

## COUNCIL MEMBERS' MOTION

### 2. Creating a Regulatory Framework for Retail Sales of Psilocybin and Entheogens in Vancouver

Submitted by: Councillors Fry and Carr

#### WHEREAS

1. Vancouver has seen the number of unlicensed and unregulated retail shops selling “magic” mushrooms (psilocybin) and other entheogens rapidly increase in recent years. Although most mushrooms and entheogens are classified as controlled substances, there has been no prosecution or conviction of their retailers, and to date no business license regulations specific to their sale or display;
2. Entheogens are psychoactive substances that alter perception, mood, or behaviour, for spiritual, therapeutic, and/or inspirational purposes. First termed by ethnobotanists and anthropologists in the late 20th century, entheogens have been used by indigenous peoples around the world for millennia and may be variously referred to as hallucinogens and psychedelics in scientific literature and popular vernacular respectively. Examples of naturally occurring (plant/fungi) entheogens include Cannabis, Psilocybin (aka magic mushrooms), Peyote, Mescaline, Ayahuasca, and Kratom;
3. Entheogenic substances are generally considered safer than opioids since psychedelics are not known to cause physical dependencies or risk of overdose. There is much scientific and medical research on this topic - see John Hopkins Medicine Center for Psychedelic and Consciousness Research<sup>i</sup>. The National Library of Medicine, an official website of the United States Government notes: “They (psychedelics) are generally considered physiologically safe and do not lead to dependence or addiction”;<sup>ii</sup>
4. Therapeutic use of psychedelics has been applied for depression, anxiety, smoking cessation, PTSD, Alzheimer’s, ADHD, anorexia, and to treat substance use disorders including alcohol and opioid addiction. A National Library of Medicine article concludes: “The possibility exists that drugs like psilocybin can meet a major unmet need in the treatment of psychiatric disorders”;<sup>iii</sup>
5. Vancouverites are consuming entheogens. Recreational use of natural psychedelics in North America has doubled in the last three years, in particular among adults aged 19-30.<sup>iv</sup> Awakened interest in natural psychedelics promoted on social media, lifestyle blogs, film, literature, and popular science as well as a documented trend away from alcohol consumption in younger demographics have all contributed to increased popularity and consumption. Anecdotally, in Vancouver in particular, fear of toxic contaminated supply of other illicit “party drugs” has prompted a shift towards entheogens and natural psychedelics, generally seen as niche, natural, and safer. Other users, eschewing prescription pharmaceuticals, are “micro-dosing”<sup>v</sup> regular, small amounts of psychedelics as a therapeutic natural health supplement;

6. Legally, many (but not all) entheogens are designated under Schedule 3 of *Canada's Controlled Drugs and Substances Act (CDSA)*, which prohibits possession except as authorized through exemptions, including to individuals for their own therapeutic use. Schedule 3 drugs are described as drugs with low to moderate potential for abuse and/or addiction. However, some scheduled substances –Psilocybin in particular– are being studied, considered for therapeutic use, and are made available with permission of Health Canada through Section 56 Exemptions or Special Access Programs;
7. Despite the CDSA, mushroom dispensaries have popped up across Canada and online, selling psilocybin and entheogenic products, powders, tinctures, capsules, growing kits, and raw materials for recreational and therapeutic use. In Vancouver, close to two dozen mushroom dispensaries sell recreational and therapeutic psychedelics. To date and over the span of several years, no mushroom dispensary in Vancouver has been charged or convicted of any criminal activity: possession, trafficking or otherwise, under provincial or federal law;
8. In 2016, responding to a significant increase in drug-related overdoses and deaths, attributable to an unregulated and unsafe supply of drugs by organized crime, BC declared a public health emergency, which remains in effect. Despite the emergency, the November 1, 2023, BC Coroners Service Death Review Panel report notes that the number of deaths due to toxic drugs, primarily fentanyl, continues to rise. In a news article on mushroom dispensaries in the City of Toronto, a spokesperson for Toronto police noted that rather than focus on mushroom dispensaries, the service's drug enforcement is "largely focused on the trafficking of illegal drugs that are resulting in overdose deaths";<sup>vi</sup>
9. In Vancouver, policing and public safety priorities do not target drug possession for personal therapeutic or recreational use, except in cases of street disorder or another substantive criminal offence:
 

*"Historically, the VPD adopted a very low level of enforcement directed at 'narcotic in possession' (NIP) offences, as well as liquor offences... In response to community complaints, as well as a strategic commitment to reduce street disorder... enforcement strategy is based primarily on the behaviour and location of a person in possession of or using a psychoactive substance.";*<sup>vii</sup>
10. In 2015, faced with a similar proliferation of unregulated, yet well used retail shops selling CDSA-prohibited products, the City of Vancouver introduced the Medical Marijuana Related Uses (MMRU) framework. The unique license starting cost was \$33,000/ year (2015) to operate a retail cannabis store and included provisions and conditions for public safety including prohibiting sales to minors, and distancing from youth and vulnerable population-serving facilities.

The framework leveraged the City's powers of licensing, zoning, and land use to ensure availability of MMRU services sufficient to meet local needs and that business was conducted appropriately in the context of health, safety, and the public interest. The comprehensive City of Vancouver MMRU framework<sup>viii</sup> was rendered redundant and discontinued when cannabis was legalized in 2018, but the authority and ability to license and regulate dispensaries was described thus:

*"The Vancouver Charter accords Council the authority to regulate land use and businesses such as retail shops (S. 272). The City has no authority to regulate the sale of controlled substances such as marijuana; accordingly, this report recommends land use and business regulations, and does not seek to regulate the product itself."*

11. A subsequent BC Supreme Court decision (Hinkson, 2018) on MMRU reaffirmed the city's authority over land use and ability to regulate street front cannabis sales, even as they were federally illegal;<sup>ix</sup>
12. Other recent and relevant Council authority and previous decisions germane to the sale of psilocybin and entheogens, and in response to the toxic drug crisis, include:
  - a) In 2003, late Vancouver Mayor Phillip Owen challenged the prevailing view of drug addiction as a criminal activity and championed a health informed harm reduction approach through supervised injection services;
  - b) In December 2018, Council approved the Mayor's Overdose Emergency Task Force recommendations<sup>x</sup> which recognized the City has a limited but essential role to play in responding to the overdose crisis related to creating supportive built environments, including safe places and spaces, and partnering with all levels of government on drug policy reform;
  - c) In June 2019, Council approved the motion Cannabis as an Alternative to Opiates and More Dangerous Drugs on the Downtown Eastside;<sup>xi</sup>
  - d) In September 2019, Vancouver City Council rejected a motion to proactively prohibit the sale of psilocybin in Vancouver,<sup>xii</sup> and in part informed by an interest in protecting the therapeutic use of psilocybin for opioid use disorder treatment;
  - e) In November 2020, Vancouver City Council unanimously resolved to ask the federal government to decriminalize simple possession of illicit drugs in Vancouver with an exemption from the CDSA under the provision of section 56(1);<sup>xiii</sup>
13. The Vancouver License By-law 4450 Section 4(12) states that *"the issuance by the City of a licence is not a representation of any kind that a business is compliant with any federal, provincial or other laws, including bylaws."*<sup>xiv</sup>
14. Since the City has no authority to regulate the legal sale of entheogens, but has clear jurisdiction in the area of running a business and appropriate land use decisions, the City could consider:
  - a) Creating conditions and a framework to manage and promote public safety, best practices, appropriate operations and land use;
  - b) Ignoring the issue of unlicensed and unregulated entheogen retailers altogether; or

- c) Enforcing via by-law authority against unlicensed and unregulated retailers, driving the trade and consumption of entheogens to a less safe, less visible underground market;
15. When Vancouver became the first Canadian city to regulate marijuana dispensaries in 2015, there was significant pushback from Health Canada and the federal government.<sup>xv</sup> Nevertheless, experts like chief medical health officer for Vancouver Coastal Health, Dr. Patricia Daly defended the move as reducing potential harms and VPD Chief Constable clarifying that shutting down dispensaries was a low priority;<sup>xvi</sup> and
16. There were 138 overdose deaths in Vancouver in 2015, when Vancouver pioneered the MMRU Framework. In 2023, there were 644 deaths in Vancouver and as of 2024, over nine per week.

THEREFORE BE IT RESOLVED

- A. THAT Council is committed to public safety, including harm reduction for people who use drugs, and recognizes that a regulated market of safe supply mushrooms and entheogens can be considered a form of harm reduction:
  - a. as a substitute for more harmful drugs (e.g. alcohol, tobacco, prescription opiates and some illegal drugs such as heroin or cocaine); and
  - b. as a means to reduce the rates of opioid overdose deaths and opioid-related morbidity.
- B. THAT Council direct staff to examine and report back with jurisprudence and the legal context necessary, including relevant local by-laws, licensing, zoning, and development policies to apply a retail framework to regulate business licenses for retailers of entheogens like psilocybin, peyote, mescaline, ayahuasca, and kratom.
- C. THAT Council direct staff to examine the Medical Marijuana Related Uses (MMRU) framework of 2015-2018 and report back with a framework and cost-recovery model for licensing that could be applied to entheogens, to achieve a careful balance between ensuring adequate availability for those in need and ensuring community health, safety, security, aesthetics, equity, and enjoyment of property, with considerations to include:
  - a. education and advocacy with a focus on harm reduction, safe, and responsible consumption;
  - b. best practices for retail operations, security, and public safety;
  - c. distancing from youth and youth-serving facilities; and
  - d. attention to the store location, exterior and premise including signage, displays, and public visibility;

FURTHER THAT Council direct staff to present alternate considerations for entheogen dispensaries including ignoring the issue altogether, and the pros and cons of actively prohibiting entheogenic retailers in the City of Vancouver; and

- D. THAT the Mayor on behalf of Council write the Federal and Provincial Ministers of Health and Public Safety respectively, advising the proliferation of, and public desire for access to entheogens; and the necessity of an evidence-based harm reduction approach that considers expanding safe, accessible, and appropriately regulated supply for people who use them.

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<sup>i</sup> John Hopkins Medicine Center for Psychedelic and Consciousness Research  
<https://www.hopkinsmedicine.org/psychiatry/research/psychedelics-research>

<sup>ii</sup> National Library of Medicine | Pharmacological Reviews - Psychedelics  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4813425/>

<sup>iii</sup> National Library of Medicine | The Therapeutic Potential of Psychedelic Drugs: Past, Present, and Future  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5603818/>

<sup>iv</sup> The Hill | 'Magic' Mushroom use by young adults has nearly doubled in three years  
<https://thehill.com/policy/healthcare/4054255-magic-mushroom-use-by-young-adults-has-nearly-doubled-in-three-years/>

<sup>v</sup> Harvard Health Publishing | The popularity of microdosing of psychedelics: What does the science say?  
<https://www.health.harvard.edu/blog/the-popularity-of-microdosing-of-psychedelics-what-does-the-science-say-202209192819>

<sup>vi</sup> Toronto mushroom dispensaries remain open despite being illegal  
<https://toronto.citynews.ca/2023/07/18/toronto-mushroom-dispensaries-remain-open-despite-being-illegal/>

<sup>vii</sup> Vancouver Police Department Drug Policy | uploaded 2021  
<https://vpd.ca/wp-content/uploads/2021/06/vpd-policy-drug.pdf>

<sup>viii</sup> City of Vancouver | Regulation of Retail Dealers – Medical Marijuana-Related Uses (2015)  
<https://council.vancouver.ca/20150428/documents/rr1.pdf>

<sup>ix</sup> Business in Vancouver | B.C. Supreme Court orders unlicensed Vancouver cannabis stores to close  
<https://www.biv.com/news/retail-manufacturing/bc-supreme-court-orders-unlicensed-vancouver-cannabis-stores-close-8254733>

<sup>x</sup> Stewart | Mayor's Overdose Emergency Task Force - Recommendations for Immediate Action on the Overdose Crisis - December 2018  
<https://council.vancouver.ca/20181220/documents/spec1.pdf>

<sup>xi</sup> Bligh | Cannabis as an Alternative to Opiates and More Dangerous Drugs on the Downtown Eastside - June 2019  
<https://council.vancouver.ca/20190626/documents/cfsc20190626min.pdf>

<sup>xii</sup> De Genova | Deterring and Preventing the Distribution and Sale of Psilocybin Mushrooms and/or Other Illicit or Controlled Drugs Unlawfully Sold in the City of Vancouver - September 2019  
<https://council.vancouver.ca/20190911/documents/pspc5.pdf>

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<sup>xiii</sup> City of Vancouver | Decriminalizing simple possession of illicit drugs in Vancouver - November 2020  
<https://vancouver.ca/people-programs/decriminalizing-simple-possession-of-illicit-drugs-in-vancouver.aspx>

<sup>xiv</sup> City of Vancouver | Business By-law 4450  
<https://bylaws.vancouver.ca/4450c.PDF>

<sup>xv</sup> City News | Vancouver first city in Canada to regulate cannabis dispensaries  
<https://toronto.citynews.ca/2015/06/24/vancouver-becomes-first-in-canada-to-regulate-medical-marijuana-dispensaries/>

<sup>xvi</sup> Canadian Medical Association Journal | Dispensaries: the Wild West of Vancouver  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4527928/>