



POLICY REPORT

Report Date: July 16, 2018
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Meeting Date: July 24, 2018

TO: Vancouver City Council

FROM: General Manager of Development, Buildings and Licensing, and Chief Licence Inspector

SUBJECT: License By-law Amendments

RECOMMENDATION

- A. THAT Council approve amendments to License By-law No. 4450 to include the authority to issue orders generally as described in the body of this report, and to align licence conditions with Provincial regulations on cannabis retail, as shown in Appendix A.
- B. THAT Council instruct the Director of Legal Services to bring forward the necessary by-laws to amend License By-law No. 4450, for Council's consideration, generally in accordance with Appendix A.

REPORT SUMMARY

This administrative report recommends minor amendments to the Licence By-Law to strengthen enforcement tools for licence offences and to align municipal licencing conditions with Provincial regulations. These changes will help the City escalate enforcement action against short-term rentals, Single Room Accommodations (SRA's), and cannabis retail for licence offenses, in addition to Zoning & Development or Standards of Maintenance offences. These changes will also help to ensure that the municipal licence by-laws align with the recently released provincial cannabis retail regulations.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The Vancouver Charter Section 272 accords Council the authority to regulate businesses.

Section 336A of the Vancouver Charter accords Council the authority to give a power to order compliance with any bylaw to a City official. However, the currently Licence By-law does not provide an ability for the Chief Licence Inspector to order compliance with the bylaw.

On June 24, 2015, Council enacted amendments to the Zoning and Development By-law and Licensing By-law to support the regulation of Retail Dealers for Medical Marijuana-Related Uses (MMRU).

On July 11, 2018 Council approved amendments to the Zoning and Development and License by-laws to align these regulations with the federal and provincial regulatory frameworks on non-medicinal cannabis retail. The changes were a new definition for Cannabis Store use in the Zoning and Development By-law, and in the License By-law the Retail Dealer – Medical Marijuana-related licence type was changed to Retail Dealer – Cannabis.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager and the General Manager of Development, Buildings and Licensing recommend approval of the foregoing.

REPORT

Background/Context

Enforcement of License By-law

Currently, a violation of the License By-law can be enforced through short form prosecution in the form of a Municipal Ticket Information (MTI), or long form prosecution. However, unlike the Zoning & Development By-law and the Building By-Law, the Licence By-Law currently does not stipulate authority to issue an 'order to comply,' the power of which has proven highly effective in gaining compliance for Zoning and Building by-laws. The City has the authority through the Vancouver Charter to 'order' licence compliance, however the Licence By-law does not state this power. It is the view of staff that an order power in the License By-law will similarly enhance the ability of the City to enforce against violations of the License By-law.

Cannabis Retail Business Licence Conditions

Non-medical cannabis retail in Canada will be regulated under the Federal *Cannabis Act*, and the Provincial *Cannabis Control and Licensing Act* (CCLA); a June 26, 2018 Memo to Council (*Legalization of Non-medical Cannabis*) provides regulation details.

When non-medical cannabis becomes legal in October 2018, private and public retail outlets in British Columbia will require both a provincial licence and a municipal business licence. The Province will issue cannabis retail store licences regulated under the *Cannabis Control and Licensing Act* (CCLA) and the City will issue subsequent municipal business licences to support these retail businesses in Vancouver. The City

has authority under the Vancouver Charter to set business licence conditions, provided they do not contravene provincial or federal regulation.

The City business licence that will be issued to holders of provincially licensed cannabis retailers (Retail Dealer – Cannabis licence) currently has by-law conditions that were developed for the medical marijuana related uses (MMRU) licence in 2015. At that time, there was no corresponding Provincial licence or regulations. As such, the City implemented a large number of conditions to enhance public safety as part of the municipal licence. Those conditions are now being met by the Provincial licence for cannabis retailers and, without modifications, will be redundant or in conflict with the City's conditions.

Strategic Analysis

Enforcement of the License By-law

Authority to issue an order to comply is included and used effectively against violations of the Zoning and Development By-law and the Building By-Law. However, this power is not currently included in the License By-law.

Orders represent a cost effective means of informing bylaw violators of their alleged misconduct and allow them a period of time to remedy the violations. Staff experience is such that orders often result in compliance and reduce the need for more time-intensive enforcement mechanisms such as prosecutions and injunctions. In addition, in the event that the order is not complied with the resulting prosecution is simpler than attempting to prove the underlying infraction.

Staff have confirmed that the Vancouver Charter permits the ability to enforce the License By-law through an order. As such, staff recommend adding to the License By-law the authority for the Chief Licence Inspector to issue an order for License By-law violations.

This small administrative amendment will help strengthen enforcement power for all business operations in Vancouver, particularly short-term rentals (STR's), Single Room Accommodation (SRA's), and cannabis retail outlets.

In addition to the above staff recommend bringing the minimum fine in the Licence By-law for carrying on a retail cannabis business or a STR without an appropriate business licence to \$1000 from \$250 to standardize the minimum fine under a prosecution with those levied by municipal ticket information.

Cannabis Retail Business Licence Conditions

Less than two weeks ago, the Province released additional regulations for a provincial cannabis retail licence. These new rules demonstrate overlap, and in some cases conflict, with current municipal licence regulations for MMRU's and retail cannabis.

Staff review of License By-law conditions for cannabis retailers revealed contraventions, non-alignment and duplication with new regulations, including:

- Fifteen by-law conditions duplicate provincial or federal regulation; most of these are security measures, including screening of licensees and their employees, store security, and protection of minors.
- Four conditions are not aligned with provincial regulations: business hours of operation; ability to transfer licences; restriction on the number of licences that can be held by one person; and prohibition of corporate licensees.
- Two by-law conditions were found to be redundant within the License By-law itself.

Staff recommend that all by-law conditions related to “Retail Dealer – Cannabis” that contravene or are redundant with provincial licensing requirements be removed from the License By-law.

The by-law review also revealed that several conditions in the City’s Compassion Club licence type contravene provincial regulation, including the prohibition of co-locating cannabis retail with another business. The municipal Compassion Club business licence currently requires the provision of both health services and retail. Staff recommend that the Compassion Club licence conditions be updated to align with the provincial regulations. Compassion club licences will continue to be available for those business operators wishing to provide cannabis-related health care services without cannabis retail sales. Current Compassion Club licensees who are approved for provincial retail licences when non-medical cannabis is legal will be required to hold a Retail Dealer – Cannabis business licence, and will be charged the according business licence fee.

Implications/Related Issues/Risk

Financial

There is no financial impact to the City with these recommended by-law changes.

Legal

These changes enhance the city’s ability to enforce against business licence infractions. These changes may also help mitigate the workload of enforcement issues currently placed on the legal system. These changes also help bring into alignment provincial and municipal regulations of cannabis retail outlets.

CONCLUSION

The Licence-Bylaw can be strengthened by amending the regulation language to allow the city the power to enforce against an order. This minor amendment will help the city enforce against various issues related to licence violations with all businesses in Vancouver, and with a specific opportunity to strengthen against STR’s, SRA’s, and cannabis retail outlets.

Non-medical cannabis retail stores will be licensed and regulated by the Province. These stores will also be issued subsequent municipal business licences by the City. Staff recommend that current business licence conditions that are not aligned with provincial regulations, or duplicate them, be removed from the current License By-law.

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**DRAFT By-law to amend License By-law No. 4450
Regarding Provincial Cannabis Legislation**

Note: An amending by-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

1. This By-law amends the indicated provisions of the License By-law.
2. In section 3, Council adds the following new subsection:

“(6) No owner of any premises shall permit, suffer or allow the undertaking of any business, trade, profession or other occupation at said premises unless the person carrying on the business, trade, profession or other occupation holds a subsisting City licence therefor.”.
3. In section 12.2, Council strikes out subsections (10) through (28).
4. Council strikes out section 24.5, including the heading “Retail Dealer – Cannabis”.
5. Council adds a new section 29A as follows:

“ENFORCEMENT

- 29A. (1) The Chief Licence Inspector may issue in writing such notices or orders as may be necessary to inform a person of a contravention of this By-law, in the manner set out in this By-law.
- (2) The Chief Licence Inspector may order a person who contravenes this By-law to comply with the By-law within a specified time.
- (3) A notice or order issued under this By-law shall be sufficiently served:
 - (a) in the case of a contravention of this By-law by an owner of the premises, by mailing it by registered mail to the owner at the owner's address as it appears on the records of the Assessment Authority of British Columbia;
 - (b) by sending it by electronic mail to the electronic mail address of the person who contravened this By-law; or
 - (c) by delivery by hand to the person who contravened this By-law.”.
6. In section 30(5) Council inserts the following after the words “and every person who commits an offence against section”: “s 24.5, 25.1 and“.