



AGENDA

Special Council Meeting

**Monday, April 16, 2018
7:00 p.m.**

**Prestige Harbourfront Resort
Balmoral Salon
251 Harbourfront Drive NE**

Page #	Item #	Description
	1.	CALL TO ORDER
	2.	STAFF REPORTS
1 - 10	1.	Director of Development Services – Regulating Cannabis Retail Sales
11 - 12	3.	PUBLIC INPUT
13 - 14	4.	ADJOURNMENT

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Item 2.1

CITY OF SALMON ARM

Date: April 16, 2018

Regulating Cannabis Retail Sales For Information

Vote Record

- ☐ Carried Unanimously
- ☐ Carried
- ☐ Defeated
- ☐ Defeated Unanimously

Opposed:

- ☐ Cooper
- ☐ Flynn
- ☐ Eliason
- ☐ Harrison
- ☐ Jamieson
- ☐ Lavery
- ☐ Wallace Richmond



Report from the Director of Development Services

TO: Her Worship Mayor Cooper and Members of Council

DATE: March 13, 2018

SUBJECT: Regulating Cannabis Retail Sales

FOR INFORMATION

Bill C-45, *The Cannabis Act* is expected to come into force in August 2018. The federal legislation will legalize the retail sale of cannabis across the country, subject to provincial legislation and local government bylaws. Last month the Province of BC unveiled its legislative framework with respect to the legalization of cannabis. There are various aspects of the new federal and provincial legislation that will need to be considered by Salmon Arm's Council, and the first step is to look at options to address some of the central questions regarding cannabis retail sales in the context of the City's Zoning Bylaw. The focus of this report is mostly on the regulation of cannabis retail sales in Salmon Arm from a location and siting perspective.

Similar to liquor sales, the Province will control the wholesale distribution of cannabis product and the licencing of retail stores through its Liquor Distribution Branch and Liquor Control and Licensing Branch (LCLB). The Province has further committed that local governments will have significant controls over the cannabis retail landscape within their respective communities in so far as:

1. Local government support, it appears, is a mandatory pre-requisite to issuance of a Provincial retail licence;
2. The Province will not be regulating the location of cannabis retail stores or the number of stores allowed in each community;
3. Local governments may regulate the number of retail stores within their boundaries, and may prohibit them all together; and
4. Local governments may regulate the location of retail stores, including their distance from schools and other similar stores.

Existing retail stores in the City selling cannabis are operating illegally and will not automatically be legalized with the final passage of Bill C-45. The provincial licensing model is set up so that City Council would need to be in support of a Provincial retail licence application before it is issued by the LCLB. The Provincial application process should be similar to obtaining a liquor licence with the application referred to City Council for comment and a resolution. The public input process involved for those applications has not been clarified by the Province yet, but it sounds as though the City will be expected to administer that process.

OPTIONS

The following approach options available to regulate the retail sale of cannabis involve the City's Zoning Bylaw and potentially the City's OCP and Business Licence Bylaws.

1. **Closed Approach** - the Provincial framework suggests a local government can ban the retail sale of cannabis on all land within its jurisdiction. An amendment to the General Regulations of the City's Zoning Bylaw could speak to a municipal-wide prohibition on the retail sales of cannabis

products. City staff does not recommend this sort of blanket ban approach on a product that is considered legal and regulated at the federal and provincial levels of government.

2. **Moderately Regulated Approach** - the City could allow the retail sales of cannabis under the Zoning Bylaw's present use and definition of "*retail store*", which is permitted in the C2, C-3, C-6 and a number of comprehensive development zones. This would be the simplest approach for the City to administer and no zoning bylaw amendments would be needed. The market forces of supply and demand would influence the number and location of stores and Council would still have significant control. In this scenario, Council would be asked to provide a resolution of support or non-support on a referral for a Provincial retail license application. So far, it appears that Council would not be bound to support a Provincial application even if the zone of the property permits the use.

As public input is required for a Provincial retail licence application, and the City will be responsible for the public input process, there should be a new municipal application created and associated fee to cover advertising, staff and administration costs. Again, at this point it is unclear what exactly the Province expects for public input.

To aid Council's decision making on whether to support a Provincial retail license application in a commercial zone allowing *retail store*, a City Policy could be adopted with location guidelines and other expectations. The policy would not necessarily need to be complicated and drawn out. For example, a Location Preference Policy could state "Provincial retail licence applications will be evaluated by City Council based on the following criteria:

- Premise is located beyond ____ m* of a school or children's daycare;
- Premise is located beyond ____ m* of another retail store licensed to sell cannabis;
- Premise is located beyond ____ m* of a liquor store;
- Premise is not located in a building containing residential dwelling units; and
- Applications demonstrate a plan to control potential nuisances such as odour and ventilation controls within and outside of the business premise."**

* Council could decide on appropriate distances. It is noted that the few communities in BC which have adopted proximity regulations / policies reference a wide range of distances from schools, daycares, liquor stores, between stores, etc. The rationale for the varying distances in each community is not clear and appears to be unique to each community's built environment, zoning patterns, community input and/or political desires.

For example, the City of Victoria requires a minimum distance of 200 m from schools, similar business and daycares. Williams Lake requires a minimum distance of 1,000 m between stores and 500 m from a school. Vancouver specifies a 300 m buffer from schools, community centers, youth facilities, similar business and daycares. Penticton has a 200 m minimum distance from school, while Nelson has a 150 m between store policy and 80 m from a school.

** This type of plan could potentially be included as terms and conditions of a Business Licence. However, staff is doubtful that this type plan is necessary and is skeptical that a retail store selling properly packaged legalized cannabis would cause a nuisance.

Option 2 - **Moderately Regulated Approach** - is recommended by City staff. A Location Preference Policy of some sort could be drafted for Council's review by August 2018.

3. **Highly Regulated Approach** - this approach would involve OCP and Zoning Bylaw regulation amendments. This approach would demand staff and Council's time not only in creating new policies and regulations, but subsequently in reviewing rezoning applications for each proposed store. It is questionable whether this approach would provide Council with more control over siting compared to the moderately regulated approach.

- a) New Use - a first step would be to create a new use in the Zoning Bylaw such as "*cannabis retail sales*" with a definition. For more clarity, the definition would indicate that the new use is not permitted in a *retail store, convenience store, personal services establishment or ancillary retail sales or home occupation*.
- b) General Regulation - to further reinforce a) there could be a section in the General Regulations section of the Zoning Bylaw prohibiting *cannabis retail sales* unless approved with an amendment to the Zoning Bylaw (i.e. Council's approval of a rezoning application).
- c) New Zone - with a new use and definition, there are several possibilities. One is to wait for the first Provincial retail licence referral to the City. With that, the City would respond by indicating the application is not supported as it does not meet the City's Zoning Bylaw (and the proposal may or may not meet the siting policies of the OCP). The applicant applying to the Province would then be given an opportunity to apply for a site-specific rezoning, or possibly a new C-10 - Cannabis Retail Zone could be created. Either way, the onus falls on the applicant to make a rezoning application, then to City staff to process the application, followed by City Council to review the bylaw, readings, public hearing, etc.

The site-specific rezoning approach would be a better way to handle rezoning applications in the near term because the zoning regulations can be tailored to each proposed property, development and characteristics. The rezoning application process would take a minimum of three - four months depending on workload.

- d) Siting Policies - OCP commercial land use policies could address location and proximity expectations for new zones allowing cannabis retail sale. Proximity policies in an OCP could be considered with some flexibility for each rezoning application. Council could, for example, consider the following Commercial Cannabis Retail Policies for the OCP:

"Subject to rezoning and Provincial licensing:

- i) Cannabis retail sales is generally supported on land either designated City Centre or Highway Commercial west of the City Centre;
- ii) Cannabis retail stores are discouraged within 500 m of a school and on land designated Highway Commercial and located east of the City Centre;
- iii) Land designated Neighbourhood Commercial or currently zoned commercial in Canoe may be appropriate for cannabis retail sales;
- iv) Cannabis retail stores are encouraged to be located a minimum of ____ m from one another; and
- v) Cannabis retail stores are discouraged from locating in a building containing residential dwelling units."

Being OCP policies with encouraging and discouraging statements, Council could still consider rezoning applications for proposals that do not meet one or more of the policies. An applicant may be able to present Council a good case for rezoning support; although staff would likely be in a position to recommend against a rezoning request that does not meet the OCP.

The attached maps attempt to show three examples considering the Highway Commercial and City Centre Commercial land use designations of the OCP and several proximity scenarios.

Map 1 - is a scenario in which the OCP's Commercial Cannabis Retail Policies would be in line with example policies i) and ii) listed above.

Map 2 - would be a scenario in line with i), ii), iii) assuming a 250 m between store policy.

Map 3 - would be the most restrictive scenario with a 500 m in between store policy, and assuming there were to be a minimum ____ m distance between various uses that may be deemed as a "sensitive location" (e.g. daycares, seniors homes, liquor stores, public health buildings, etc.).

OTHER CONSIDERATIONS

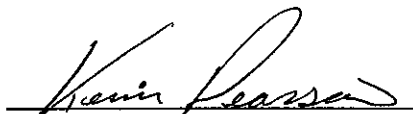
The following considerations may be examined more closely after Council has decided on the appropriate zoning regulations and siting policies. Any further bylaw amendments beyond the OCP and Zoning Bylaws would need Council direction and a timeline that could extend to the end of this year. Additional staff time and resources needed for bylaw creation, Business Licence administration, inspections, and expectations for additional monitoring and enforcement is not anticipated with the status quo.

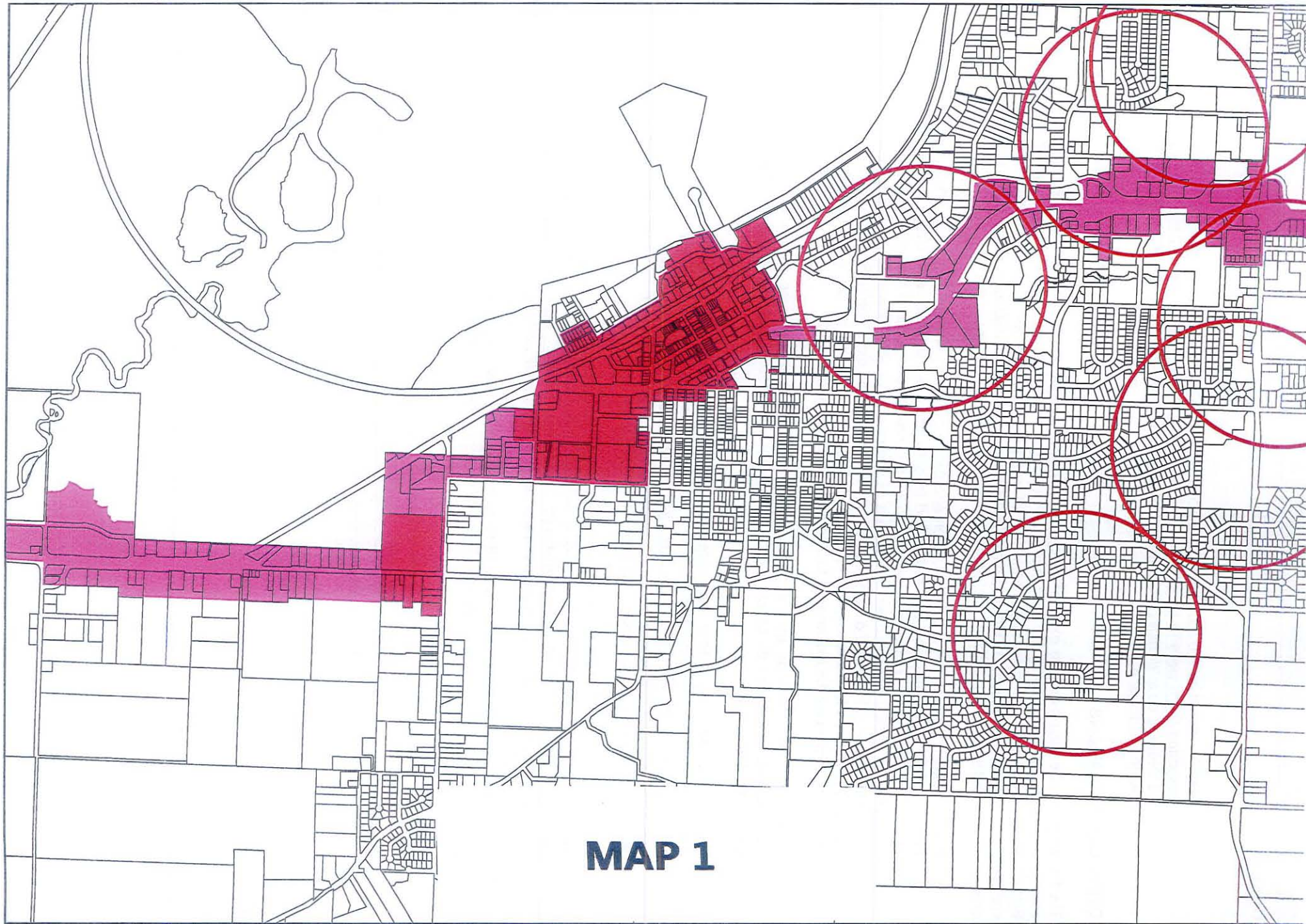
1. **Business Licensing** - there is much discussion about municipalities contemplating amendments to their Business Licence Bylaws and associated fees to address cannabis retail stores. Licence fees cannot be arbitrarily raised in an attempt to keep certain business out of a municipality based on moral objections if that business can operate as a legal entity under federal and provincial law. Licence fees cannot be raised on a presumption that there will be extra demands on city services (e.g. staff resources for licensing, inspections and enforcement). As far as staff knows, Provincial Licence Inspectors will be responsible for regulating in-store operations.

At this point, and based on annual licence fees for similar businesses such as a private liquor store (approx. \$350), staff do not see justification to set a business licence fee higher than those categories at this time.

There may be an ability to limit the number of licenses issued for a retail store selling cannabis. Capping the number of business licenses for a certain business category is not a practice the City has undertaken in the past. Doing so would likely involve a lottery system, selection criteria, and amendments to the Business Licence Bylaw. In staff's opinion, zoning and siting policies are a better way to control the number of cannabis retail stores in the City.

2. **Places of Use** - the Province has indicated cannabis use will be prohibited in parks, beaches and playgrounds frequented by children, and in vehicles. "Dan's Bylaw" adopted in 2013 would appear to cover off the smoking of cannabis (an "organic substance") within most City parks and lands (Bylaw is attached). For a number of reasons, this Bylaw is difficult to enforce.
3. **Age Restrictions** - the minimum age of 19 for purchase and consumption will be a province-wide regulation. It is assumed that age restriction will be monitored and enforced by the RCMP and Provincial Licence Inspectors.
4. **Number of Plants** - Bill C-45 allows for up to four cannabis plants to be growing in a house under certain conditions. The provincial regulations will require that plants cannot be visible from public spaces off the property and will be banned in dwellings used for daycares. Strata properties and landlords will be able to further ban or allow a lesser number plants.


 Kevin Pearson, MCIP, RPP
 Director of Development Services



OCP



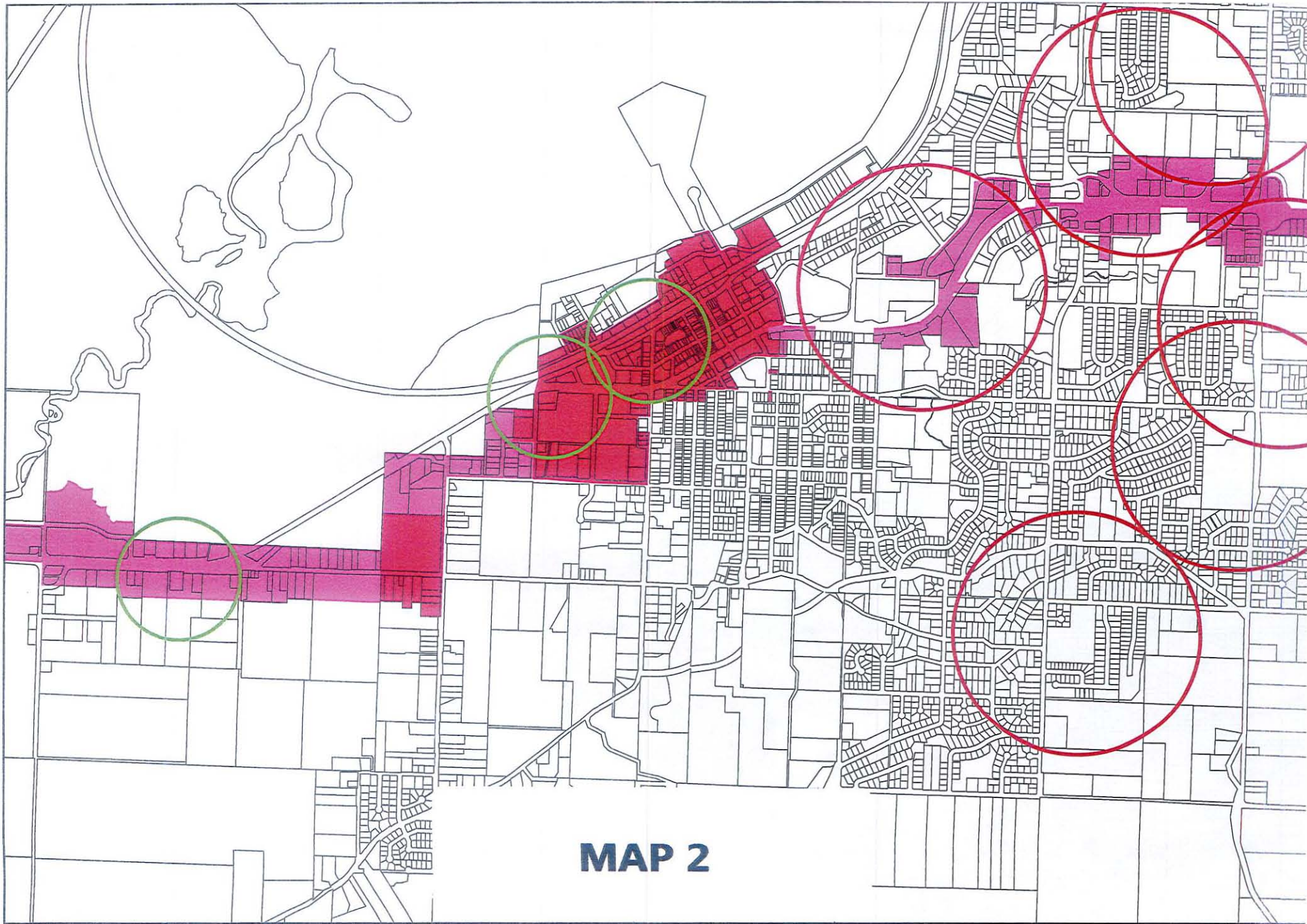
Commercial - City Centre

Commercial - Highway



500 m Radius - School





OCP



Commercial - City Centre

Commercial - Highway

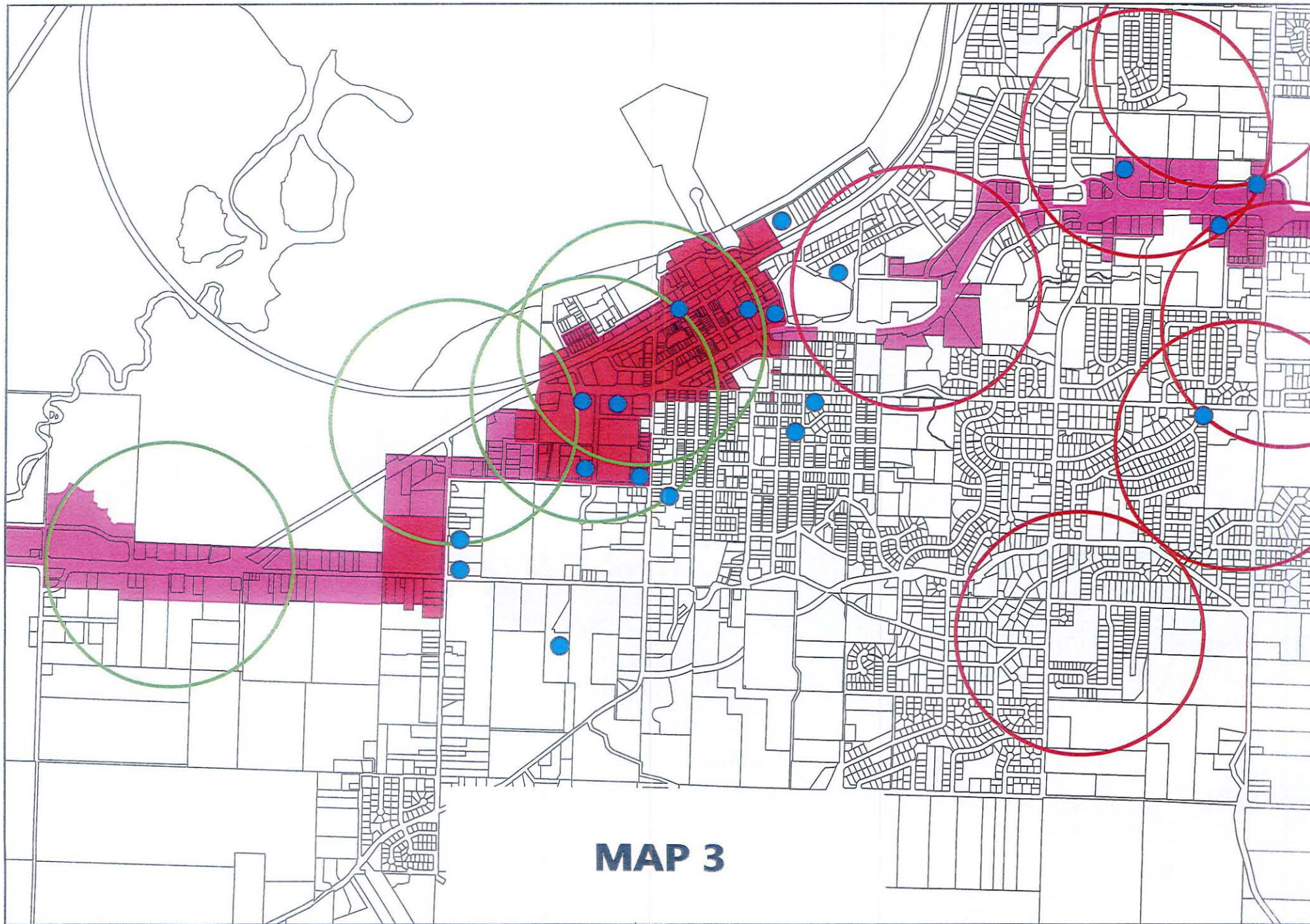


500 m Radius - School

250 m Radius - Stores (Not Incl. Band Land)

500 250 0 500 Meters





MAP 3

OCP

- Commercial - City Centre
- Commercial - Highway

- 500 m Radius - School
- 500 m Radius - Stores

- Potentially Sensitive Locations
(Daycares, Senior's Homes, Liquor Stores, Public Health Buildings)

500 250 0 500 Meters



CITY OF SALMON ARM

BYLAW NO. 3954

A bylaw to amend "Parks Regulation Bylaw No. 2119, 1993"

WHEREAS the Council of the City of Salmon Arm has enacted "Parks Regulation Bylaw No. 2119, 1993", being a bylaw to provide for the use, regulation and protection of public lands and parks within the City of Salmon Arm;

AND WHEREAS under the provisions of Section 8 (Fundamental Powers) (3)(i) of the Community Charter, Council may regulate persons in respect to public health matters;

AND WHEREAS Council considers it expedient and desirable for the health, safety and welfare of the residents to prohibit smoking in parks in the City of Salmon Arm;

AND WHEREAS the Ministry of Health has been consulted with prior to the adoption pursuant to the Public Health Bylaws Regulation;

AND WHEREAS it is deemed expedient to amend said bylaw;

NOW THEREFORE the Council of the City of Salmon Arm, in open meeting assembled, enacts as follows:

"Parks Regulation Bylaw No. 2119, 1993" is hereby amended as follows:

- 1) New definition of "Park" as follows: "Park" shall mean:
 - (a) any improved land used for outdoor recreation such as a playground, beach, spray park, skateboard park, athletic court, athletic field, trail, wharf and public plaza that are under the care, management and jurisdiction of the City;
 - (b) any unimproved land for natural and environmental purposes that is under the care, management and jurisdiction of the City;
- 2) New definition of "Smoking" as follows: "Smoking shall mean the inhaling of, or exhaling of, the smoke from tobacco or other organic substance, or the carrying of a burning cigarette, cigar or any device in which tobacco or any other organic substance is burning";
- 3) New smoking prohibition in 4m) "Smoking shall be prohibited in a park";
- 4) Deleting Appendix C "Smoking shall be prohibited in those parks list in Appendix "C";

Parks Regulation Amendment Bylaw No. 3954
Page 2

2. This bylaw may be cited as "City of Salmon Arm Parks Regulation Amendment Bylaw No. 3954 'Dan's Bylaw'".

READ A FIRST TIME THIS 13th DAY OF May 2013

READ A SECOND TIME THIS 13th DAY OF May 2013

READ A THIRD TIME THIS 10th DAY OF June 2013

APPROVED PURSUANT TO SECTIONS 8 AND 9 OF THE *COMMUNITY CHARTER*
AND DEPOSITED WITH THE MINISTRY OF HEALTH THIS

25th DAY OF June 2013

"K. Laughlin, Environmental Health Policy Analyst
For the Ministry of Health

ADOPTED BY COUNCIL THIS 8th DAY OF July 2013

"N. COOPER"

MAYOR

"C. PAIEMENT"

CORPORATE OFFICER

Item 3.1

CITY OF SALMON ARM

Date: April 16, 2018

PUBLIC INPUT

Vote Record

- ☐ Carried Unanimously
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- ☐ Defeated
- ☐ Defeated Unanimously

Opposed:

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- ☐ Wallace Richmond

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Item 4.

CITY OF SALMON ARM

Date: April 16, 2018

Moved: Councillor Flynn

Seconded: Councillor Eliason

THAT: the Special Council Meeting of April 16, 2018, be adjourned.

Vote Record

- ☐ Carried Unanimously
- ☐ Carried
- ☐ Defeated
- ☐ Defeated Unanimously

Opposed:

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