

Enabling Cannabis Retail Stores and Facilities – Land Use Bylaw

EXECUTIVE SUMMARY

This report proposes new rules to regulate the retail sale of cannabis in the Land Use Bylaw (LUB). The goal is to provide broad opportunities for cannabis retailing, balanced by rules and guidelines to manage clustering and limit locations near sensitive uses. This will be done by:

- A new use to accommodate cannabis retailing, called a Cannabis Store;
- Guidelines to assist the Development Authority in approving Cannabis Stores in appropriate locations.
- Listing the districts where the cannabis related uses may occur;
- Changes to the names and rules of the existing uses of Medical Marihuana Counselling and Medical Marihuana Production Facility;
- Rules to transition existing Medical Marihuana Counselling and Medical Marihuana Production Facility uses to the new names and definitions;
- Notice Posting requirements; and
- Transition rules.

The rules respond to, and align with, recent federal and provincial legislation once in force will legalize and regulate cannabis retailing. Although the provincial framework on cannabis has been developed, the detailed rules have not yet been issued. Accordingly, the rules and guidelines in this report may need to be amended to conform to the pending provincial regulations. The timing of this report will ensure LUB amendments are in place to enable Cannabis Stores to open coinciding with the Federal Government's stated implementation date in July 2018.

Two amending bylaws are proposed, which manage the uncertainty of the pending provincial and federal rules and which position the City to be able to respond to business requests for permits when allowed by federal and provincial rules. The first puts in place the new uses and rules, the second lists them in the appropriate districts. Administration recommends the first bylaw be given three readings while the second be given only first reading. This approach gives business an understanding of where Cannabis Stores can be located and enables them to make development permit applications. It also enables the City to be able to review applications and get ready for the date of legalization. When the federal and provincial legislation and regulations become effective and a legalization date announced, Council could give the second bylaw second and third readings and an effective date to coincide with the date of legalization.

Other aspects on the regulation of legalized cannabis, including business licensing and locations where it may be consumed, will be brought forward to Council on 2018 April 5, to be heard in conjunction with this report.

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ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Planning and Urban Development:

1. Direct Administration to:
 - a. prepare amending bylaws to the Land Use Bylaw 1P2007 as outlined in the proposed text in Attachments 1 and 2; and
 - b. forward the proposed bylaws, to accommodate the required advertising, and this report, directly to the 2018 April 05 Combined Meeting of Council.
2. Recommend that Council hold a Public Hearing for the proposed amending bylaws at the 2018 April 05 Combined Meeting of Council, and:
 - a. give three readings to the proposed Land Use Bylaw Amendment in Attachment 1;
 - b. give first reading to the proposed Land Use Bylaw Amendment in Attachment 2 and withhold second and third reading until the date of legalization is known; and
 - c. adopt, by resolution, the proposed Cannabis Store Guidelines.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2017 December 7, the Intergovernmental Affairs Committee received IGA2017-1209 (Update on Cannabis Legalization) and approved a motion, Moved by Councillor Magliocca, as follows:

"That with respect to Report IGA2017-1209, the following be approved:
That the Intergovernmental Affairs Committee receive this Report for Information."

On 2017 July 24 Council approved a motion to ADOPT, Moved by Councillor Stevenson, Seconded by Councillor Pootmans that the Intergovernmental Affairs Committee Recommendation contained in Report IGA2017-0586 be adopted, as follows:

"That the Intergovernmental Affairs Committee recommends that Council approve Administration's recommended response to the provincial government's engagement as contained in Revised Attached 1, as distributed."

On 2017, May 4, the Intergovernmental Affairs Committee approved a motion, Moved by Councillor Stevenson, that with respect to Verbal Report IGA2017-0427, the following be approved:

"That the Intergovernmental Affairs Committee:

1. Approves the continued use of the advocacy positions on cannabis legalization and regulation as outlined in the Attachment for continued discussions with the federal and provincial governments;

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2. Directs Administration to report back to Council through this Committee on the progress of discussions with the Government of Alberta; and
3. Directs Administration to report back to Council through the appropriate committee with Administration's recommendations on the necessary amendments to municipal bylaws and other policy changes required to implement the legalization of cannabis."

On 2016 November 3, the Intergovernmental Affairs Committee approved a motion, Moved by Councillor Carra, that the Administration Recommendation contained in Report IGA2016-0737 be approved, as amended, as follows:

"That the Intergovernmental Affairs Committee approve the Revised proposed advocacy position on marijuana legalization and regulation (Attachment 1) as follows:

- On Page 2 of 2 in Attachment 1, on the first column, by deleting the words "Prohibit or" prior to the words "restrict residential growing"
- On Page 2 of 2 in Attachment 1, on the second column, by deleting the first bullet "Administration recommends that growing marijuana in the home be prohibited." in its entirety
- On Page 2 of 2 in Attachment 1, on the second column, fourth bullet, by deleting the words "If residential growth is allowed," prior to the words "administration recommends restricting the scale of residential growing for health and safety reasons."
- **On Page 2 of 2 in Attachment 1, on the second column, by adding a fourth bullet with the words "The City also advocates similar tax revenue proposals for other sin taxes."**

BACKGROUND

Federal and Provincial Law

The Federal and Provincial Governments both intend to legislate on cannabis through the *Cannabis Act* and *An Act to Control and Regulate Cannabis* respectively. Generally, the Federal Government will regulate all aspects of cannabis production as well as medical cannabis sales, while the Provincial Government will regulate non-medical sales, licensing, public consumption, safety and enforcement related to cannabis. Attachment 3 (Federal and Provincial Regulatory Approach) summarizes what may be addressed in upcoming Federal and Provincial Regulations.

The Government of Alberta has indicated its draft regulations on cannabis will be released in the early spring of 2018. They will include details on the licensing requirements for cannabis retailers and details on the various aspects of cannabis regulation stated above. Should they contain rules that conflict with the approach in this report, Administration will have to change the proposed rules to align with provincial regulations. If Regulations change further when legalization occurs, further amendments will need to be considered.

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Existing Regulation of Cannabis Sales

Currently, cannabis can only be sold to a person who has a medical document (i.e. a prescription). Retail sales and non-medical use of cannabis are illegal. Federal regulations manage cannabis similar to other prescription drugs, using a system of licensed commercial producers and allowing some persons to produce their own cannabis for medical use. However, commercially-grown cannabis must be shipped directly to persons with a medical document rather than being sold in a pharmacy.

Calgary's current rules reflect federal regulations, with the Medical Marihuana Production Facility use accommodating licensed commercial production and the Medical Marihuana Counselling use accommodating businesses that provide counselling on all aspects of cannabis. No uses in the Land Use Bylaw currently allow cannabis retailing because it is still illegal.

The City's Response

Administration has established a cross department working group to coordinate and integrate the City's response to the legalization of cannabis, including amendments to other City bylaws that may be necessary.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Recommended Approach to Regulating Cannabis Sales

The legalization of cannabis and its retail sale necessitates a new approach to regulation. There are a number of ways to regulate cannabis retailing in the Land Use Bylaw (LUB), but the three basic approaches are:

1. Add cannabis retailing to the existing Retail and Consumer Service use;
2. Require cannabis retailing to be a Direct Control District use; and
3. Create a new definition for cannabis retailing separate from other forms of retail, similar to Liquor Stores.

The first approach, adding cannabis retailing to the Retail and Consumer Service use, would mean it could occur broadly through a change in tenancy. This means that cannabis retailing would be managed the same as any other retail store and not regulated as a separate category with its own rules. This approach would also eliminate the ability for adjacent or impacted land owners to comment or appeal applications for cannabis sales.

The second approach, requiring cannabis retailing to be managed through Direct Control Districts, means a land use redesignation and public hearing would be required for each cannabis retail store. This approach means the highest level of Council control.

The third approach, creating a new definition to manage cannabis retailing, separate from other forms of retail, would be similar to the approach used for Liquor Stores. Defining cannabis retailing separately and instituting unique rules and guidelines allows them to be managed through the development permit process, including provisions for notice posting and opportunity for appeals. This approach is recommended by Administration.

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Cannabis retailing may have an impact on sensitive uses, such as schools. For example, some studies have suggested that cannabis use affects learning. Limiting retailing locations near schools limits access and use. Limiting retailing near elementary schools reduces visibility and influence – similar to the effects of limiting the opportunities for tobacco advertising.

It may also be appropriate to prevent clustering of cannabis retailing to manage potential cumulative environmental, social and aesthetic impacts, and ensure opportunities for other types of businesses to provide goods and services to communities. Adding cannabis retailing to the existing Retail and Consumer Service use would mean it could not be uniquely managed. A Direct Control District approach means higher costs, complexity and Council resources. Ultimately, such an approach may limit opportunities for cannabis retailing.

In order to provide broad opportunities for cannabis stores, balanced by rules to manage proximity to sensitive uses and potential clustering, Administration recommends cannabis retailing should be managed as a discretionary use in most commercial districts.

Proposed Cannabis Store Use

The LUB amendments in Attachment 1 (Proposed Amendments to Land Use Bylaw 1P2007 – Part 1) propose a new use called Cannabis Store. The definition allows the sale of cannabis produced by a licensed producer. The rules do not allow consumption of cannabis in the store, but allow counselling and the ancillary sale or rental of cannabis-related merchandise.

The LUB amendments in Attachment 2 (Proposed Amendments to Land Use Bylaw 1P2007 – Part 2) lists Cannabis Stores as a discretionary use in all districts where Liquor Stores are listed. The chart in Attachment 4 (Cannabis Store Districts, Rules and Guidelines) summarizes the districts where Cannabis Stores are being added as discretionary uses.

A Cannabis Store is required to be a stand-alone use, which means it cannot be combined with another use, such as a convenience store. However, Cannabis Stores can occur in a multi-tenant building or as part of a mixed-use development.

Proposed Cannabis Facility Use

The amendments in Attachment 1 propose the existing Medical Marihuana Production Facility use be renamed Cannabis Facility. The amendments clarify that a broad range of activities can occur in these facilities, either singly or in combination with each other, and include growing, processing, and warehousing cannabis. This also clarifies that recreational and medical production can occur on the same site.

Administration also recommends that the requirement for a stand-alone building for this use be deleted. This rule was implemented in the context of cannabis being produced only for medical uses, when it was expected there would be a few large production facilities. Removing this rule will provide more opportunities in the Industrial – General (I-G) District for the emerging cannabis industry for growing, processing and warehousing.

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Deleting this rule allows Health Canada, the building owner and prospective tenants to decide whether a stand-alone building is necessary. The rules for Cannabis Facility will continue to require a separation distance of 75.0 metres from a residential district.

Finally, it is recommended that Cannabis Store be allowed in the Industrial General (I-G) District in conjunction with a Cannabis Facility. This is consistent with the City's historical approach to allowing a manufacturer the opportunity to sell its products.

Proposed Cannabis Counselling Use

The amendments propose the existing Medical Marihuana Counselling use be renamed Cannabis Counselling to use consistent terminology for all cannabis related uses in the Land Use Bylaw and to align with the new federal and provincial legislation that use the word 'cannabis' instead of 'marihuana'. The amendments also clarify that cannabis cannot be sold or consumed as part of a Cannabis Counselling use.

Cannabis Store Guidelines

The purpose of the proposed Cannabis Store Guidelines (Attachment 5) is to ensure opportunities for Cannabis Stores are balanced with their cumulative impacts on traffic, parking, aesthetics, and complete communities, both when they occur as single uses or in combination with other uses.

The guidelines supplement separation distances that are proposed below to manage clustering on main streets and in communities and the impacts of Cannabis Stores on some sensitive uses. These may need amendments to ensure compliance with yet to be released Provincial regulations.

The guidelines also assist the Development Authority to make decisions on requests for relaxations on the separation distance between Cannabis Stores and from sensitive uses, as well as to guide the Development Authority to locate Cannabis Stores appropriately from sensitive uses for which there are no separation distance rules.

Separation Distances

Separation distance rules prevent clustering of similar uses in a specific area. Clustering can result in cumulative environmental, social and aesthetic impacts. Separation distances also separate uses that may have compatibility issues or conflicts. The City currently uses separation distances in the LUB to limit clustering of Pawn Shops and Payday Loans, and to limit clustering of Liquor Stores and their locations near schools.

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Separation distances for Cannabis Stores are proposed as follows:

Separation distance	Use
30 metres	<ul style="list-style-type: none"> Liquor Store¹
150 metres	<ul style="list-style-type: none"> Emergency Shelter² Post-secondary Learning Institution² School – Private² School Authority – School²
300 metres	<ul style="list-style-type: none"> Cannabis Store¹
Guideline Requirement - not within 10 metres	<ul style="list-style-type: none"> Payday Loan Pawn Shop Child Care Service

Notes to Table

¹ Separation distance is measured from one use to the closest portion of the other use.

² Separation distance is measured from a Cannabis Store to the closest property line of the other use.

A survey of Calgarians' attitudes towards cannabis legalization and regulation undertaken by Environics Research, shows the percentage of Calgarians who either strongly support or somewhat support separation distances for the following uses:

Separation Distance	Per Cent
Separation from all types of schools	81
Separation from Emergency Shelters	76
Separation between Cannabis Stores	61
Separation from Liquor Stores	47

The map in Attachment 6 (Map of Uses Affecting Possible Cannabis Store Locations) shows the locations of public and private schools, the primary campuses of Post-Secondary Learning Institutions, Emergency Shelters and the associated 150 metre buffers. It also shows the locations of existing Liquor Stores and commercial and industrial districts where Cannabis Stores might be located. The map illustrates that as separation distances from sensitive uses increase, opportunities to locate Cannabis Stores diminish.

Separation Distance between Cannabis Stores

The purpose of the separation distance between Cannabis Stores is to prevent clustering. The proposed distance is 300 metres, which is the same separation distance used in the LUB to prevent clustering between liquor stores.

Separation Distance from Liquor Stores

The distance from Liquor Stores is to limit the potential cumulative impacts of collocated uses, and to ensure that small commercial developments include opportunities to provide other commercial uses to neighbourhoods. For example, with this rule many small

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neighbourhood commercial developments could accommodate either a Cannabis Store or a Liquor Store, but not both.

Separation Distance from Schools and Post-secondary Learning Institutions

The purpose of the separation distance to schools and Post-Secondary Learning Institutions is to limit immediate access and visibility from places where young persons are learning. A review of other municipal jurisdictions where cannabis retailing has been legalized shows separation distances to schools ranged from 150 metres to 300 metres. Although the proposed separation distance to schools is 150 metres, it is consistent with the existing separation distance from a Liquor Store to a school. The separation distance is also measured from the Cannabis Store to the closest school property line, as opposed to the school building itself. This often results in a greater separation distance between buildings. It also ensures that the Cannabis Stores would be located at least 150 metres from playgrounds and playing fields associated with schools.

Separation Distance from Emergency Shelters

The purpose of the distance to Emergency Shelters is to limit immediate access and visibility to a use where some residents may have substance abuse issues.

Potential Separation Distances from other uses

Most municipalities where cannabis retailing is legal include a separation distance to a school, while some also require a separation distance to places of worship and other places where children congregate, such as playgrounds, child care facilities and recreation centres. In addition to the 499 public and private schools shown on the map in Attachment 4, there are approximately 650 licensed child care facilities in Calgary. Like schools, Child care facilities can be accommodated in various buildings, and do not solely occur in purpose-built buildings. Incorporating separation distances from these uses would additionally limit potential locations for Cannabis Stores; however, the Cannabis Store Guidelines proposed above require that the Development Authority should not approve a Cannabis Store adjacent to a Child Care Facility.

Variations to Separation Distances

Council could consider variations to the proposed separation distances, such as a greater distance from Cannabis Stores to schools or eliminating the proposed separation distance to Liquor Stores and instead providing separation guidance through the proposed Cannabis Stores Guidelines. The City's rules must be consistent with the yet to be released provincial regulations.

For reference, the table below summarises the separation distances between uses in the Land Use Bylaw.

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Summary of Use separation distances in the Land Use Bylaw

FROM	TO (Separation distance in metres)							
	Schools	Liquor Store	Emergency Shelter	Payday Loan	Pawn Shop	Child Care	Post Secondary	Cannabis Store
Liquor Store	150	300	150 ²	-	-	-	-	30 ¹
Payday Loan	-	-	-	400	-	-	-	-
Pawn Shop	-	-	-	-	400	-	-	-
Cannabis Store	150 ¹	30 ¹	150 ¹	P ¹	P ¹	P ¹	150 ¹	300 ¹

Notes to Table

P = Cannabis Guidelines Applicable

¹ = Proposed

² = East Village Districts and all parcels north of 5th Ave. SE and west of 4 St. SE.

Relaxations of Separation Distances

A maximum 10 per cent relaxation in the 150-metre separation distance (i.e. reduction from 150 metres to 135 metres) from a Cannabis to a School, Emergency Shelter and Post-secondary Learning Institution is proposed. The Cannabis Store Guidelines assist the Development Authority to make decisions on relaxation requests to the 30, 150 and 300 metre separation distances.

Notice Posting Requirements

The Land Use Bylaw amendments require notice posting for a Cannabis Store to help communicate an application to nearby businesses and residents.

Transition Rules

The amendments in Attachment 1 include a rule that transitions existing approved Medical Marijuana Counselling uses to the new Cannabis Counselling use, and Medical Marijuana Production Facility uses to Cannabis Facility. This rule ensures that existing approved uses must conform to the new rules.

Implementation of Proposed Cannabis Uses

Two amending bylaws are proposed because the exact date of cannabis legalization has not yet been confirmed by the federal government. This approach means the City is ready to respond when businesses request permits to open once allowed by federal and provincial law.

The advantage of using two bylaws to implement cannabis legalization is it allows the City to implement a regulatory framework that enables it to accept and process applications for Cannabis Stores in accordance with Council's rules, but to only approve them once the exact date of legalization and the requirements in the Regulations is known and the federal and provincial law is in force.

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The first amending bylaw in Attachment 1 (Proposed Amendments to the Land Use Bylaw – Part 1) puts in place the definition of Cannabis Store and its associated rules. It also implements the renamed Cannabis Facility and Cannabis Counselling uses.

The amending bylaw in Attachment 2 (Proposed Amendments to the Land Use Bylaw – Part 2) lists Cannabis Stores in the districts shown in the chart in Attachment 3. It is recommended this bylaw be given first reading, with second and third reading of the bylaw occurring when the exact date of cannabis legalization is known and federal and provincial regulations are completed.

Coordination of all City bylaw amendments

All City bylaw amendments related to cannabis, including LUB amendments, are planned to proceed to Council on 2018 April 5. The table below shows the bylaws that may need to be amended and the anticipated committee dates:

Bylaw	Committee	Committee Date	Council Date
Land Use Bylaw	SPC on PUD	2018 February 21	2018 April 5
Business License Bylaw	SPC on CPS	2018 April 3	2018 April 5
Smoking Bylaw	SPC on CPS	2018 April 3	2018 April 5
Community Standards Bylaw	SPC on CPS	2018 April 3	2018 April 5
Transit Bylaw	SPC on CPS	2018 April 3	2018 April 5

Notes to Table

SPC on PUD = Standing Policy Committee on Planning and Urban Development
SPC on CPS = Standing Policy Committee on Community and Protective Services

Stakeholder Engagement, Research and Communication

The City conducted a telephone survey of adult residents of Calgary from November 6 to November 19. The survey included opinions on the siting of cannabis retailers and producers. An online survey was held from November 20 to December 10, 2017 and received more than 13,000 responses. The City also held three stakeholder workshops November 22 and 23, 2017 to understand key themes from stakeholders, including opinions on retail and cannabis production locations and separation distances.

Strategic Alignment

Two objectives of the Municipal Development Plan (MDP) are to create a city attractive to people and business. The Plan's policies include providing "... safe and healthy communities with a variety of housing choices, employment opportunities, local retail and services and mobility options" (MDP Policy 2.1.1 a.) and attracting and retaining "...suitable business and industry in Calgary by fostering economic diversification and providing a climate that supports and enhances economic activity" (MDP Policy 2.1.2 a.). The proposed Land Use Bylaw amendments are intended to accommodate broad opportunities for cannabis businesses balanced with providing safe and healthy communities. This is achieved through separation distances from sensitive uses and separation distances to prevent clustering.

The Federal Government has indicated that cannabis will be legalized and available for retail sale in July 2018. However, there is some uncertainty about the date the federal

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legislation will be in force. The Provincial Government has approved but not yet proclaimed implementing legislation. Provincial regulations are pending. The proposed amendments align with federal and provincial legislation. The need for alignment with the yet to be released regulations will be assessed once the text is released.

Social, Environmental, Economic (External)

Social

Cannabis Stores provide legal and safe opportunities for regulated cannabis sales versus sales that may otherwise occur in the unregulated black market. Government licenced stores will sell products that have been tested and approved (e.g. not grown with harmful pesticides or herbicides or laced with other unknown chemicals). The stores will provide safe and legal access to products that might otherwise be purchased on the black market. These businesses will provide legal jobs and their revenue will be taxed rather than being the non-taxed proceeds of criminal activity.

Separation distance requirements minimize the impact on sensitive uses and to prevent clustering in specific communities or on main streets.

Environmental

Broad opportunities for cannabis sales means the impacts of noise, lighting, traffic and parking that may have occurred with fewer, more limited numbers of stores, should not occur.

Economic (External)

Ensuring appropriate, safe and regulated opportunities for businesses to open Cannabis Stores and Facilities assists the local economy.

Financial Capacity

Current and Future Operating Budget:

Assuming other types of development permit applications remain constant, additional development permit applications may mean a need for greater resources to process Cannabis Store and Facility applications in the short to medium term.

Resources will also be required to monitor the success of Council's rules and make adjustments if necessary.

This additional work can be accommodated by existing resources.

Current and Future Capital Budget:

No impacts have been identified.

Risk Assessment

Potential delays in the federal parliamentary system (e.g. Senate approval) mean that the anticipated legalization date is not certain. Further, regulations may not be released by the Provincial Government until early spring of 2018, and may change when made law. This means that amendments to proposed rules and guidelines may need to occur should the rules and guidelines in this report conflict with the yet to be released provincial regulations.

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Neither the provincial or federal levels of government have made their legislation effective. Federal and provincial regulations will contain important details that may require changes to the proposed LUB amendments. Administration's recommendations give the City flexibility to align with the yet to be released federal and provincial regulations and with the future legalization date.

No significant long-term planning risks have been identified. With the initial limited number of stores there may be short-term parking and traffic impacts. These impacts will dissipate as private industry builds out stores in response to public demand.

REASONS FOR RECOMMENDATIONS:

The proposed amendments align with federal and provincial legislation that legalize cannabis sales and production. Providing broad opportunities for retail cannabis sales minimizes impacts that could otherwise occur in a narrower range of locations while providing opportunities for local business and economic diversification. Separation distances can minimize impacts to sensitive uses and ensure that overall, cannabis sales are not concentrated in specific communities or main streets.

ATTACHMENTS

1. Attachment 1 - Proposed Amendments to Land Use Bylaw 1P2007 – Part 1.
2. Attachment 2 - Proposed Amendments to Land Use Bylaw 1P2007 – Part 2.
3. Attachment 3 - Federal and Provincial Regulatory Approach.
4. Attachment 4 - Cannabis Store Districts, Rules and Guidelines.
5. Attachment 5 - Cannabis Store Guidelines.
6. Attachment 6 - Map of Uses Affecting Possible Cannabis Store Locations.