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To: "Direct to Mayor and Council - DL"

CC: "City Manager's Correspondence Group - DL"

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Date: 10/17/2019 5:55:56 PM

Subject: Memo: Request for Information on Medical Marijuana Related Uses (MMRU) Framework

Attachments: CMO - Memo - DCM - Mayor Council - Medical Marijuana Related Uses Framew....pdf

Greetings Mayor and Council,

The attached memo is provided in response to Council's request for a summary of the Medical Marijuana Related Uses (MMRU) framework adopted by the City of Vancouver in 2015, including lessons learned from this work. This direction was received by staff on September 11, 2019.

Should you have any further questions regarding this topic, please let me know.

Best,
Paul

Paul Mochrie | Deputy City Manager
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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples.

MEMORANDUM

October 17, 2019

TO: Mayor and Council

CC: Sadhu Johnston, City Manager
Lynda Graves, Administration Services Manager, City Manager's Office
Rena Kendall-Craden, Civic Engagement and Communications Director
Katrina Leckovic, City Clerk
Neil Monckton, Chief of Staff, Mayor's Office
Alvin Singh, Communications Director, Mayor's Office
Anita Zaenker, Chief of Staff, Mayor's Office
Gil Kelley, General Manager, Planning, Urban Design & Sustainability
Sandra Singh, General Manager, Arts, Culture & Community Services
Kathryn Holm, Chief Licence Inspector, Development, Buildings & Licensing

FROM: Paul Mochrie
Deputy City Manager

SUBJECT: Medical Marijuana-Related Uses (MMRU) Framework: Request for information

Purpose

The purpose of this memo is to respond to the September 11, 2019 request for staff to provide a memo summarizing the Medical-Marijuana Related Uses (MMRU) framework adopted by the City of Vancouver in 2015, including lessons learned from this work.

A comprehensive description of the MMRU regulations can be viewed in the Council policy report dated April 21, 2015. Also, a memo dated June 8, 2015 clarifies the regulations as they pertained to minors and provides a briefing on the legal status of cannabis and recent litigation at the time. Another memo dated June 9, 2015 clarifies questions posed by Council to staff. These documents can be provided upon request.

Background

In June 2018, Council approved an amendment to the Zoning and Development By-law to replace the MMRU designation with "Cannabis store" to align with federal and provincial regulations and terminology. As a result and for consistency, this memo uses the term "cannabis" rather than "marijuana" throughout.

From 2013 to 2015, the number of illegal cannabis-related businesses in Vancouver grew by 100 per cent per year, and in the first six months of 2015, there was an increase from 60 to 100 businesses.

In the interest of public safety, particularly the safety of minors, the City took action to control and curb expansion of the illegal cannabis dispensary market by developing the MMRU framework. The City was also prompted to act as the federal government elected in 2015 indicated during their campaign that they intended to legalize and regulate the sale of cannabis.

A review was conducted with key stakeholders at Vancouver School Board (VSB), Vancouver Coastal Health (VCH), and Vancouver Police Department (VPD). These stakeholders advised the City to take a cautious approach toward cannabis-related businesses in order to protect youth and other vulnerable populations. This included taking into account the potential health and social risks posed by the proximity of a cannabis-related business to youth facilities such as schools. Analysis of best practices was conducted in two key jurisdictions (Washington State/Seattle and Colorado State/Denver and Boulder) where cannabis was being sold legally.

Regulatory options

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 psilocybin mushrooms); accordingly, the MMRU framework solely recommended land use and business regulations, and did not seek to regulate the product itself.

The range of regulatory tools available to the City included:

- Building By-law and Fire By-law to protect life safety
- Zoning and Development By-law to regulate land use and location
- The Licence By-law to regulate how many and in which manner businesses may operate
- Health By-law to regulate where people may smoke

Location and distance criteria

At the time, both Colorado and Washington State required a 1,000-foot buffer (300 metres) between a cannabis store and sensitive uses. Sensitive uses in Colorado included schools, preschools, child care establishments, medical-cannabis centres and alcohol or drug treatment facilities. In Washington, sensitive uses included schools, playgrounds, recreation centres, child care facilities, public parks, public transit centres, libraries and arcade/game facilities. Colorado also required a 1,000-foot buffer from other cannabis retail outlets.

On June 24, 2015, Council approved the MMRU framework that included a set of regulations related to the location and operation of cannabis dispensaries to commercial zones, distancing of 300 metres from schools, community centres, neighbourhood houses, youth facilities that serve vulnerable youth and other cannabis-related businesses. In addition, distancing regulations limited cannabis stores in the Downtown Eastside except for sites with a property line on Hastings Street or Main Street. In the Granville Entertainment District, it excluded cannabis stores from opening on any site with a property line on Granville Street between Robson Street and Pacific Boulevard.

Random draw for locations

During the preliminary Development Permit applications intake in 2016, the City received 19 applications that met all distancing requirements. However, all 19 applicants had submitted locations that were less than 300 metres from other applicants. As a result, there were multiple applicants vying for the same area location that met all other distancing requirements. This led the City to conduct a random draw to determine which applicants would be allowed to submit a full Development Permit application.

The unsuccessful applicants were allowed to operate for up to six months before closing and told to reapply if they could find a new location that met zoning regulations.

Licence categories

Two licence categories for MMRU were approved by Council in 2015 following an extensive public hearing process that extended for four days and heard from 104 speakers.

1. Retail Dealer – Medical Marijuana-Related Use (for-profit retail use). Licence fee of \$30,000 annually.
2. Compassion Club (operated as a non-profit society, only serves society members and provides non-cannabis-related health services by registered health professionals). Licence fee of \$1,000 annually.

Council enacted the above two licence categories to help ensure that the non-profit business model could continue.

Enforcement

The City commenced enforcement action in April 2016 against cannabis-related businesses that were in non-compliant locations (i.e. no valid DP) and continued to operate. All existing dispensaries at that time were given until April 29, 2016 to cease operations or face enforcement action. Thirty-one stores initially complied with City instructions to close before the deadline. Between May 2016 and December 2018, another 71 stores complied with regulations and closed or were no longer selling cannabis.

Prior to legalization of cannabis in 2018, the City's approach was to prioritize enforcement against life safety violations and zoning non-compliance. Concerns about the sale of illegal edible products fell under Vancouver Coastal Health's authority and concerns about criminality were referred to the VPD. Issues such as non-life threatening work without permit, or lack of a business licence, were initially assigned a lower enforcement priority due to limited staff resources and the City working with businesses towards voluntary compliance with the appropriate by-laws.

Lessons learned

There are material differences between the previous need to regulate illegal cannabis retail stores, and the potential to regulate illegal psilocybin mushrooms retail stores.

The number of cannabis-related businesses in Vancouver grew rapidly in 2014, and in the first six months of 2015, the number of stores increased from 60 to 100. In the absence of provincial and federal regulations, the City was in a position that it needed to act to curb and control the proliferation of cannabis stores in the interest of public safety, particularly the safety of minors. To the City's knowledge, there are currently no psilocybin mushrooms storefronts operating in Vancouver; however there appears to be an online mail-order dispensary operating out of Vancouver. The City has no authority to regulate online sales, including cannabis.

Further, at the time of creating MMRU regulations, there was expressed intention to legalize cannabis per the federal government. To date, only the Green Party of Canada has indicated they would decriminalize drug possession to ensure people have access to a safe, screened supply. The current federal government has moved towards safe supply by allowing doctors to apply for the ability to prescribe medical grade heroin to treat patients with chronic relapsing opioid dependence but have made no further commitments.

Resourcing

In 2015, Council approved dedicated staff resources to complete the land use approval, licensing and enforcement work related to the regulatory framework. This included one-time and ongoing funding. Approved funding for 2015 was \$256,700. Indirect resourcing by various other staff was not included and represented an unmeasured workload.

Implementation of the MMRU framework involved considerable staff time and resources across City departments. Following enactment of the regulations in June 2015, the City received 176 applications for the stage one implementation process that closed August 21, 2015.

As part of phase one, staff assessed applications to ensure compliance with zoning regulations, sent letters, inspected locations, and issued business licences. Given the volume of applications and the learning curve associated with a new process, it took staff several months to review applications and to obtain proper paperwork from applicants to advance their files. The first business licence was issued on May 16, 2016.

Enforcement (injunctions)

In 2016 and 2017, the City filed its first set of injunctions against 53 operators, the majority of which agreed to a test case, which commenced September 2018 in BC Supreme Court. On December 13, 2018, the BC Supreme Court ruled in favour of the City and ordered the illegal cannabis stores participating in the test case to shut down. While a decision from the courts was effective in closing the illegally located stores, it was a long process to obtain the court ruling.

Enforcement (ticketing)

Many businesses were not deterred by the \$250 ticket for operating in contravention of City by-laws. As a result, in December 2016, Council approved an increase to the ticket amount from \$250 to \$1,000. Issuing tickets twice a week to non-compliant operators did not always prove to be effective. As a result, another adjustment was made on July 24, 2018, when Council approved an amendment to the License Bylaw to allow the City to issue Licence Orders to landlords who were leasing space to unlicensed operators. This proved to be an effective

enforcement tool for the City to gain compliance as landlords were more responsive to enforcement action than operators.

Education and awareness

At the time of implementing the MMRU framework, Vancouver became the first municipality in Canada to licence and regulate the location of cannabis stores. As the City moved through the application process, efforts were made to educate the public through regular updates, announcements, written correspondence and website content. Information provided included content on the actions being taken within the City's jurisdiction to effectively regulate this industry in the absence of provincial and federal frameworks. However, it was difficult to change the public's perception that not enough was being done to regulate the industry, and the distinction that the City was not regulating the product.

Current landscape

As of October 17, 2018, legal non-medical cannabis can only be purchased from provincially licensed cannabis stores in British Columbia. Medical cannabis can only be obtained under the Federal Access to Cannabis for Medical Purposes Regulations (ACMPR) framework.

To operate a legal cannabis store in Vancouver, an operator must have a municipal development permit, a provincial cannabis retail licence and a municipal business licence.

A MMRU municipal business licence issued in previous years under the prior framework is no longer valid. Any location in Vancouver with a previously issued MMRU business licence must apply for and obtain both a provincial and a municipal licence before they can operate and sell legal non-medical cannabis. Compassion Clubs are permitted to offer services, but are not permitted to sell cannabis.

If you have any questions or concerns, please do not hesitate to contact me or Kathryn Holm, Chief Licence Inspector.

Regards,

A handwritten signature in black ink, appearing to read 'P. Mochrie', enclosed within a hand-drawn circle.

Paul Mochrie
Deputy City Manager

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