consistent with the existing requirements of the relevant sector.
- Use specific standards could also be considered; however, these standards would need to be added to the General Provisions section (section 200) of the Downtown Winnipeg Zoning By-law.

- A public hearing would be required for the amendments discussed above for both Zoning By-laws.

3.3 Create a "Cannabis Retail Sales" Use that is Conditional

- This approach is virtually identical to the approach discussed above in section 3.2, except that "Cannabis Retail Sales" would be a conditional use instead of a permitted use in the certain zones.
- A Conditional Use in the Winnipeg Zoning By-law requires approval at public hearing before the Board of Adjustment in order to be established.
- The application process for a conditional use may take approximately 1 to 3 months and requires that the subject site be posted in order to advertise the public hearing for at least two weeks prior to the date of the public hearing. The decision of the Board of Adjustment may also be appealed.
    - Given that a public hearing would be required to establish this use, use specific standards may not be necessary as the surrounding context and existing uses could be taken into account as part of the review of the conditional use application.
    - Restrictions on the property for elements such as signage could be incorporated as conditions of approval for the conditional use application.
- Under the Downtown Winnipeg Zoning By-law, conditional uses require Director Approval and may be subject to conditions. The decision of the Director may be appealed. The appeal would be heard at a public hearing before the Standing Policy Committee on Property and Development, Heritage and Downtown Development.
- A public hearing would be required for the amendments discussed above for both Zoning By-laws.

4.0 Timeline

If the direction is to go with the recommended approach 3.1 above treating Cannabis Retail as a typical retail use then no action is required by the public service regarding Zoning By-law amendments, public hearings etc.

If approaches 3.2, 3.3 or a variation of those is directed then new Zoning By-law sections and definitions would be required to be drafted for Council to consider including a public hearing at Council to adopt the proposed zoning by-law changes. The intent would be to hold the public hearing at the SPC meeting in order to have the changes supported and ultimately approved at Council so they are ready for the Federal Legislation adoption in Summer / Fall 2018.

5.0 Licensing

The Federal and Provincial governments are regulating the retail sales of recreational cannabis through several licensing protocols. The details of the Provincial licencing process have not been completely determined out at the time this report was written. When we receive those final details we will be in a better position to recommend what, if any licensing regime should be established.

6.0 Other Cannabis Related Uses

The Public Service is focussing on potential changes to the City's zoning by-laws for the Retail Cannabis Use only. Other related uses such as Cannabis Production, Cannabis Transport / Distribution, and Medical Cannabis are either licenced / regulated by the provincial and federal governments or in the case of 'places to consume' are not legal and have not been further contemplated at this point.

6.1 Cannabis Cultivation and Warehousing Facilities

Under Bill C-45, recreational cannabis will be legalized and the federal government will license recreational cannabis producers, just as it licenses producers for the medical market. Security considerations and the like for producers will be considered as part of the federal licensing process for cannabis cultivation operations, and as part of the province licensing process for cannabis warehousing facilities.

Health Canada will be responsible for licensing the commercial production, import, export, and sale of cannabis. Licensed producers can grow and sell product for both the medical and recreational markets.

To support the implementation of Bill C-45, the federal government is proposing to build upon the established regulatory requirements that are currently in place for medical producers. The proposed licensing regulations will address cultivation, processing, analytical testing, import/export, and research. Personnel associated with licenses issued by Health Canada will be required to hold a valid security clearance. Cannabis will be tracked throughout the supply chain to prevent the diversion of cannabis into, and out of, the legal market.

6.2 Cannabis Transport / Distribution

The provincial government will govern the wholesale and retail distribution of recreational cannabis. The Liquor and Gaming Authority (LGA) and the Manitoba Liquor and Lotteries Corporation (MBLL) will play key roles in the sale and distribution of cannabis.

The LGA will be responsible for licensing distributors, and its inspectors would be responsible for compliance enforcement. Licensing will also include criminal background checks of the applicant.

The MBLL will be responsible for acquiring all cannabis for retail sale, and only cannabis sourced through them may be sold. The MBLL will:

- work closely with licensed producers to coordinate production and delivery cycles consistent with demand;
- offer secure, safe onsite storage and shipment of cannabis products;
- be authorized to enter into agreements with licensed cannabis distributors;
- assume responsibility for the administration of retail orders and procurement of supply; and
- ensure suppliers provide product in retail ready packaging

6.3 Medical Cannabis

The federal government legalized medical cannabis in 1999 under the Access to Cannabis for Medical Purposes Regulation. The medical cannabis regime will continue to operate in parallel to the recreational cannabis sector and a distinct system for medical cannabis will be maintained to continue to provide patients with reasonable access to cannabis for medical purposes.

The federal government is responsible for licensing producers for the medical market. Only producers who are authorized to produce and sell to the public may sell or provide dried marijuana, fresh marijuana, cannabis oil, or starting materials to patients

6.4 Cannabis Consumption Lounges

Under Bill C-45, the federal government is not addressing edible and drinkable cannabis products. Edible products will not be legal for retail sale. Health products and cosmetics containing cannabis would be subject to provisions of Bill C-45.

Bill C-45 will also amend the Non-smokers Health Act to prohibit the smoking and vaping of cannabis in regulated places, similar to the restrictions in place for tobacco smoking.

Under Bill 25, which received royal assent in June 2017, the provincial government has amended the Non-Smokers Health Protection Act. Under the amended Act, smoking cannabis in enclosed public places will be prohibited.

7.0 Next Steps

The City of Winnipeg Cross Departmental Working Group on Cannabis Legalization will continue to meet and review new information as it is filtered down from the Province.

The Office of Public Engagement will be launching online public survey soliciting feedback on location of cannabis stores, operational rules and public consumption. The City of Winnipeg Cross Departmental Working Group on Cannabis Legalization will review the public feedback and incorporate the information into the proposed zoning by-law changes if and as required.

Once formal direction is received from Council the public service will proceed with drafting the Zoning By-law changes for first, second and third reading if required.