

NO: *P008*

DATE: **September 18, 2017**

PUBLIC SAFETY COMMITTEE

TO: **Mayor & Council**

DATE: **September 15, 2017**

FROM: **Director, Public Safety**

FILE: **7450-30**

SUBJECT: **Cannabis Legalization Review**

RECOMMENDATION

The City Manager's Department recommends that the Public Safety Committee receive this report as information.

INTENT

The purpose of this report is to update the Public Safety Committee on the current regulatory and revenue issues for the City of Surrey relative to the legalization of cannabis by the Federal Government as outlined in Bill C-45, the *Cannabis Act*.

BACKGROUND

The Federal Government is currently completing the second reading of Bill C-45. This Bill will amend the *Criminal Code of Canada* and the *Controlled Drugs and Substances Act* to allow for the legalization of cannabis. The proposed timeline for changes to come into effect is July 1, 2018. Provinces and municipalities across Canada are considering options for regulations and bylaws related to cannabis legalization. The City of Surrey is proactively undertaking a review of issues related to consider the public health, public safety and legal issues related to a regulated market for cannabis products in Canada. Determining mechanisms for revenue generation to cover the significant expected costs is also being reviewed. This report summarises the work completed to date and outlines next steps in creating a framework for the City of Surrey.

The Federation of Canadian Municipalities (FCM) and Union of BC Municipalities (UNBC) are currently developing guidelines which may address some of the implementation challenges municipalities will need to address.

DISCUSSION

Cannabis Legalization Update

On April 13, 2017, the Government of Canada introduced legislation to legalize, regulate and restrict access to cannabis – *Bills C-45 Cannabis Act* and *C-46 An Act to amend the Criminal Code*. The proposed *Cannabis Act* creates a legal framework for controlling the production, distribution, sale and possession of cannabis across Canada. Cannabis remains illegal until such time that the bill completes the legislative process. The current program for accessing cannabis for medicinal

purposes would continue under the new Act. If it is approved by Parliament, the Bill could become law with a target date of no later than July 2018. The *Cannabis Act* seeks to:

- restrict youth access to cannabis;
- protect young people from promotion or enticements to use cannabis;
- deter and reduce criminal activity by imposing serious criminal penalties for those breaking the law, especially those who import, export or provide cannabis to youth;
- protect public health through strict product safety and quality requirements;
- reduce the burden on the criminal justice system;
- provide the legal production of cannabis so reduce illegal activities;
- allow adults to possess and access regulated, quality controlled legal cannabis; and,
- enhance public awareness of the health risks associated with cannabis.

Regulation

The federal, provincial and territorial governments would share responsibility for overseeing the implementation of Bill C-45. Appendix "I" provides a summary of jurisdictional responsibilities.

The **federal government** would be responsible to set requirements for producers who grow and manufacture cannabis and set industry-wide regulations.

The **provinces and territories** would license and oversee distribution of the sale of cannabis, subject to federal conditions. They could also increase the minimum age (not lower it), lower the possession limit in their jurisdiction, create additional rules for growing cannabis at home and restrict where adults can consume cannabis, such as in public or in vehicles.

Municipalities would oversee retail locations and rules, land use and zoning and would support the province with education on public health and public safety risks of cannabis production and use. Municipalities also have the authority to regulate consumption of cannabis products in public spaces within City boundaries.

Municipalities already bear many of the costs of enforcing existing prohibitions on cannabis production, distribution and use. Under the new legislation, municipalities would see some new costs, as well as a shift in expenditure, for implementation of federal cannabis legalization. This includes costs to develop and enforce regulations such as:

- revisions to, or new, impaired driving laws;
- revisions to, or new, fire and building regulations;
- selling cannabis to minors;
- public consumption of cannabis; and,
- home grows.

Municipalities will also have responsibility for, and therefore costs associated with, regulating new types of business licences, inspections of production and distribution facilities, ensuring availability of first responders in the event of public safety challenges (e.g., fires related to production processes and chemicals). Municipalities will also have to consider if existing infrastructure related to tax collection and administration will be able to absorb oversight of additional taxes/fees related to cannabis businesses should these be put in place. There may be additional up-front investment required to ensure City financial systems and staff can

accommodate the additional workload from new industry start-ups and collection of revenue from cannabis related businesses.

Review of U.S. Jurisdictions

In preparing for implementation of legislation in the City of Surrey, staffs have liaised with colleagues in the City of Calgary who moved proactively on this issue. We also developed a working group to visit US cities where recreational cannabis has been legalized in order to determine lessons learned and to begin to identify actions we need to take to ensure a regulatory and revenue framework is in place. The working group includes Councillor Starchuk, Councillor Steele and a team of senior staff including Kam Grewal (General Manager, Finance); Assistant Commissioner Dwayne McDonald (OIC, Surrey RCMP), and Terry Waterhouse (Director, Public Safety). The group visited Portland and Seattle in July 2017 and visits are planned to Los Angeles and Denver in October 2017. Jas Rehal (Manager, Public Safety Operations) will join the group for the second US visit.

The visits to Portland and Seattle allowed us to develop a preliminary list of the key challenges faced in US municipalities, which we will likely have to address. Those challenges and recommended next steps on the part of the City are identified below.

Key Challenges from the US Experience

Challenge: ILLEGAL ACTIVITY CONTINUES

The black market continues to thrive in the U.S. Cannabis is being diverted across state jurisdictions – grown and produced in legal states and sold where it is not legal. Canada is changing its laws at a federal level compared to the U.S. where changes occurred on a state by state basis. This may help mitigate the risk of interprovincial illegal trading however, differences in the speed and nature of Provincial regulations may arise as each Province assumes its jurisdictional responsibilities. The federal government is hoping to remove the motivation to divert product across provinces. Diversion across international borders could still be an issue. As well, edibles (which are not yet legal and will not be regulated under the first iteration of the Cannabis Act) might fuel black market until regulated.

Recommended Next Steps: Monitor implementation of the federal legislation to determine if disincentives are in place to minimise risk of inter-provincial black markets, and the implications for municipalities.

Challenge: WORKPLACE SAFETY STANDARDS NEEDED

There is a lack of best practices and standards for workplace safety for businesses engaged in the cannabis industry in the U.S. A key concern is the fire hazards associated with the improper use and storage of flammable gas and substances (such as butane, propane, hydrocarbon) used in processing cannabis.

The City of Portland has developed a cannabis code guide and offers ‘early assistance meetings’ with industry newcomers to help guide them through the permitting process. They also have dedicated personnel to answer phone calls with questions about coding and compliance. Their overall approach is very consultative with the industry, with the goal of making cannabis-related businesses compliant, safe and successful within the City. Their philosophy is to remove barriers

to entry (to avoid businesses from going back underground) while balancing public safety. They recommend reaching out to cannabis associations to consult and partner on evolving policy decisions.

The City of Seattle approaches cannabis enforcement with a three tier approach. City agencies will favour civil remedies to address compliance. Criminal sanctions may be imposed if civil remedies fail to gain compliance.

Recommended Next Steps: Create a regulatory framework, including bylaw revisions, to address workplace safety standards for businesses in Surrey which may be involved in the cultivation, production and sale of cannabis. Staff will collaborate with WorkSafe BC.

Recommended Next Steps: Undertake consultation with industry and proactively develop tools for cannabis-related businesses to help equip them with the tools needed to set up safe and compliant business in the City, particularly when it comes to fire safety.

Recommended Next Steps: Consider the impact and policy needs of the legislative changes on the City as an employer.

Challenge: REGULATING PUBLIC CONSUMPTION

There is no regulatory framework for public consumption in Oregon or Washington. It is only legal to consume in private in these jurisdictions, however public consumption has been reported to be prevalent in bars and other public spaces since legalization.

Recommended Next Steps: It is not clear the degree to which Bill C-45 will regulate the location of consumption at this point. B.C. already has bans in place on smoking in public places, workplaces, restaurants, and bars under the *Tobacco and Vapour Products Control Act*. Further regulatory review is likely to be needed or changes to this act to control smoking of cannabis. Municipalities have the authority to ban or restrict smoking in public places within their geographic limits and to create smoking bylaws that exceed the B.C. smoke-free regulations. The existing regulations may already cover smoking of cannabis; however consideration will need to be given to the public consumption of other forms of cannabis such as vaping and edibles.

Challenge: REVENUE AND COST RECOVERY

The Seattle Finance & Administrative Services department recently estimated that the cost of administering each City of Seattle cannabis license is about \$4,000 per year versus the \$1,500 revenue per license per year, a \$2,500 deficit per license per year.

Recommended Next Steps: Take a measured approach to determining pricing for cannabis business licences so as to maintain a balance between offsetting costs and creating barriers or disincentives for businesses to enter the market legally. Higher fees may sustain black market businesses that remain unlicensed however maintaining cost neutral or revenue positive status for the City is critical. It may also be viable to consider implementing a graduated licensing fee. Staff have begun to advocate for a provincial taxation model that provides revenue for municipalities.

Challenge: BUFFER ZONES

Buffer zones are a tool for municipalities to ensure cannabis related businesses (and possibly consumption) occur outside a reasonable zone around vulnerable populations (e.g., schools). State buffer zones created issues of inequity in Portland and Seattle. The existing state buffer is 1000 feet from sensitive uses however local jurisdictions have the authority to lower buffer to 100 feet (except 1000 feet from schools and playgrounds must be maintained).

Recommended Next Steps: Both the City of Portland and the City of Seattle took advantage of their authority to reduce buffer zones to as low as 100 feet where possible. Surrey will need to determine the appropriate distances and areas for which buffer zones may need to be enforced.

Upcoming Activities

In October the working group will visit Los Angeles and Denver. In addition to addressing the above noted next steps, several activities are planned:

- The Director, Public Safety will sit on the UBCM Technical Working Group on Cannabis Legislation.
- Conduct further research in Colorado and California markets to determine additional factors to be considered.
- Develop a revenue generation framework.
- Consult with Worksafe BC on work safety issues.
- Consideration of options for public consumption including products other than smoked cannabis.
- Consult with Federal and Provincial government.
- Complete Bylaw review and recommendations for potential amendments or additional bylaws.
- Develop plan for business licensing process for cannabis businesses.

SUSTAINABILITY CONSIDERATIONS

The work underway on options with regard to cannabis legalization supports the Public Safety theme in the Sustainability Charter 2.0 allowing us to significantly deliver on all related Desired Outcomes and Strategic Directions outlined in the Sustainability Charter 2.0.

This work also supports the **Health and Wellness** theme. Specifically it supports the following **Health Services and Programs** Desired Outcomes and Strategic Directions:

- DO5: Services and programs are responsive to shifting health and social needs, and local and external factors.
- SD2: Increase the understanding of, and support for, harm reduction.

CONCLUSION

Research to date has clearly shown that there are many important factors that will need to be carefully considered for implementation of any changes to municipal regulations, enforcement or planning based on the proposed Bill C-45 Cannabis Act.

The City of Surrey has been undertaking considerable groundwork to consider these issues carefully and learn the lessons from jurisdictions in the United States that have already gone through a state level legalization process.

Surrey has an opportunity to lead on this issue and create a best practices framework for B.C. Municipalities that outlines best practices in municipal regulation of cannabis manufacture, sale and use.



Terry Waterhouse
Director, Public Safety

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Appendix "I" - Summary of Jurisdictional Responsibilities

Summary of Jurisdictional Responsibilities

** Provinces will have the ability to strengthen legislation for these areas under federal jurisdiction

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

