



Legislation Details (With Text)

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Title: Bylaw 12/2018 - Land Use Bylaw Amendment Cannabis (1st Reading)
Presented by: Jean Ehlers, Manager Development

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Date	Ver.	Action By	Action	Result
5/28/2018	1	City Council	approved	Pass
5/28/2018	1	City Council	approved	Pass

TAMRMS#: B06

Bylaw 12/2018 - Land Use Bylaw Amendment Cannabis (1st Reading)

Presented by: Jean Ehlers, Manager Development

RECOMMENDATION(S)

1. That Bylaw 12/2018, being amendment 159 to Land Use Bylaw 9/2005, be read a first time.
2. That a public hearing date for Bylaw 12/2018 be scheduled for June 25, 2018.

PURPOSE OF REPORT

The pending legalization of cannabis for recreational use, requires amendments to the City of St. Albert Land Use Bylaw (LUB). City Administration has prepared, for Council's consideration, amendments (AM159) to the Bylaw, by including definitions for "cannabis", cannabis lounge", and "cannabis retail store". Although the LUB does provide a definition for a "medical marijuana production facility", Administration recommends that this be replaced by a definition for "cannabis production and distribution facility". All Land Use Districts where the new 'uses' will be a discretionary use, are indicated in the proposed amendments.

COUNCIL DIRECTION

On April 9, 2018, Administration updated the Governance, Priorities, and Finance Committee (GPFC) on the progress of the Cannabis Working Group. Discussion was also facilitated with the Committee on the amendment options to the bylaws impacted by the legalization of cannabis.

On April 23, 2018, Administration presented the Committee of the Whole with the results of the public participation activities and Bylaw amendment options, which did incorporate public input. The Committee provided feedback and endorsed options for use by Administration when bringing proposed amendments to the LUB forward to Council.

BACKGROUND AND DISCUSSION

The Federal Government intends to legalize the sale of cannabis through the *Cannabis Act (Bill C-45)*. In expectation of this, the Alberta Legislature passed *An Act to Control and Regulate Cannabis*, whereby the *Alberta Gaming and Liquor Act* (now the *Alberta Gaming, Liquor and Cannabis Act*), and the Municipal Government Act (MGA), were amended.

The amendments to the MGA require that a land use bylaw be consistent with the Alberta Gaming, Liquor and Cannabis Act regulations; that a Development Authority not approve a development permit that is inconsistent with the regulations; and that a subdivision and development appeal board “. . . *must comply with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises*”. It should be noted that, notwithstanding the regulations referred to, a municipality may amend prescribed separation distances through its land use bylaw. In such an instance, the requirements of a land use bylaw will apply, thereby replacing the Alberta Gaming, Liquor and Cannabis Commission’s (AGLCC) regulated requirements.

In preparing the proposed Bylaw amendments before Council, Administration was guided:

- by AGLCC regulations;
- by feedback and direction from the GPFC;
- by results of the public engagement conducted during March/April 2018;
- by observing how other municipalities were proposing to address cannabis as a ‘use’ in their respective land use bylaws;
- by recognizing that the retail of cannabis is a new ‘use’, and because there are no ‘best practice’ principles, drafting of Bylaw amendments should proceed with caution, rather than proposing amendments which could have far-reaching, and unintended, consequences.

Apart from the proposal to amend the Bylaw by inserting definitions for “*cannabis*”, “*cannabis lounge*”, and “*cannabis retail store*”, Administration is also recommending that the current ‘use’ of “*medical marihuana production facility*” be replaced in whole by the proposed ‘use’ of a “*cannabis production and distribution facility*”. The substantial differences between the ‘*medical marihuana production facility*’ and the ‘*cannabis production and distribution facility*’ definitions may be ascribed to Administration having observed what the scale and potential impacts of large-scale cannabis production facilities are. Additionally, Administration proposes that a “*cannabis production and distribution facility*” should be a discretionary use in the Commercial and Industrial (CIS) Land Use District only, rather than in the CIS, Business Park 2, and Business Park Transition districts, as in the current LUB.

At the April 23, 2018 meeting of the Committee, members indicated some support for text amendments indicating that where a proposed cannabis retail store would be located ‘*across the road*’ from a facility requiring a minimum separation distance, such a retail store could be located at a lesser distance from the impacted ‘use’ (for example a City-operated indoor recreation facility). This has been incorporated in the draft Bylaw amendments.

The proposed Bylaw amendments include:

- inserting new definitions for “*cannabis*”; “*cannabis lounge*”; “*cannabis production and distribution facility*”, and “*cannabis retail store*”.
- List ‘*cannabis retail store*’ as a discretionary use in all land use districts where liquor stores are currently a permitted or discretionary use, thereby allowing for a development permit decision to be appealed;
- Regarding the imposition of separation distances, limit the variance capacity of a development officer to grant a variance;
- Requiring minimum prescribed separation distances between a cannabis retail store and:
 - a hospital;
 - a community hall facility;
 - a City operated indoor recreation service facility;
 - a City operated outdoor recreation service facility;
 - a school;
 - a licenced day care facility;
 - a parcel designated as a municipal and school reserve or school reserve on the certificate of title.

By monitoring the impact of the legalization of cannabis on land uses, and any future impact(s) such as changing trends in the cannabis industry, and possible provincial legislative and policy changes, Administration will be in a position to advise Council whether further amendments to the Land Use Bylaw will be required. The impact of the proposed amendments is anticipated to require minimal, if any, increases in operational costs from a land use/development perspective.

The City will be unable to issue a development permit for a business which will only become ‘legal’ on the date that the federal Cannabis Act is enacted. Administration recommends that the Bylaw come into force on the same date as the effective date ~~enactment~~ of the federal Cannabis Act.

Please refer to the attached Bylaw 12/2018 and a redline version of the relevant sections from the City of St. Albert land Use Bylaw 9/2005.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

External Stakeholder engagement took place during March/April 2018, when the online survey was conducted and a number of workshops were held. On the City’s website, information regarding cannabis legislation is also made available.

Internal Stakeholder engagement was taken care of by the inter-departmental and cross-cutting Cannabis Task Force.

IMPLICATIONS OF RECOMMENDATION(S)

If Council accepts Administration’s recommendations:

Advantages:

- The City of St. Albert Land Use Bylaw is amended to make provision for the legalization of Cannabis as proposed by the Federal Government's *Cannabis Act*.
- Potential applicants will have clarity as to where Cannabis Retail Store locations may be located.
- The recommendations parallel the regulations for Liquor Store, another Controlled Substance.
- The recommendations recognize both Federal and Provincial regulations surrounding cannabis as a legal substance as it relates to the Land Use Bylaw.

Challenges:

- In order for a business owner to obtain a license to operate cannabis retail store from AGLCC, they must be in possession of a development permit issued by the City. Until regulations are implemented, a development permit cannot be issued by the City of St. Albert.

Financial:

None at this time.

Legal / Risk:

Any proposed Land Use Bylaw amendment requires a public hearing in accordance with Section 230 of the MGA. Further, the public hearing must be advertised in accordance with Section 606 of the MGA.

Program or Service:

None at this time.

Organizational:

None at this time.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

1. Receive the report as information and take no action at this time.

Advantages

- No staff resources required for consultation and LUB amendments.

Challenges

- Perception that the City did not address the matter.

2. Receive the report as information and direct Administration to amend the report with any Council Motions approved at this Council meeting.

Advantages

- The City of St. Albert has an opportunity to customize the Land Use Bylaw to include recommendations that Council feels appropriate outside/in addition to the Provincial regulations regarding Cannabis.

Challenges

- Drafting additional regulations will delay the ability for the City to meet the Federal Government “go date” for legalization.
- Potential retailers may see this delay as a stall tactic by City Council.

STRATEGIC CONNECTIONS

Municipal Plans and Policies

1. Pillars of Sustainability

Economic

- We prosper and excel through a strong and diverse economy that is supported by forward thinking commerce, outstanding local businesses and a dynamic downtown core.

2. **Government of Alberta**

- Alberta Gaming, Liquor and Cannabis Act.

3. **Federal Government of Canada**

- Bill C-45 Cannabis Act

Report Date: May 7, 2018

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