

Cannabis Legalization – Proposed Bylaws

EXECUTIVE SUMMARY

On 2017 April 13, the Government of Canada introduced Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*, (*The Cannabis Act*) which, subject to parliamentary approval, will legalize and regulate recreational cannabis in Canada. On 2017 November 30, the Government Alberta enacted *An Act to Control and Regulate Cannabis*, S.A.2017, c.21; the Act comes into force upon proclamation. The provincial framework and federal legislation will have significant implications on the establishment of municipal bylaws, policies and procedures. On 2018 February 16 the Government of Alberta enacted new regulations for retail cannabis stores which will be overseen by the Alberta Gaming and Liquor Commission (AGLC). This report, in combination with report PUD2018-0056 presented to the Standing Policy Committee on Planning and Urban Development, is intended to address the new bylaws and amendments to existing bylaws necessary to accommodate cannabis legalization in the city of Calgary.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Community and Protective Services:

1. Forward the proposed bylaws as urgent business directly to the 2018 April 05 Combined Meeting of Council.
2. Recommend that Council give three readings to the proposed bylaw to amend the Business Licence Bylaw 32M98 (Attachment 1);
3. Recommend that Council give three readings to the proposed Cannabis Consumption Bylaw (Attachment 2); and
4. Recommend that Council give three readings to the proposed Smoking and Vaping Bylaw (Attachment 3).

PREVIOUS COUNCIL DIRECTION / POLICY

On 2018 February 21, the Standing Policy Committee on Planning and Urban Development received PUD2018-0056, “Enabling Cannabis Retail Stores and Facilities – Land Use Bylaw”, which proposes new rules to regulate the retail sale of cannabis in the Land Use Bylaw. Several recommendations were recommended by the SPC on Planning and Urban Development to Council. This report is scheduled to be heard by Council on 2017 April 05.

On 2017 December 07, the Intergovernmental Affairs Committee received for information IGA2017-1209, “Update on Cannabis Legalization”. This report provided an update on ongoing advocacy to the provincial and federal governments and information about Administration’s approach to the legalization of recreational cannabis in Calgary given the proposed provincial and federal regulations.

On 2017 July 24 Council received IGA2017-0586, “Response to Provincial Engagement on Cannabis Legalization” and approved a motion that Council approve Administration’s recommended response to the provincial government’s engagement.

On 2017, May 04, the Intergovernmental Affairs Committee received IGA2017-0427, “Update on the City of Calgary Advocacy Position” and approved the following motion:

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“That the Intergovernmental Affairs Committee:

1. Approve 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;
2. Direct Administration to report back to Council through this Committee on the progress of discussions with the Government of Alberta; and
3. Direct 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.”

BACKGROUND

On 2017 April 13, the Government of Canada introduced Bill C-45, *The Cannabis Act*, which, subject to parliamentary approval, will legalize and regulate recreational cannabis in Canada. It is currently anticipated that this act will come into effect no earlier than 2018 August. *The Cannabis Act* creates a federal framework for regulating cannabis production, setting standards for health and safety, and establishing criminal prohibitions. Some aspects of *The Cannabis Act* include: allowing adults to legally possess up to 30 grams of cannabis in public; allowing for growing up to four cannabis plants per residence (not per person) for personal use; creating new criminal offences to deter sales to minors; and allowing for the use of a roadside oral fluid screening to determine impairment.

On 2017 November 30, the Government of Alberta passed *An Act to Control and Regulate Cannabis*, S.A. 2017, c. 21., which included amendments to provide authority for the AGLC to carry out oversight and compliance functions and manage the distribution of cannabis. This Act established the authority for the province to carry out public online sales and to licence privately owned and operated cannabis stores and established provincial offences related to youth possession, smoking and vaping of cannabis in public places and vehicles

On 2018 February 16, amendments to the Alberta Gaming, Liquor and Cannabis Regulation were introduced which included: regulations addressing ownership requirements for cannabis stores; where cannabis stores can be located; staff requirements; safety and security requirements; and operational details.

An overview of the federal and provincial regulations is included in Attachment 4

In 2016, anticipating the impact of this major federal legislative change on The City of Calgary, Administration established a working team of subject matter experts (SMEs) from across the Corporation, including representatives from the City Manager’s Office, Intergovernmental & Corporate Strategy, Law, Planning & Development, Calgary Neighbourhoods, Calgary Community Standards, Calgary Transit, Human Resources and the Calgary Police Service. This group identified issues of concern and potential impacts of legalizing cannabis to The City of Calgary, which formed the basis of The City’s participation in the Task Force engagement and advocacy positions that were approved by the Intergovernmental Affairs Committee in 2016 November and have guided City participation in federal and provincial engagement opportunities. Since 2017 June, City Administration has been working with the Alberta Cannabis Secretariat to ensure The City’s input and concerns were addressed in provincial legislation and regulations. The alignment between federal and provincial decisions and The City of Calgary’s advocacy positions can be found in Attachment 7.

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The Cannabis Working Group collaborated to identify all bylaws impacted by the legalization of cannabis, and is looking for Council's approval and adoption of all required bylaw amendments. This report addresses the business licence and public consumption considerations for cannabis and is intended to complement the proposed Land Use Bylaw amendments in PUD2018-0056, presented to the SPC on Planning and Urban Development on 2018 February 21. Together, these two reports address all aspects of cannabis legalization which require new municipal bylaws or existing bylaw amendments. In addition to the two reports outlining bylaw amendments Administration continues to develop internal procedures, policies and processes to address the effects of cannabis legalization on The City.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The analysis provided in this report is focused on the business licensing and public consumption considerations associated with the legalization of cannabis. The Land Use Bylaw considerations are provided in PUD2018-0056. Administration is not recommending any further bylaw provisions addressing odour associated with the smoking of cannabis. Additionally, Administration is recommending no further regulations addressing the residential growing of cannabis, aside from what is included in the provincial regulations.

Business Licensing

This report includes proposed amendments to the Business Licence Bylaw 32M98 which will establish new City business licence categories for Cannabis Stores and Cannabis Facilities. The definitions for these licence categories are aligned with the proposed amendments to the Land Use Bylaw recommended by the SPC on Planning and Urban Development on 2018 February 21.

The amendments to the AGLC regulations announced by the Government of Alberta on 2018 February 16 established requirements for all cannabis retailers. These regulations include extensive background checks for ownership (including criminal records checks) and the ability to refuse a licence based on charges, convictions, associations or relationships with people whom the AGLC is "satisfied has not, or may not act in accordance with the law, or who may not act with honesty, integrity or in the public interest." In addition, the AGLC regulations have extensive physical security requirements for retail stores including: professionally installed and monitored security systems; digital camera security systems; secure perimeter entry points; locked display cases; and reinforced storage rooms. The AGLC regulations also restrict signage by defining what can and cannot be included in the copy of a retail store's signage, which includes prohibiting the use of slang terms associated with cannabis.

Due to the extensive nature of the AGLC regulations, Administration is recommending a straightforward licensing requirement for Cannabis Stores, that aligns with current requirements for Liquor Stores and many other types of businesses in Calgary. A straightforward municipal business licence process will allow for local oversight in the new recreational cannabis industry without adding onerous barriers to entry already addressed by the AGLC regulations. It will also ensure that local business owners meet basic requirements including background checks for owners, approval of land use, and fire inspections.

Currently, Medical Marijuana Production Facilities do not require municipal business licences due to the stringent requirements of the federal Access to Cannabis for Medical Purposes

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Regulations (ACMPR). However, Administration anticipates that the cannabis production industry will develop rapidly after legalization of recreational cannabis. A municipal business licence will provide Administration the ability to regulate and to quickly respond to potential issues at a local level. A municipal business licence will allow for consideration of those businesses who may want to process, package, test, destroy, store or distribute cannabis in addition to those who simply intend on growing.

Proposed wording for Business Licence Bylaw Amendments are found in Attachment 1. Charges for offences related to the Business Licence Bylaw 32M98 are also included. It should be noted that these charges would be in addition to other forms of enforcement associated with sale of cannabis that is in contravention of federal or provincial regulations.

The proposed amendments to the Business Licence Bylaw are subject to a proposed effective date of 2018 April 24. This effective date aligns with the effective date for the proposed Land Use Bylaw amendments included in PUD2018-0056. The effective date is recommended to allow Administration to communicate Council's decisions to interested stakeholders and implement a process for accepting cannabis-related applications.

Public Consumption

When recreational cannabis is legalized, *An Act to Control and Regulate Cannabis* will prohibit the smoking and vaping of cannabis: in any place where smoking is prohibited pursuant to the *Tobacco and Smoking Reduction Act*, including workplaces and buildings and enclosed areas to which the public has access, vehicles, hospitals, school and child care facility property, in or within a prescribed distance from a playground, sports or playing field, skateboard or bicycle park, zoo, outdoor theatre, and outdoor pool of splash park. The provincial government has indicated that municipalities may create additional restrictions on public consumption using their existing authorities.

The Government of Alberta indicated that their public consumption regulations have focused on the health effects of second-hand smoke. Administration is recommending creating a new bylaw for public cannabis consumption, beyond the provincial restrictions, which would prohibit consuming cannabis in public places. This new bylaw would restrict all forms of cannabis consumption in public places or in areas where the public has consent to access. This bylaw would be enforceable by all municipal peace officers as well as members of the Calgary Police Service. Rationale for the further restriction on public consumption is included in Attachment 5.

Exemptions to the public consumption ban are included in the proposed Bylaw for individuals with a medical document for cannabis pursuant to federal legislation. However, persons who smoke or vape medical cannabis would still be subject to both the proposed Smoking and Vaping Bylaw as well as the provincial cannabis consumption regulations.

The proposed Cannabis Consumption Bylaw includes an exemption for public consumption at events. Generally, this exemption would mirror the current process for 'beer gardens.' The proposed municipal process would require that any space set aside for cannabis consumption be separate from both 'beer gardens' as well as designated tobacco smoking areas. Per provincial regulations, 'cannabis gardens' would not allow for the consumption of cannabis where it is sold; consumers would be required to bring their own cannabis to these events.

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Event organizers would have the ability to apply for cannabis garden permits through the existing City Interdepartmental Events Team process.

A new Smoking and Vaping Bylaw is recommended to replace the existing Smoking Bylaw 57M92. The existing Smoking Bylaw is approximately 26 years old and has several sections with obsolete provisions or antiquated language. Rather than further amending the existing Smoking Bylaw 57M92 Administration is recommending a new Bylaw which both addresses the multiple housekeeping issues with the current bylaw and provides a framework to address the smoking and vaping of medical cannabis in Calgary.

The new Smoking and Vaping Bylaw would come into force upon being passed and the Cannabis Consumption Bylaw has a proposed effective date to coincide with the federal legalization of cannabis.

Stakeholder Engagement, Research and Communication

Administration has conducted extensive best practices research over the course of the last 18 months. A scan was conducted of all major municipalities in the United States where cannabis has been legalized. At the time of publishing this report, recreational cannabis has been legalized in nine states. Due to legalization of recreational cannabis being a relatively recent phenomenon, many of the jurisdictions examined continue to amend and adapt their regulations to respond to the evolving industry.

In addition to the best practices research in areas where legalization has already occurred, Administration has also been coordinating with other municipalities and organizations across Alberta, and Canada. These include, the City of Edmonton, the Alberta Urban Municipalities Association, the Federation of Canadian Municipalities and multiple municipalities across the country.

Administration conducted extensive public opinion research and engagement from 2017 November to 2018 January. Research included a statistically representative telephone survey of 1,002 Calgarians as well as several focus groups and in-depth telephone interviews with stakeholders representing a variety of views on cannabis legalization. Engagement included an online feedback form which garnered more than 15,000 responses, the most of any City engagement project in 2017, as well as multiple stakeholder workshops. Reports on both the engagement and research are available on www.calgary.ca/cannabis. Relevant sections of these reports, related to the proposed bylaw amendments are included in Attachment 6.

Administration has developed a comprehensive communications plan. Opportunities for research and engagement were broadly communicated through traditional and online media. Administration continues to communicate with stakeholders via an online stakeholder sign-up form available at the project specific website www.calgary.ca/cannabis. Communication will continue to be a primary focus for Administration as bylaws are developed and amended. Coordination with the communication plans of other orders of government will be critical to ensuring that citizens and potential businesses are fully informed of impending changes.

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Administration is planning extensive communication with Calgarians once bylaw amendments, and the federal date of legalization, have been finalized.

Strategic Alignment

The recommendations in this report align with the previously established City of Calgary advocacy positions as found in Attachment 7. In addition, the recommended amendments in this report align with Council's priorities of a prosperous city and a city of inspiring neighbourhoods and the specific Strategic Actions: P2 "Advance purposeful economic diversification and growth" and N11 "Promotion of public safety through education, prevention and partnerships."

Social, Environmental, Economic (External)

Legalizing, regulating and restricting access to cannabis has social, environmental and economic implications. Cannabis stores provide legal and safe opportunities for regulated cannabis sales versus sales that may otherwise occur in the unregulated black market. Business Licensing will provide oversight on these stores in order to address potential public safety concerns. These businesses will provide legal jobs and their revenue will be taxed rather than being the non-taxed proceeds of criminal activity. Further regulating the public consumption of cannabis will address potential community nuisance concerns with respect to public intoxication.

Financial Capacity

Current and Future Operating Budget:

Administration has been working to have a comprehensive estimate of the financial implications of legalization to The City. The current estimate of the ongoing annual operating budget impact to The City ranges from \$8.2M-\$12.9M. A range of estimates is provided to account for the ongoing development of federal, provincial and municipal rules in the regulations of cannabis. These estimates continue to be refined as decisions are made and more information becomes available. In 2017 December, the Government of Canada announced an excise tax that roughly equates to 10 per cent on the sale of cannabis. The Government of Canada will retain 25 per cent of the excise tax, up to a maximum of \$100 million, and the remainder will be distributed to the provinces and territories. In 2018 February, the federal government's Budget 2018 indicated that "it is the federal government's expectation that a substantial portion of the revenues from this tax room provided to provinces and territories will be transferred to municipalities and local communities, who are on the front lines of legalization." Administration continues to advocate to the Government of Alberta for a share of the cannabis excise tax revenue sufficient to offset the anticipated operating budget impact associated with cannabis legalization.

Current and Future Capital Budget:

Administration continues to advocate to the Government of Alberta for a share of the cannabis excise tax revenue sufficient to offset the anticipated municipal costs associated with cannabis legalization.

Risk Assessment

Delay in passing proposed amendments may result in the absence of a municipal framework when cannabis is legalized. This would include the absence of a municipal regulatory framework for public consumption beyond the provincial restrictions, the inability to municipally

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licence or regulate local cannabis-related businesses, and the inability to address public consumption at public events.

REASON(S) FOR RECOMMENDATION(S):

The Government of Canada and the Government of Alberta have introduced legislation to legalize, regulate, and restrict access to cannabis. These legislative changes have many potential impacts for The City and Calgarians, with municipalities playing a role in the regulatory regime for legal cannabis. Administration recommends the attached bylaw amendments in coordination with other previously considered recommended bylaw amendments to respond to the legalization of cannabis in a comprehensive and Calgary-specific context.

ATTACHMENT(S)

1. Proposed Wording for a Bylaw to Amend Bylaw 32M98, The Business Licence Bylaw
2. Proposed Wording for a Cannabis Consumption Bylaw
3. Proposed Wording for a Smoking and Vaping Bylaw
4. Summary of Provincial and Federal Cannabis Regulations
5. Rationale for Rules on Public Consumption of Cannabis
6. Summary of Research and Engagement Findings
7. City of Calgary Advocacy Positions – Federal and Provincial Cannabis Legislation