Agenda – Council – April 28, 2022

Report – Standing Policy Committee on Protection, Community Services and Parks – April 11, 2022

Item No. 3 Designated Growers (DG) of Medical Cannabis Licensing Program

STANDING COMMITTEE RECOMMENDATION:

On April 20, 2022, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and submitted the following to Council:

1. That an amending by-law, attached as Schedule A to this report, to implement the Proposed Licencing Framework for Designated Growers of Medical Cannabis, be enacted.

2. That a by-law, attached as Schedule C to this report, to amend the MBEA Enabling By-law No. 59/2016 by establishing administrative penalties for contraventions of the licencing requirements enacted under Recommendation 1, be enacted.

3. That one (1) permanent FTE Clerk C position be approved to be added to the current staff complements for the Community By-law Enforcement Services Division of the Community Services Department, and an additional half (0.5) permanent FTE be approved for a Business Analyst position within the Information Systems Division of the Community Services Department, to be funded from additional revenue through Licencing fees associated with licencing Designated Growers.

4. 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 Protection, Community Services and Parks – April 11, 2022

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2022, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Protection, Community Services and Parks and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 11, 2022, the Standing Policy Committee on Protection, Community Services and Parks concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Designated Growers (DG) of Medical Cannabis Licensing Program

Critical Path: Standing Policy Committee on Protection, Community Services and Parks – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
W. Yee	C. Fernandes	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

The recommended changes to the Community Safety Business Licensing (CSBL) By-Law 91/2008 (formerly known as the Doing Business in Winnipeg By-Law) seeks Council approval to add designated medical cannabis production facilities into the existing CSBL By-law as outlined in the draft amending By-law attached as Appendix A.

Designated cannabis production facilities are buildings or structures where medical cannabis is cultivated, propagated, harvested, dried, packed or distributed by a person who has been authorized by Health Canada to produce a limited amount of medical cannabis on behalf of another person who has a medical prescription. These people are considered Designated Growers (DG) by Health Canada. Currently, the City of Winnipeg policy and by-law framework does not impose any limitations on DG, and their authorization from Health Canada does not require them to notify the local jurisdiction of their approvals or place of operation. As a result, these DG operations are setting up in a range of zones and locations across the City, often within residential neighbourhoods and properties zoned for residential use.

Under the proposed licensing program outlined in this report, a new designated medical cannabis growers licensing program is being proposed in the City of Winnipeg. The proposed By-law requires DG (i.e. individuals operating designated medical cannabis production facilities) to obtain and maintain a valid business licence. Introducing a licensing program will allow the City to conduct inspections, to suspend or revoke a licence, or to issue a fine, if there are health and/or safety concerns.

These licencing requirements are part of a two-pronged regulatory approach to DG operations, alongside changes to Winnipeg's land use regime that are being prepared separately by Urban Planning, Planning Property & Development Department. The licencing regime and zoning regime changes will be brought to Council and brought into force on a harmonized timeline, thus ensuring that the entire regulatory approach can be considered and implemented simultaneously. These proposed land use changes will involve a Public Hearing at the Standing Policy Committee on Property and Development Heritage and Development Committee, and would restrict designated medical cannabis production facilities to Manufacturing zones (i.e. MMU, M1, M2, and M3). Additionally, use-specific standards under this land-use regime would

require operations to be conducted within enclosed buildings, and require minimum setbacks between buildings where cannabis is cultivated and/or stored and residential properties, schools, public parks and playgrounds.

Additional revenue through Licencing fees associated with licencing DG is expected to fully offset the costs of 1.5 additional staff resources to administer the licensing program.

It is estimated through enforcement efforts by Community By-law Enforcement Services MBEA penalties may yield $5,000 - $10,000 initially for failure to comply with the new licencing requirements. Subsequently, we would predict that, as businesses become compliant, enforcement revenue derived from these licencing requirements will begin to level off.

RECOMMENDATIONS

1. That an amending by-law, attached as Schedule A to this report, to implement the Proposed Licencing Framework for Designated Growers of Medical Cannabis, be enacted.

2. That a by-law, attached as Schedule C to this report, to amend the MBEA Enabling By-law No. 59/2016 by establishing administrative penalties for contraventions of the licencing requirements enacted under Recommendation 1, be enacted.

3. That one (1) permanent FTE Clerk C position be approved to be added to the current staff complements for the Community By-law Enforcement Services Division of the Community Services Department, and an additional half (0.5) permanent FTE be approved for a Business Analyst position within the Information Systems Division of the Community Services Department, to be funded from additional revenue through Licencing fees associated with licencing Designated Growers.

4. 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

This report responds to the following motion made on March 25, 2021, whereby Council directed the Winnipeg Public Service to report back within 180 days with the following:

- *"*Amendments to the Winnipeg Zoning By-law No. 200/2006, which would:

    i. Prohibit the cultivation of cannabis in residential neighbourhoods and/or properties with a residential zoning designation;

    ii. Limit the cultivation of cannabis in residential neighbourhoods and/or properties with a residential zoning designation based on:
        a. a prescribed number of plants;
        b. a prescribed percentage of the useable area of the residence, or
        c. such other criteria that supports the intent and purpose of this motion.

- Options to amend the Neighbourhood Liveability By-law No. 1/2008 or any other City of Winnipeg By-law to regulate or prohibit nuisance odours or any other conditions that pose a health hazard or detriment to the neighbourhood emanating from properties where cannabis cultivation is occurring.

- Options to create a licencing regime to protect the health and safety of our communities by regulating the cultivation of cannabis for medical purposes on behalf of other registered users.

- Regulations to various building systems (including, but not limited to HVAC, electrical, lighting and heating systems) for all properties with a residential zoning designation to minimize or eliminate:
    i. the exhausting and emission of odours from the property;
    ii. the infiltration of moisture, mould and other harmful elements into the building structure; and
    iii. any other conditions that pose a health hazard or detriment to the neighbourhood.

On October 13, 2021, the Winnipeg Public Service submitted a report to the Standing Policy Committee on Property and Development, Heritage and Downtown Development in response to the aforementioned Council direction. This report identified Zoning By-law amendments and the establishment of a new licencing regime to regulate designated cannabis production facilities and operators of these facilities.

On October 28, 2021, City Council approved the report recommendations, and directed as follows:

1. That the Winnipeg Public Service be directed to proceed with the proposed zoning and licencing frameworks and report back within 180 days with draft amendments to the Winnipeg Zoning By-law 200/2006 and Downtown Winnipeg Zoning By-law 100/2004, and draft amendments to the Doing Business in Winnipeg By-law 91/2008.

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

Council approval is required for approval of this regulatory framework, and to pass the amending by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

PROPOSED LICENSING PROGRAM

Introducing a formalized licensing program under the Community Safety Business Licensing By-Law (formerly known as the Doing Business in Winnipeg By-Law) will result in a new class of licence – Designated Growers of Medical Cannabis, and allows the City to conduct inspections, to suspend or revoke a licence, or to issue a fine, if there are health and/or safety concerns.

Licencees will be required to obtain zoning approvals, and all work would be required to be completed under development and building permits. Licencees would also be required to allow access for a City of Winnipeg designated employee to conduct an inspection when requested. Appendix B provides details of this proposed licencing regime.

If the recommendations are concurred with, the amending By-law will come into force 130 days after the third reading in order to allow time for CBES to establish and communicate the licensing program, and to flexibly coordinate its coming into force with the Planning, Property and Development Department's related amendments to the Winnipeg Zoning By-law No. 200/2006 and Downtown Winnipeg Zoning By-law No. 100/2004.

An additional Clerk C position will be dedicated to licencing that will increase the number of financial recoveries of the licensing program, provide required file management and provide required customer service. In addition, the position will be responsible for the coordination of approvals required to obtain the required licence.

An additional .5 Business Analyst position will be dedicated to licencing to enhance the existing licencing platform, and to further develop online licencing process of this new licence type.

Community Services By-law Enforcement Services 'License Fees" revenues will be increased by approximately $162,000 annually with the goal of full cost recovery associated with wages and benefits, equipment and operational expenses. There are a number of variables that will impact the number of licences being issued, therefore revenue projections prior to implementation are based on presumptions.

HISTORY/DISCUSSION

The proposed amendments are based on the framework that was approved by City Council on October 28, 2021, and are part of a two-pronged approach to regulate designated medical cannabis production facilities, alongside proposed changes to the Winnipeg Zoning By-law No. 200/2006 and Downtown Winnipeg Zoning By-law No. 100/2004 that are being prepared separately by the Planning, Property and Development Department.

Under the proposed licensing program, a new designated medical cannabis growers licensing program will result in one (1) FTE within the Community By-law Enforcement Services (CBES) Division. Operational expenses will be used to operationalize the DG licensing program, and a half (0.5) FTE will be provided to the Information Systems (IT) Division within the Community Services Department to provide technical support to CBES for this program.

Below is a breakdown of expenditures, investment resources, and activities related to this initiative:

Approximate Expense / Annum	Investment Resource	Activities
$68,000	1 FTE: Clerk C – Licencing (includes salary and benefits)	• Provide required file management. • Provide day-to-day customer service. • Coordination of required approvals to obtain required licences. • Assist with preparing public education and awareness materials.
$52,000	.5 FTE Business Analyst (includes salary and benefits)	• Provide IT and technical support. • Enhance Licencing platform to make it user-friendly - further develop online

		licencing application processes with the ability to submit additional documentation and information as required for the assessment and processing of this new licencing type. • Initiate required systems software upgrade to all required equipment – if required.
Total = $120,000/annum plus $10,000 in 2022 only for staff equipment.		

Licence Fee revenues are estimated to be $162,000 annually with the goal of full cost recovery associated with wages and benefits, equipment and operational expenses. There are a number of variables that will impact the number of licences being issued, therefore revenue projections prior to implementation are based on presumptions but are expected to be at a minimum sufficient to recover the costs of the administrative support of the program. No additional Mill Rate support is required.

Projected 2022 REVENUE (September 2022 - September 2023)				
Licence Category	Projected # of Licences Issued	Licence Fee	Total Revenue (projected)	Number of Plants
*assumes 20% of DG's licence = 400				
Level 1 - (45%)	180	$100	$18,000	1-5
Level 2 – Baseline (50%)	200	$500	$100,000	6-20
Level 3 – (4%)	16	$1,500	$24,000	21-50
Level 4 – (1%)	4	$5,000	$20,000	51+
Subtotal	400		$162,000	

New Fines under the MBEA Enabling By-law:
Failure to comply with licencing requirements as established in the By-law will be punishable under the MBEA. Fines and early payment amounts are set out in Appendix C.

FINANCIAL IMPACT

Financial Impact Statement **Date:** March 10, 2022

Project Name: **First Year of Program** **2022**

Designated Growers (DG) of Medical Cannabis Licensing Program

	2022	2023	2024	2025	2026
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 50,000	$ 122,400	$ 124,848	$ 127,345	$ 129,892
Less: Incremental Revenue/Recovery	50,000	122,400	124,848	127,345	129,892
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Direct costs represent salary and benefits for the additional staffing requirements to administer the program under the amending By-law which will come into force 130 days after the third reading (September 2022): one (1) permanent FTE Clerk C position added to the current staff complement of the Community By-law Enforcement Services Division and an additional half (0.5) permanent FTE for a Business Analyst position within the Information Systems Division, plus $10,000 in one-time costs in 2022 for staff equipment. Salaries and benefits increase annually in accordance with Collective Agreements.

Incremental Licence Fee revenues associated with the Fees outlined in Appendix B are estimated to be approximately $162,000 annually based on presumptions regarding the number of licences issued within each category, but are expected to be at a minimum sufficient to recover the costs of the administrative support of the program in 2022 and future years. No additional mill rate support is required.

Original signed by K. Lemoine

Kelly Lemoine, CA, CPA
Manager, Finance and Administrative Services
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)
- Planning, Property and Development

OURWINNIPEG POLICY ALIGNMENT

Direction 3: *Promote Compact Urban Form and Manage the Extension of Municipal Services for New Growth.*

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Key Direction 4.2: *Ensure New Areas of Growth are Designed According to the Principles of Complete Communities.*

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS) and its Goals and Objectives, and it has been determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department: Community Services
Division: Community By-law Enforcement Services
Prepared by: T. Cormier, Licensing Coordinator
Date: March 11, 2022
File No: CMS-2022-9

Attachments:

Appendix A – Recommended Community Safety Business Licensing By-law Amendments

Appendix B – Proposed Designated Medical Growers Licensing Program Details

Appendix C - Municipal By-Law Enforcement Act (MBEA) Fines