



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council
From: Chief Administrative Officer
Subject: Storefront Cannabis Retailers Policy

File No.: 3360-20-1811
Date: September 4, 2018

PURPOSE:

The purpose of this report is for Council to consider adopting a policy on the retail sale of cannabis in the City of Courtenay.

CAO RECOMMENDATIONS:

That based on the September 4, 2018 staff report "Storefront Cannabis Retailers Policy", Council adopt the attached Storefront Cannabis Retailer Policy.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

At the June 18, 2018 Council Meeting, staff presented a zoning amendment bylaw (Bylaw 2935) to define and restrict the retail sale of cannabis in the City in addition to a policy intended to provide guidance for staff and applicants on locating retail stores. Bylaw 2935 was adopted on July 16, 2018, but Council requested further consultation on the policy document prior to final consideration of it.

As outlined in the June 18th report, the proposed policy would not fetter Council's decision making authority in relation to each application which would ultimately be considered on its own merits. The policy would however provide a guide to applicants and staff in this process.

Similar policy frameworks are being contemplated by many local governments and is currently in place in the City of Victoria. It is supported from a legal perspective and has recently been considered by the BC Supreme Court where the Chief Justice of BC accepted that such a policy would not entitle an applicant to rezoning even if they met the general criteria.

The approach aligns with the Provincial cannabis legislation. While the Provincial Government has the authority to issue licences for the retail sale of cannabis, the City will retain control over land use management criteria such as zoning and determining where and how many cannabis retail stores will be permitted. Furthermore, pursuant to the Cannabis Control and Licensing Act (s.33) the province will not issue a licence for the retail sale of cannabis unless the local government is supportive of the proposal. Similar to the existing liquor licensing process, the City will be required to gather the views of residents

prior to forwarding comments to the province. As such the public hearing process required for a rezoning application can also be used to gather the views of residents for the provincial license.

DISCUSSION:

Following Council direction an Open House was held on the evening of July 4, 2018 at the Evergreen Lounge. Three Development Services staff members were on hand to respond to questions regarding the proposed policy specifically and cannabis regulations more generally. The event was attended by 70-80 people and approximately 55 surveys were completed that evening.

In addition to the Open House staff posted the survey on the City’s website and copies were provided at the City Hall planning desk for the month of July. **In total 549 surveys were completed.** A summary of the survey results are included in this report for Council consideration. A separate binder of all comments has been provided to Council and is available at the planning desk.

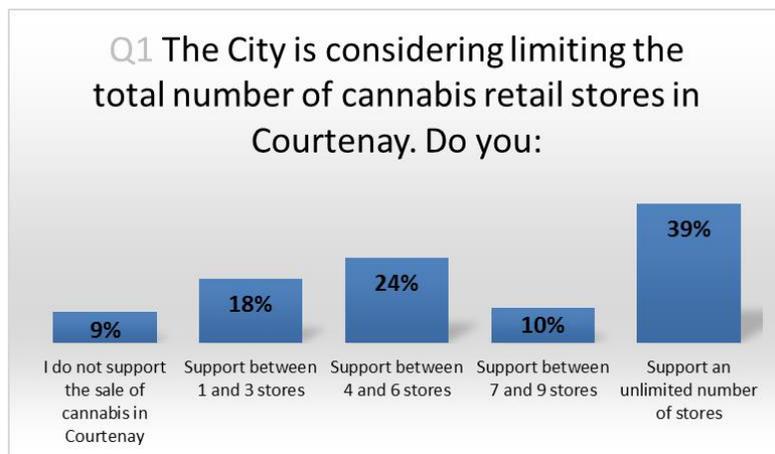
The following sections summarize the results of the survey and the changes to the proposed policy based on the feedback received.

Number of Stores

Respondents to the survey generally supported retail cannabis sales in the City with only 9% opposed. The highest proportion of respondents (39%) supported an unlimited number of stores. Staff had previously proposed a limit of 5 stores, however it is suggested this number be increased to 6.

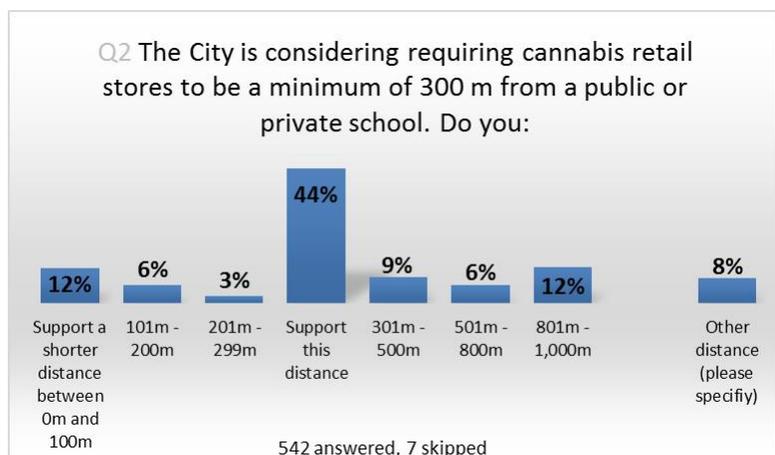
Applications would be considered on a first come first served basis as they are referred to the City by the Provincial Government. As

government run stores are not required to apply for licensing through the Provincial referral system, staff recommend that 1 of the 6 stores be allocated for a Government store.



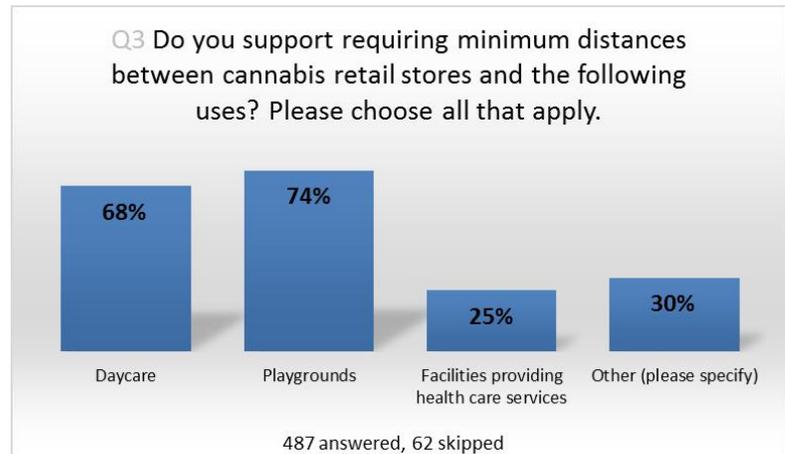
Distance to Schools

With regard to the distance from retail stores to public and private schools staff had proposed a minimum distance of 300m. The survey results indicate support for this distance with 44% in favour of 300m. There was a mix of support for both shorter distances and longer distances, but the majority (65%) supported 300m or lower. Based on these results staff recommend keeping the 300m distance.



Distance to Other Uses

In addition to the distance from schools and between retail stores, the survey asked if there was a desire to limit distances to day cares, playgrounds, or health care facilities. The responses were high for daycares (68%) and playgrounds (74%) but there was limited support (25%) for health care facilities.



Daycares

When reviewing options for the policy document earlier this year, staff considered the inclusion of daycares. It became apparent in the analysis that it was somewhat challenging to map this use. While the City has good records for the location of larger well established facilities, the provincial licensing mechanism allows daycares with 8 children or less to be located in any zone increasing the difficulty in tracking. **Staff recommend this use be left out of the policy and consider any local concern related to daycares at the time of assessing the individual rezoning applications.**

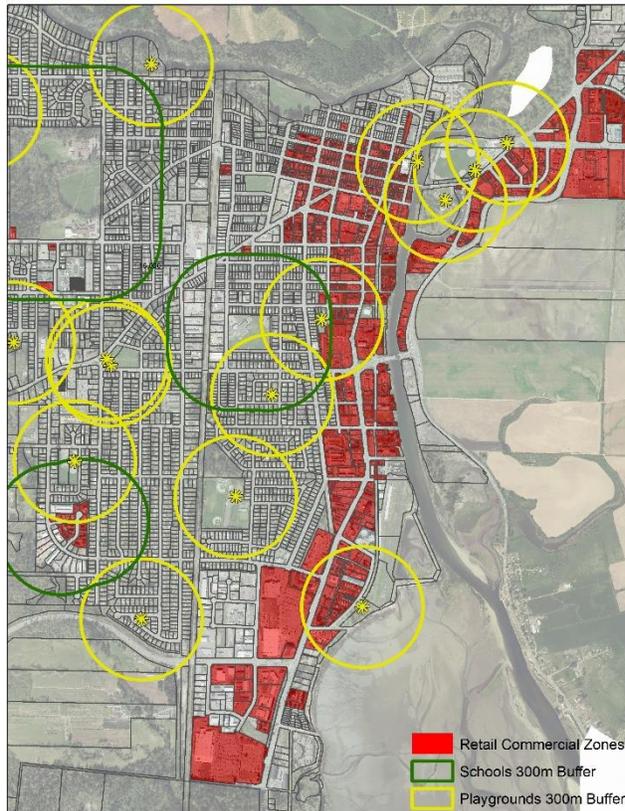
Health care facilities

With regard to health care facilities staff do not recommend including a buffer distance. This question generated some discussion at the open house and comments in the survey about the type of health care service. These comments advised that in some instances it would be beneficial to have cannabis sales very proximal to the health care service while in other instances, such as addiction services, the distance should be quite large. **Similar to daycare facilities staff recommend consideration of this use at the individual application level.**

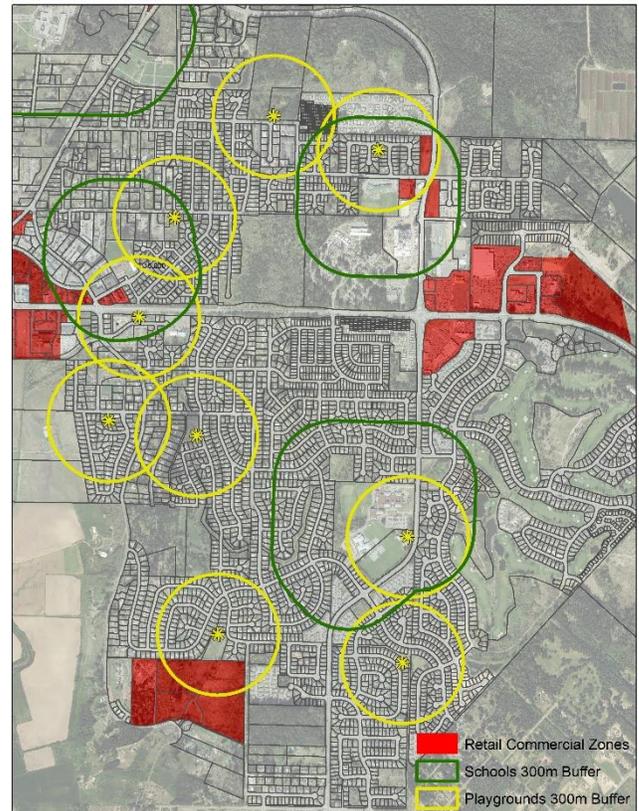
Playgrounds

Public opinion showed strong support for a buffer distance to playgrounds. The calculated average of the survey results was 439m. Review of the data shows this average was skewed by a few very large distances and **staff recommend the median value of 300m be used as a buffer, similar to what is proposed for schools.**

Using the asset management registry staff have mapped the location of playground equipment in City parks and mapped a 300m buffer to those facilities. The map below shows the 300m radius to playgrounds and to schools in relation to the commercial areas that permit retail uses. Of note, the buffer area to schools is measured from the perimeter of the school property while the playground buffers are measured from the structure itself. This was chosen as some of the playground structures were located within large park spaces.



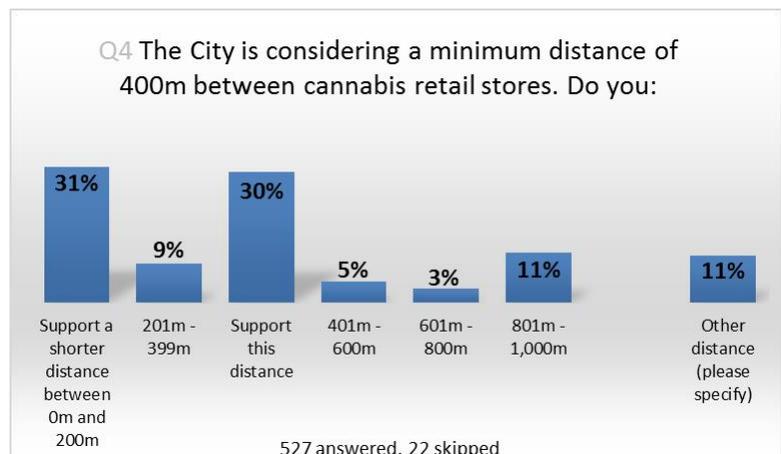
West Courtenay School and Playground Buffers



East Courtenay School and Playground Buffers

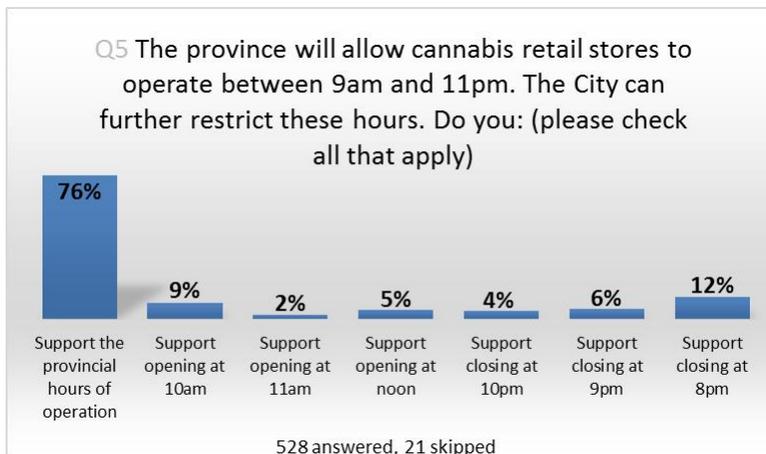
Distance Between Stores

The June 18th draft policy contained a provision for a minimum distance of 400m between individual stores. As part of the survey, the public were asked if they supported this distance or if they support shorter or longer distances. The responses showed a desire to maintain or reduce this distance. 31% of respondents supported 0m to 200m between stores and 30% supported the proposed 400m distance while 9% supported between 201 and 399m. While the public clearly supported maintaining or reducing the proposed 400m buffer there was no clear preference. Accordingly, **staff recommend keeping the original 400m proposal.**



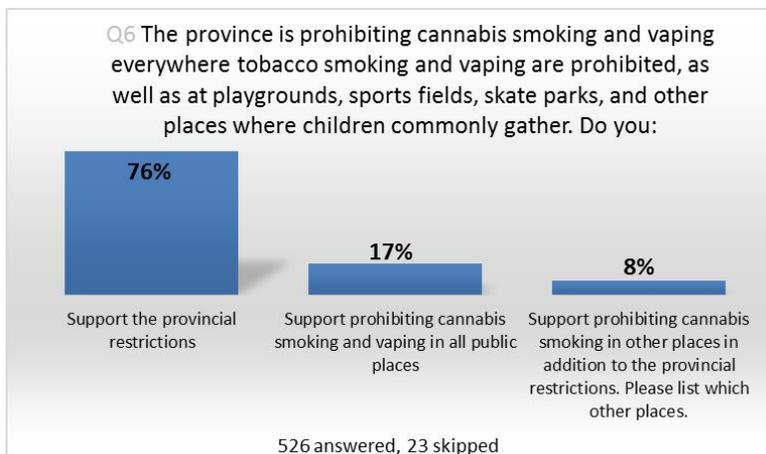
Hours of Operation

Provincial regulations will permit stores to operate between 9am and 11pm unless further restrictions are imposed by the local government. An overwhelming majority (76%) of survey respondents indicated support for the provincial hours. **Staff support maintaining the provincially regulated hours.**



Smoking Regulations

The provincial regulations prohibit cannabis smoking and vaping everywhere tobacco smoking and vaping are prohibited. Additionally, the province is restricting cannabis smoking in playgrounds, sports fields, skate parks and other places where children commonly gather. While the City has the authority to further restrict smoking in all public places **the majority of respondents (76%) indicated support for the provincial requirements.** The provincial smoking requirements are enforced locally by the VIHA Tobacco and Vapour Prevention and Control Program.



Staff suggest that if smoking complaints increase following legalization of cannabis Council may wish to direct staff to explore options and enforcement implications of broadening the scope of local smoking restrictions.

FINANCIAL IMPLICATIONS:

The Application fee for rezoning will be \$3,000 and the fee for consideration of the provincial licence will be \$500. These are the same fees charged for a liquor store.

Staff will bring forward amendments to the business licence bylaw to add the category of Storefront Cannabis Retailer and set the annual licence fee at a future council meeting.

ADMINISTRATIVE IMPLICATIONS:

The Planning Division is currently responsible for processing liquor licence applications and will be responsible for processing any storefront cannabis retailer licences. As a new, and yet to be fully

implemented provincial licensing regime, it is difficult to estimate the time required to process each application. However, current liquor licence applications take on average 10 hours to process. Applications to rezone to permit the retail sale of cannabis are anticipated to take approximately 40 hours. At this time bylaw enforcement implications are anticipated to be minimal with respect to the retail sale of cannabis from a land use perspective. If Council considers other regulations such as limiting smoking in public, the implications on bylaw enforcement could be significant.

ASSET MANAGEMENT IMPLICATIONS:

There are no asset management implications with the proposed policy.

STRATEGIC PRIORITIES REFERENCE:

We actively pursue vibrant economic growth

- Continue to improve our relationship with business in our community

OFFICIAL COMMUNITY PLAN REFERENCE:

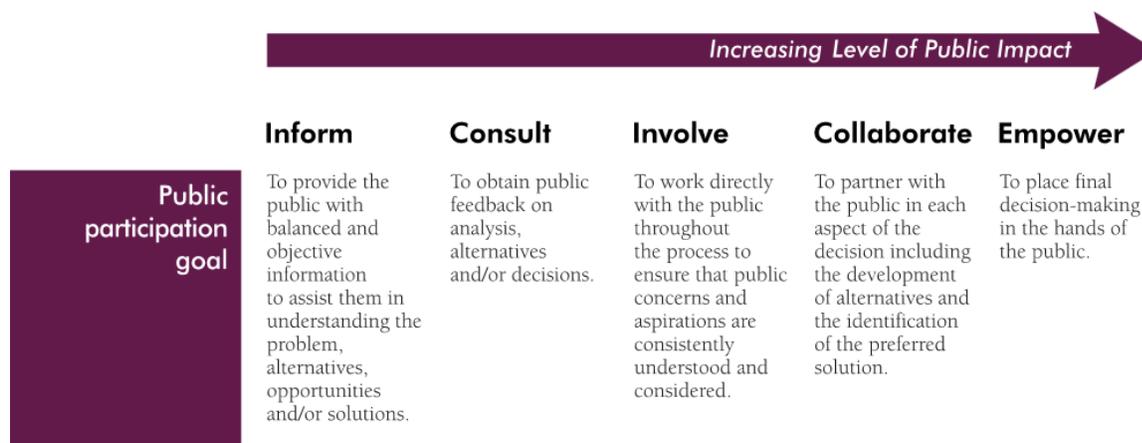
There are no direct references in the Official Community Plan to this use, however the OCP generally supports the utilization of existing serviced and designated commercial lands prior to considering new commercial development areas. The proposed policy requires storefront cannabis retailers to locate in an established retail location where the current zoning permits retail sales.

REGIONAL GROWTH STRATEGY REFERENCE:

The proposed zoning amendment aligns with the Regional Growth Strategy policy to locate retail and other commercial employment activities within Core Settlement Areas.

CITIZEN/PUBLIC ENGAGEMENT:

Staff have **consulted** with the public based on the IAP2 Spectrum of Public Participation:



As noted in the discussion above, consultation took place during the month of July and included an Open House, online survey and hardcopy survey handed out at the open house, at a City booth downtown on Market Day and at the Development Services counter at City Hall. 549 surveys were completed.

Staff have also consulted with the Downtown Courtenay Business Improvement Association (DCBIA) to gauge their desire for cannabis retailers in the Downtown area. Following a survey of their members the board made the following - "**Downtown Courtenay will allow for dispensaries Downtown Courtenay but must be a limited number of 3**". It is noteworthy that like most land use issues, the opinion was not unanimous among the membership. The discretion in the proposed policy framework is designed to take into consideration concerns of immediate neighbours in the decision making process.

OPTIONS:

OPTION 1 (recommended)

That Council adopt the Storefront Cannabis Retailers Policy as outlined in Attachment No.1 and direct staff to prepare amendments to Business Licence Bylaw 2523 to include cannabis regulations.

OPTION 2

That Council direct staff to make specific amendments to the Storefront Cannabis Retailers Policy prior to adoption.

OPTION 3

That Council not adopt a Storefront Cannabis Retailers Policy and restrict the sale of cannabis in the City.

Prepared by:



Ian Buck, MCIP, RPP
Director of Development Services

Attachment No. 1 – Storefront Cannabis Retailers Policy

City of Courtenay Policy **Page 1 of 2**

Section 13 - Planning and Development	Policy #
Subject: Storefront Cannabis Retailers	Revision # 1

The purpose of this policy is to outline the criteria that may be considered by City Council as part of a rezoning application or temporary use permit application to allow for retail cannabis sales at a particular location. This policy is intended to guide applicants and City staff as part of the application process but it is not intended to fetter Council's discretion when dealing with individual applications, each of which will be evaluated on its own merits.

This policy was established in response to the legalization of cannabis by the federal government and the potential unregulated proliferation of storefront cannabis retailers. It is intended to address potentially adverse community impacts of storefront cannabis retailers, including inappropriate exposure of minors to cannabis and the undesirable concentration of storefront cannabis retailers.

B. DEFINITIONS

Applicant means an applicant for a rezoning that would allow for a storefront cannabis retailer at a particular location.

Storefront Cannabis Retailer means a premises where cannabis is sold or otherwise provided to a person who attends at the premises.

C. POLICY STATEMENTS

Rezoning Considerations

1. Storefront cannabis retailers will only be considered in an established retail location where the current zoning permits retail sales.
2. A storefront cannabis retailer should be:
 - a. at least 300 m (in a straight line from closest lot line to closest lot line) from a public or independent elementary, middle or secondary school.

AUTHORIZATION:	DATE:
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City of Courtenay Policy **Page 2 of 2**

Section 13 - Planning and Development	Policy #
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- b. at least 400 m (in a straight line from closest lot line to closest lot line) from another lot where a storefront cannabis retailer is permitted, whether or not a storefront cannabis retailer is active on that lot.
 - c. at least 300m from a City owned playground facility including the spray park and skateboard parks.
3. Cannabis sales are not permitted at special events, public markets or farmers markets.
 4. This Policy does not limit Council from considering variances to the separation distances noted in (2) based on circumstances related to a specific application.
 5. The off-street parking requirements applicable to retail stores as outlined in Division 7 of Zoning Bylaw 2500, 2007 and amendments thereto will apply to storefront cannabis retailers.
 6. Only one storefront cannabis retailer will be allowed per lot.
 7. The maximum number of storefront cannabis retailers in the City is five (5) private retailers and one (1) Government run store.

Application Process

The applicant must undertake all of the standard processes required for a rezoning application pursuant to Development Application Procedures Bylaw No. 2790, 2014 and amendments thereto.

AUTHORIZATION:	DATE:
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