



## Legislation Text

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TAMRMS#: B06

### **Bylaw 30/2018 - Cannabis Consumption Bylaw and Bylaw 31/2018 Amendment to Smoking Bylaw 1/2004 re Cannabis (1st, 2nd and 3rd reading)**

Presented by: Marta Caufield, Solicitor

#### **RECOMMENDATION(S)**

1. That Bylaw 30/2018, being a bylaw to regulate consumption of cannabis, be read a first time.
2. That Bylaw 30/2018 be read a second time.
3. That unanimous consent be given for consideration of third reading of Bylaw 30/2018.
4. That Bylaw 30/2018 be read a third and final time.
5. That Bylaw 31/2018, being Amendment 2 to the Smoking Bylaw 1/2004, be read a first time.
6. That Bylaw 31/2018 be read a second time.
7. That unanimous consent be given for consideration of third reading of Bylaw 31/2018.
8. That Bylaw 31/2018 be read a third and final time.

#### **PURPOSE OF REPORT**

This report brings forward the new *Cannabis Consumption Bylaw*, as well as minor amendments to update the *Smoking Bylaw*, with relevant information related to the impending legalization of cannabis in Canada.

#### **COUNCIL DIRECTION**

At the April 23, 2018, Committee of the Whole meeting the following motion was passed:

##### AR-18-168

That the Committee supports administration's use of Option 2(b), from the document entitled "Cannabis Options - Smoking Bylaw", provided as an attachment to the April 23, 2018 agenda report entitled "Cannabis Project Update - Public Participation", as a basis for drafting amendments to the Smoking bylaw or a stand-alone cannabis consumption bylaw for consideration by Council on June 25, 2018.

At the June 18, 2018 Governance, Priorities and Finance Committee meeting the following motions were passed:

AR-18-267

That the Governance, Priorities and Finance Committee directs Administration to recommend for Council consideration on June 25, 2018, Version 1 of Bylaw 30/2018, being a bylaw to regulate cannabis consumption, as presented to the Committee on June 18, 2018.

That the Governance, Priorities and Finance Committee directs Administration to recommend for Council consideration on June 25, 2018, Bylaw 31/2018, being Amendment 2 to Smoking Bylaw 1/2004, as amended by Committee on June 18, 2018.

That GPFC direct Administration to amend the smoking bylaw to remove all references to marihuana and retain the name and references to other substances.

## BACKGROUND AND DISCUSSION

On April 13, 2017, the federal government introduced legislation for cannabis legalization which is expected to come into effect in late summer 2018, or shortly thereafter. On November 16, 2017, the province introduced Bill 26: *An Act to Control and Regulate Cannabis*. This legislation gives the Alberta Gaming and Liquor Commission authority for oversight, compliance and retail licensing, enables online sales, and crates restrictions on youth possession and public consumption, including smoking and vaping. On February 15, 2018, the province released support regulations entitled the *Gaming and Liquor Amendment Regulation* about the sale of cannabis, including licensing criteria, but also included some stipulations regarding smoking and vaping of cannabis.

The provincial restrictions on smoking and vaping of cannabis mirror provincial tobacco consumption laws.

Attachment 1 summarizes the federal and provincial cannabis acts and regulations.

Currently, the City's *Smoking Bylaw* includes cannabis and treats it the same as tobacco, meaning that cannabis may be smoked in places where tobacco may be smoked.

### Cannabis Consumption Bylaw

Based on feedback received from the Committee of the Whole on April 23, 2018 and the Governance, Priorities and Finance Committee (GPFC) on June 18, 2018, Administration has drafted a new *Cannabis Consumption Bylaw*, which is provided as Attachment 2. The new *Cannabis Consumption Bylaw* prohibits smoking and vaping of cannabis throughout St. Albert, except in the locations specified:

- inside a private living accommodation;
- on or within a private residential property (this includes backyards, front yards, porches, and balconies);

- in an area specifically reserved for smoking and vaping at outdoor public events; and
- while travelling on a sidewalk that is at least 5 metres away from:
  - a(n) doorway, window, or air intake of a building;
  - a patio;
  - a park; and
  - St. Albert Place, transit centers, recreational facilities (including all outdoor pools, spray parks, playgrounds, seasonal skating rinks, skate parks, sports fields, arenas, courts, and recreation centres), fire halls, recycle yards, police stations, and civic work places.

The new *Cannabis Consumption Bylaw*:

- ensures that cannabis cannot be smoked or vaped in parks and on trails (with the exception of Lois Hole Centennial Provincial Park, which is a provincial park and falls within provincial jurisdiction pursuant to the *Provincial Parks Act* RSA 2000 cP-35);
- allows for ease of enforcement, prosecution, and communication to the public;
- eliminates the possibility of individuals congregating on sidewalks and in parking lots to smoke or vape cannabis; and
- gives authority to the City Manager to designate any public place as a smoking or no-smoking area, as needed.

Administration considered adding an exemption for persons entitled to possess cannabis for medical purposes in accordance with the *Access to Cannabis for Medical Purposes Regulations*. However, based on the fact that the *Cannabis Consumption Bylaw* permits consumption of cannabis in some public places, if there is a challenge that the *Cannabis Consumption Bylaw* is infringing on an individual's *Charter* rights, the City has arguments to defend any such challenge. Not including a medical exemption in the bylaw presents fewer challenges from an enforcement perspective. Given this, Administration has not included an exemption for persons entitled to possess cannabis for medical purposes in this bylaw.

The fines and penalties for contraventions of the *Cannabis Consumption Bylaw* are the same as those found in the *Smoking Bylaw*, namely a \$250 fine, or, on summary conviction, a fine not exceeding \$10,000 or to an order of imprisonment for not more than one year, or both.

Smoking Bylaw

The *Smoking Bylaw* prohibits smoking and vaping of any substance in the locations provided:

- at or in any City-owned structural facility;

- within a building;
- on the grounds of an outdoor public event, except in an area reserved for smoking and vaping;
- on a patio;
- inside a public transportation vehicle;
- within 5 metres of a doorway, window, or air intake of a building, an outdoor pool, or a playground; and
- within 5 metres of a seasonal skating rink, skate park, or sports field while it is being used for its intended purpose.

Administration recommends that all references to marijuana be removed from the current *Smoking Bylaw* and that a new section be added to this bylaw to clarify that smoking of cannabis is governed by the *Cannabis Consumption Bylaw* instead of the *Smoking Bylaw*. This will ease enforcement because it will provide clarity that cannabis may not be smoked in the places permitted under the *Smoking Bylaw* and will ensure that enforcement officers will issue tickets related to the consumption of cannabis under the *Cannabis Consumption Bylaw* only.

The Amending Bylaw 31/2018, being Amendment 2 to Smoking Bylaw 1/2004, is found in Attachment 3 and the redlined version of the proposed consolidated *Smoking Bylaw* is found in Attachment 4. The proposed Amending Bylaw:

- removes the word “marijuana” from the definition of “electronic smoking device”;
- removes the word “marijuana” from the definition of “smoking”;
- provides a new definition of “violation ticket” in order to properly reference the *Provincial Offences Procedure Act* RSA 2000 cP-34; and
- adds a new section 4 to clarify that the *Smoking Bylaw* does not apply to cannabis, only the *Cannabis Consumption Bylaw* applies to smoking and vaping of cannabis.

In accordance with direction received from the GPFC on June 18, 2018, Administration will be bringing forward amendments to the *Smoking Bylaw* to the GPFC in September 2018 in order to align the *Smoking Bylaw* with the *Cannabis Consumption Bylaw* presented herein.

## STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

A Public Participation Plan was developed and funding for it was approved by Council on March 5, 2018. The funding was used to conduct two surveys, one by invitation to 4,000 randomly selected households and one open to all stakeholders in the community. Both surveys were conducted online between March 21, 2018 and April 4, 2018. Additionally, World Café style discussions were held with randomly selected residents and with business owners/industry stakeholders. The public participation results were presented to Committee of the Whole on April 23, 2018. Feedback from the public

participation results, as well as from GPFC and Committee, was taken into account and incorporated into the recommendations presented by Administration.

## IMPLICATIONS OF RECOMMENDATION(S)

### Financial:

There is no immediate financial implication related to passing these bylaws as proposed, however depending on the number of complaints and resident voluntary compliance (or lack thereof), there will be financial implications if more staff are required to enforce the new legislation. As enforcement occurs the City may see some increased fine revenue related to the *Cannabis Consumption Bylaw*, but Administration is unable to estimate this amount at this time. Should there be increased fine revenue realized, Administration would build this into future budgets. The current fine for a violation of the *Smoking Bylaw* is \$250.00, and the proposed fine for a violation of the *Cannabis Consumption Bylaw* is also \$250.00.

### Legal / Risk:

Municipalities must ensure that all bylaws are in place by the time federal cannabis legislation comes into force. A medical exemption would be required in the *Cannabis Consumption Bylaw* if Council was considering an entire prohibition on public consumption of cannabis in St. Albert. However, given the fact that Council will allow some form of public consumption in St. Albert, as well as the fact that consumption will also be allowed in private residences, if a *Charter* challenge is brought against the City, the City will have arguments to defend itself without a medical exemption written into the bylaw.

### Program or Service:

There are no direct program or service impacts related to passing these bylaws; however, if the *Cannabis Consumption Bylaw* is passed and future enforcement resources are not added, there is potential for an indirect negative impact to existing enforcement services that could result from reprioritization of work. For example, there could be less time being spent proactively patrolling for animal bylaw or parking infractions in an attempt to address cannabis bylaw infractions proactively.

### Organizational:

There are no direct organizational impacts related to passing these bylaws; however, with any new resource(s) added to the organization, added staff require added building accommodations and incrementally have impacts on organizational structures, supervision ratios and internal supports such as human resources and IT support needs.

## ALTERNATIVES AND IMPLICATIONS CONSIDERED

If Council does not wish to support the recommendation, the following alternatives could be considered:

Alternative 1. That the report be received as information and that the *Cannabis Consumption Bylaw* and/or the *Smoking Bylaw* be amended in accordance with specific direction provided by Council. For example, Council could direct Administration to completely ban smoking and vaping of cannabis in public in the City of St. Albert.

Drafting additional changes to the *Cannabis Consumption Bylaw* and/or *Smoking Bylaw* may delay the City's ability to ensure that all bylaws are in place by the time federal cannabis legislation comes

into force.

Alternative 2. Do nothing, leaving the *Smoking Bylaw* as it currently exists. The *Smoking Bylaw* already addresses cannabis and treats cannabis and tobacco the same; therefore, smoking of cannabis in St. Albert would be permitted where smoking of tobacco is currently permitted. This course of action may be negatively perceived as the City not addressing cannabis consumption or taking public participation results into consideration.

## STRATEGIC CONNECTIONS

City of St. Albert Strategic Plan (Policy C-CG-02) - Pillars of Sustainability

SOCIAL - We are a friendly and inclusive community of passionate equals, where everyone feels a sense of belonging. We believe that community starts with the person next door.

NATURAL ENVIRONMENT- We protect, embrace and treasure our deeply-rooted connections with the natural environment through championing environmental action.

Long Terms Plans (e.g. MDP, Social Master Plan, Cultural Master Plan, etc.)  
N/A

Council Policies, Bylaws, or Federal/Provincial statutes

*Smoking Bylaw 1/2004*

*An Act to Control and Regulate Cannabis*

*Gaming and Liquor Amendment Regulation*

*Gaming and Liquor Statutes Amendment Act, 2018*

*Tobacco and Smoking Reduction Act*

*Tobacco and Smoking Reduction Regulation*

*An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*

Report Date: June 25, 2018

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