

**MEETING DATE:** April 23, 2018

**SUBMITTED BY:** Darrell Melvie, General Manager, Community & Protective Services

**PREPARED BY:** Cameron Chisholm, Manager, RCMP Administration and Leduc Enforcement Services

**REPORT TITLE:** Bylaw No. 981-2018 Amendment to Community Standard Bylaw No. 71-2008 Cannabis Public Use

## REPORT SUMMARY

To provide a municipal legislative response for the public use of cannabis in preparation for the legalization of cannabis by the Federal Government.

## RECOMMENDATION

That Council give Bylaw 981-2018 a first reading.

## BACKGROUND

### KEY ISSUE(S) / CONTEXT:

The Federal Government is legalizing adult cannabis possession and consumption in the summer of 2018.

In response to the Federal legalization, the Province of Alberta tabled *Bill 26: An Act to Control and Regulate Cannabis*. This Act restricts the use of cannabis in public places where the smoking of tobacco products is prohibited. These restrictions are unlike alcohol which is illegal to consume in public unless at a licensed premise or private residence. The Act further restricts the vaping and smoking of cannabis in areas frequented by children.

The Act provides the following restrictions with respect to locations where the use of cannabis is prohibited:

### Smoking and Vaping Prohibited

**90.28** No person may smoke or vape cannabis

- (a) in any area or place where that person is prohibited from smoking under the *Tobacco and Smoking Reduction Act* or any other Act or the bylaws of a municipality
- (b) on any hospital property, school property or child care facility property
- (c) in or within a prescribed distance from
  - (i) a playground
  - (ii) a sports or playing field
  - (iii) a skateboard or bicycle park
  - (iv) a zoo
  - (v) an outdoor theatre
  - (vi) an outdoor pool or splash pad, or
  - (vii) any other area or place that is prescribed or otherwise described in the regulations

Under the Regulations for the Act, the prescribed distance is defined as:

## **Prescribed distance for no smoking areas**

**129** No person may smoke or vape cannabis within 5 metres of an area or place listed in section 90.28(c)(i) to (vi) of the Act.

The *Tobacco and Smoking Reduction Act* prohibits smoking within public places which means all or any part of a building, structure or enclosed area to which the public have access as of by right or by invitation. That Act further prohibits smoking in:

- i) The common areas of a multi-unit facility, including patios, pools, other recreational areas and enclosed parking garages
- ii) A group living facility
- iii) An outdoor bus or taxi shelter
- iv) Licensed premises
- v) A restaurant, and
- vi) A hotel

The *Tobacco and Smoking Reduction Act* prohibits smoking in public places as previously described, in a workplace, in a vehicle in which a minor is present, in a public vehicle or within five (5) metres from a doorway, window or air intake of a public place or workplace.

With the legalization of cannabis, the City of Leduc has the ability to further address the issue of public use within the City. The Province has provided authority under the *Act to Control and Regulate Cannabis* for municipalities to vary the prescribed distance or add additional locations where the use of cannabis is prohibited. Other issues such as retail locations relating to cannabis legalization are being covered by the Planning Department.

A City of Leduc survey on the public use of cannabis ran from February 16<sup>th</sup> to March 2<sup>nd</sup>, 2018. The survey provided the public the opportunity to answer key questions relative to the public use of cannabis. The nine question survey was posted on the City of Leduc website and was promoted using social media and print advertisement. Two of the questions were open. The survey was answered by 1,505 respondents.

Some of the survey highlights included:

- More than 91% felt that rules for public use of cannabis should be the same as, or more restrictive as the rules for smoking tobacco in public facilities.
- 76% felt that vaping should be subject to the same regulations as tobacco for public use.
- 74% felt that it was not acceptable to use (smoke or vape) cannabis in areas frequented by seniors and/or vulnerable groups. 54% stated it was not acceptable to use in public parks. Approximately 44% felt it was unacceptable to use while walking down the street, on multi ways or walking trails, in downtown areas and in industrial areas. 39% stated that it should not be used at outdoor concerts, festivals or events.
- 66% responded that cannabis should be smoked or vaped at festivals and events in designated areas only.

- With respect to the permissible distance from locations prohibited by the Province, 27% said less than 25 metres was acceptable while the equal amount said between 25 and 100 metres was acceptable.
- 82% wanted to learn more about RCMP enforcement of cannabis (impaired, possession, etc.)
- 67% wanted to know more about how cannabis consumption would be regulated. Roughly the same wanted to know what they would be permitted and prohibited from doing.
- 96% of the respondents stated the survey was being responded for themselves or their family.
- The age of the respondents represented the demographics of Leduc.
- There were 554 comments made with 99 of them being “no comment”.

A complete copy of the survey is attached as Attachment “A”.

Vaping is not covered under the *Tobacco and Smoking Reduction Act*. While the vaping of cannabis is referenced in an *Act to Control and Regulate Cannabis*, there is a need to restrict vaping within Leduc at public places given that the vaping of cannabis could be undetectable or masked.

All Leduc Vaping Retailers were contacted in November 2017, and consulted over the proposal of prohibiting vaping in public places under the Health Bylaw. They were advised that Leduc would be consistent with Edmonton, Red Deer and Calgary bylaws and provide an exemption for Vaping Retailers that would allow customers to try vaping products at their retail stores. The stores were invited to provide input on this proposed amendment. All of the stores supported the addition of vaping to the Health Bylaw but did not provide feedback on the amendment.

The vaping of cannabis will be illegal where it is illegal to smoke cannabis. The only reason to advance vaping restrictions at this time within the proposed amendments is to address the possibility where a person could be masking the vaping of cannabis. The likelihood of this is fairly low. Given that there is a need to look broader at a tobacco reduction strategy for the entire community from a health perspective and that the environment is still evolving with respect to cannabis legislation, this provision will be deferred until later.

The Community Safety Advisory Committee supported the addition of vaping to both the Health Bylaw and the Smoke-Free Vehicles for Minors Bylaw.

## LEGISLATION AND/OR POLICY:

Under Section 129 of Bill 26, the *Act to Control and Regulate Cannabis*, a municipality will have the authority to further prescribe distances and describe areas and places where cannabis will be prohibited to be used (smoking or vaping).

## PAST COUNCIL CONSIDERATION:

On March 18, 2018, Administration presented Committee of the Whole with an update on Cannabis – Public Use. A copy of the Committee of the Whole report is included as Attachment “B”.

At this meeting, three models were presented by Administration.

- Option 1:** to proceed with an Open model where no further changes would be made to the existing Provincial prescribed distance or locations.
- Option 2:** to have a Moderate model where the prescribed distance would be varied from the Provincial prescribed distance of 5 metres. In addition, the City would have the ability to temporarily prohibit the smoking and vaping of cannabis at a location.
- Option 3:** a Restricted model where cannabis would be treated the same as liquor is in that it could not be consumed in public places.

A motion was made by Council that, "Administration be directed to prepare a report, and a Bylaw, using a moderate private use approach, including a buffer of 50 meters and the use of temporary bans during certain events such as Canada Day celebrations. The Multiway will not be a restricted location".

When the options were presented, it was further recommended that the existing Health Bylaw and Smoke Free Vehicles for Minors Bylaw be repealed. Additionally, it was recommended that provisions to prohibit vaping in public places but permit vaping in vaping retailing. As noted previously, that recommendation will be dealt with at a later time.

On February 12, 2018, Council was presented with the proposed survey on public use of cannabis. Results of this survey were presented to Council on March 12, 2018.

## IMPLICATIONS OF RECOMMENDATION

### GENERAL:

The proposed amendment will grant the City Manager the ability to define areas where the smoking and vaping of cannabis is prohibited. The ability to extend distances (or the prescribe distance as referenced under *the Act to Control and Regulate Cannabis*) to beyond 5 meters can be addressed under this same City Manager area definition authority. Key to this approach would be a requirement to ensure signage is adequate to provide notice to the public and in the event of prosecution, the signage was in good repair at the time of the offence.

### ORGANIZATIONAL:

Both the RCMP and Leduc Enforcement Services will be required to be made aware of any City Manager defined areas where cannabis has been prohibited. Delegation of the ability to define areas may be required to facilitate requests for public events. This defined area would only pertain only to City of Leduc owned property.

### FINANCIAL:

Departure from Provincial standards for prescribed distances has financial implications. Costs for temporary and permanent signage would be required. Public Works would be required to place and remove signage at any temporary events. Costs for a fixed regulatory sign would be approximately \$200 for each sign. Labour costs of

Public Works employees for installation would be extra. Alberta First Call is also required for each sign installation unless an existing pole is required. Applications for Alberta First Call requests would increase labour requirements as an application is required for each new sign installation. Leduc has 42 playgrounds, 44 sports fields, one splash park and one skateboard park. Sign costs alone could exceed \$70,000 if you have at least four signs per location.

Costs for signs are not captured within the existing budget.

## **POLICY:**

Administration will draft a policy that allows for the City Manager (or delegate) to prohibit the smoking or vaping of cannabis within 50 meters from the following locations:

- (i) a playground
- (ii) a sports or playing field
- (iii) a skateboard or bicycle park
- (iv) a zoo
- (v) an outdoor theatre
- (vi) an outdoor pool or splash pad

As this distance is different than the 5 meter prescribed distance set by the Province in the *Act to Control and Regulate Cannabis*, signage will be required for these locations listed above.

Administration will also include in the policy the ability for the City Manager (or delegate) to temporarily prohibit the smoking or vaping of cannabis at public locations. Temporary signage requirements will be outlined in this policy.

Hospital, school property and child care facility property, along with locations covered under the *Tobacco and Smoking Reduction Act*, will not be referenced in this policy as Provincially the use of cannabis (smoking or vaping) is prohibited in these areas.

## **LEGAL:**

As the Province has not provided a draft of their legislation, any amendment could be subject to additional change. At this time only a first reading of the amendments can be done. A variation to the Provincial prescribed distance may require rationale if challenged.

## **IMPLEMENTATION / COMMUNICATIONS:**

A communications plan will be required to better educate the public on the rules prohibiting public use of cannabis in Leduc regardless of any prescribed distance variation or additional locations added by the Municipality. Proper signage will be required for locations where a temporary or permanent prohibition is in place. Ongoing communications would be required until the public is educated on where they can or can't, smoke or vape cannabis.

## ALTERNATIVES:

1. Proceed with Open model and make no further changes to proposed/existing Provincial legislation.
2. Proceed with Restricted model and prohibit use of cannabis (smoking or vaping) in public within Leduc.

## ATTACHMENTS:

- Attachment "A" - Survey results on Public Use of Cannabis
- Attachment "B" - Committee of the Whole Cannabis Update – Public Use Report
- Attachment "C" - Proposed Bylaw 981-2018

Others Who Have Reviewed this Report

Others Who Have Reviewed this Report P. Benedetto, City Manager / B. Loewen, City Solicitor / I. Sasyniuk, General Manager, Corporate Services / D. Melvie, General Manager, Community & Protective Services / M. Pieters, General Manager, Infrastructure & Planning / J. Cannon, Director, Finance

# Cannabis Legalization: Public Consumption

## Online Survey Results

The City of Leduc conducted an online survey from Feb. 16 - Mar. 2, 2018 that provided the public an opportunity to answer key questions relative to public consumption of cannabis. Questions allowed the public to indicate how they felt public consumption should be regulated in the City of Leduc and identify any other questions or concerns they had surrounding legalization.

This survey was posted on the City of Leduc website at [www.leduc.ca/cannabis](http://www.leduc.ca/cannabis) and was promoted through the City's Facebook and Twitter accounts as well as in the Leduc Representative. This survey received a total of **1,505 responses**.

### Question 1

Currently in the province, regulations state that smoking tobacco is prohibited in public facilities and within 5 metres of any entrance to public facilities to protect the public from second-hand smoke. Should the rules regarding smoking cannabis in public places be:

The same as current regulations for tobacco	48%
More restrictive than current regulations for tobacco	44%
Less restrictive than current regulations for tobacco	7%
I don't know enough about current regulations	1%

### Question 2

Cannabis can be consumed by vaping (also known as e-cigarettes). The City of Leduc is considering amending its Health Bylaw to include vaping tobacco. Should vaping cannabis also be subject to the same regulations under the Health Bylaw?

Yes	78%
No	22%

# Cannabis Legalization: Public Consumption

## Online Survey Results



### Question 3

Please select any places you feel ARE NOT acceptable for people to smoke or vape cannabis (select all that apply):

In areas frequented by seniors and/or vulnerable groups	74%	While on the multiway, Telford Lake boardwalk or other walking trails	43%
In commercial/ retail locations	67%	In industrial areas	42%
In a public park	54%	At an outdoor concert, festival or event	37%
While walking down the street	44%	Any outdoor public space	36%
In the downtown area	44%	Other	23%

### Question 4

How should the City of Leduc approach smoking and vaping cannabis at festivals and events?

Cannabis use should only be allowed in designated areas at these events	66%
Cannabis use should be banned entirely at these events	19%
Cannabis use should be allowed anywhere at these events	15%



# Cannabis Legalization: Public Consumption Online Survey Results



## Question 5

The Government of Alberta has proposed that the consumption of cannabis will be restricted within a certain distance from schools, daycares, afterschool care, playgrounds, sports fields, skate or bike parks, zoos, outdoor theatres, pools, splash parks and other areas that children frequent. This distance has yet to be defined by the province, but the City of Leduc will be able to impose additional restrictions on distance. In your view, at what distance from the boundaries of these restricted areas should smoking and vaping be permitted?

Unspecified (answers did not include definitive measurement e.g. <i>out of sight or everywhere</i> )	32%
Less than 25 metres	27%
25 to 100 metres	27%
Greater than 200 metres	10%
101 to 200 metres	4%

### Other Trends

**12%** of responses indicated they supported a distance that was the same as what is set out in smoking and tobacco legislation.

**5%** of responses mentioned children and/or the presence of children as a factor in their answer.

# Cannabis Legalization: Public Consumption Online Survey Results



## Question 6

The City of Leduc, along with the Government of Alberta, will be responsible for educating residents on cannabis legalization. What topics would you like to learn more about? (select all that apply)

RCMP enforcement (DUI, possession, etc.)	82%	The health and social impacts (including addiction and impairment)	45%
How cannabis consumption will be regulated	66%	Post-legalization next steps from Federal and Provincial Government	43%
What I will be permitted and prohibited from doing	64%	Economic development opportunities	32%
How cannabis retail will be regulated	63%	Leglization history in Canada	15%
Cannabis and youth	53%	Other	7%

## Question 7

You are completing this survey on behalf of (select all that apply):

Yourself and your family	96%
Other	4%
A business	3%
A community group, association or organization	2%

# Cannabis Legalization: Public Consumption Online Survey Results



## Question 8

Your age:

26-35	33%	36-45	20%
18-25	23%	46-55	12%
		55+	12%

## Question 9

Do you have any additional comments regarding the legalization of cannabis?  
*Comments have been categorized by type.*

Negative	34%
Other (did not state support or non-support of legalization)	34%
Positive	27%
Question	5%

### Other Trends

**16%** of responses indicated that the regulations should be the same as alcohol.

**5%** of responses indicated that the regulations should be the same as tobacco/smoking.

# COMMITTEE-OF-THE-WHOLE INFORMATION ITEM



**MEETING DATE:** March 19, 2018

**SUBMITTED BY:** Darrell Melvie, GM Community and Protective Services

**PREPARED BY:** Cameron Chisholm, Manager RCMP Administration and Leduc Enforcement Services

**REPORT TITLE:** Cannabis Update – Public Use

## REPORT SUMMARY

This report provides an overview of the places where cannabis will be prohibited to use under Provincial legislation. The report also contains a summary of Administration's investigation of other municipalities' activities as they are preparing themselves for the upcoming legalization of cannabis and enforcement challenges. Lastly, the report contains a proposed strategy for the City of Leduc Community Standards Bylaw amendments to address public use of cannabis.

## BACKGROUND

### PREVIOUS COUNCIL/COMMITTEE ACTION:

An update was provided on March 12, 2018, at Council. That update provided results of the Cannabis Public Use survey conducted February 16-March 2, 2018, and outlined three options that Administration was considering for Council review. An update was also made on February 12<sup>th</sup>, 2018, where the survey questions on the public use of Cannabis were presented to Council at Committee of the Whole

### KEY ISSUES:

Council Report of March 12, 2018 provides background on the issues of public use. Provincial legislation treats cannabis similar to tobacco for where it can be used (smoking or vaping). This legislation outlines areas where it is prohibited to be used.

No person may smoke or vape cannabis

- (a) in any area or place where that person is prohibited from smoking under the *Tobacco and Smoking Reduction Act* or any other Act or the bylaws of a municipality
- (b) on any hospital property, school property or child care facility property
- (c) in or within a prescribed distance from
  - i) a playground
  - ii) a sports or playing field
  - iii) a skateboard or bicycle park
  - iv) a zoo
  - v) an outdoor theatre
  - vi) an outdoor pool or splash pad
  - vii) any other area or place that is prescribed or otherwise described in the regulations

Under the Regulations for the Act, the prescribed distance is defined as 5 metres.

A Municipality has the ability to set any prescribed distance and add places and locations where the use of cannabis will be prohibited.

The *Tobacco and Smoking Reduction Act* prohibits smoking within public places which means all or any part of a building, structure or enclosed area to which the public have access as of by right or by invitation. That Act further prohibits smoking in:

- i) the common areas of a multi-unit facility, including patios, pools, other recreational areas and enclosed parking garages
- ii) a group living facility
- iii) an outdoor bus or taxi shelter
- iv) licensed premises
- v) a restaurant
- vi) a hotel

The *Tobacco and Smoking Reduction Act* prohibits smoking in public places as previously described, in a workplace, in a vehicle in which a minor is present, in a public vehicle or within 5 metres from a doorway, window or air intake of a public place or workplace.

Vaping is not covered under the *Tobacco and Smoking Reduction Act*. While the vaping of cannabis is referenced in an *Act to Control and Regulate Cannabis*, there is a need to restrict vaping within Leduc at public places (indoors and 5 metres from entrances) given that the vaping of cannabis could be undetectable or masked.

At this time, limited information is available on what other Cannabis public use bylaws are being implemented by other communities.

Spruce Grove currently bans smoking and vaping in open space (playground, dog park or sports field). A recommendation is being forwarded to Council to also include parks, walkways and City owned facilities. Their current definition of smoking would include the use of cannabis if smoked or vaped.

Strathcona County Enforcement will be putting forth to Council a proposal similar to Spruce Grove (but more extensive) where all smoking and vaping is prohibited everywhere in public space. Administration is appearing before their Council on March 27<sup>th</sup>.

An enforcement issue will be the issue of odour as a result of the public use of cannabis. Landlords and Condo associations have the ability to dictate such usage on their property in rental or condo agreements. Some areas in the United States define cannabis odour as not offensive in their legislation. This approach has minimized the impact on enforcement in situations where it would be difficult to determine what qualifies as offensive.

#### Proposed Strategy for Bylaw Amendments:

#### **Minimum proposed recommendations:**

- 1) As the City of Leduc Health Bylaw was created prior to the creation of the *Tobacco and Smoking Reduction Act*, it has been made redundant by Provincial law and can be repealed.

- 2) The City of Leduc Smoke Free Vehicles for Minors can be repealed as smoking in a vehicle with minors is covered under the *Tobacco and Smoking Reduction Act*.
- 3) As vaping is not referenced under the *Tobacco and Smoking Reduction Act*, a section under the Community Standards Bylaw is required to prohibit vaping in public places (indoor areas where the public has access) and also vehicles with minors. An exemption for retail outlets that sell vaping related products should be permitted in this amendment (both Edmonton and Calgary have this provision).

With respect to further defining where Cannabis can be smoked or vaped, the following options are presented to Council:

### **Further Options for consideration:**

#### Open:

Take no further legislative action and rely on Provincial legislation.

#### Moderate:

- a) The City could, by bylaw, create the authority to temporarily prohibit the smoking and vaping of cannabis at any other location. This could be used to facilitate large public events where children would be present such as festivals or parades.
- b) The City could, by bylaw, increase the prescribed distance (5 m) to ensure smoking and vaping cannabis was even further away from locations identified in this report.

#### Restricted:

The City could by bylaw prohibit the smoking and vaping of cannabis in all public places within the City.

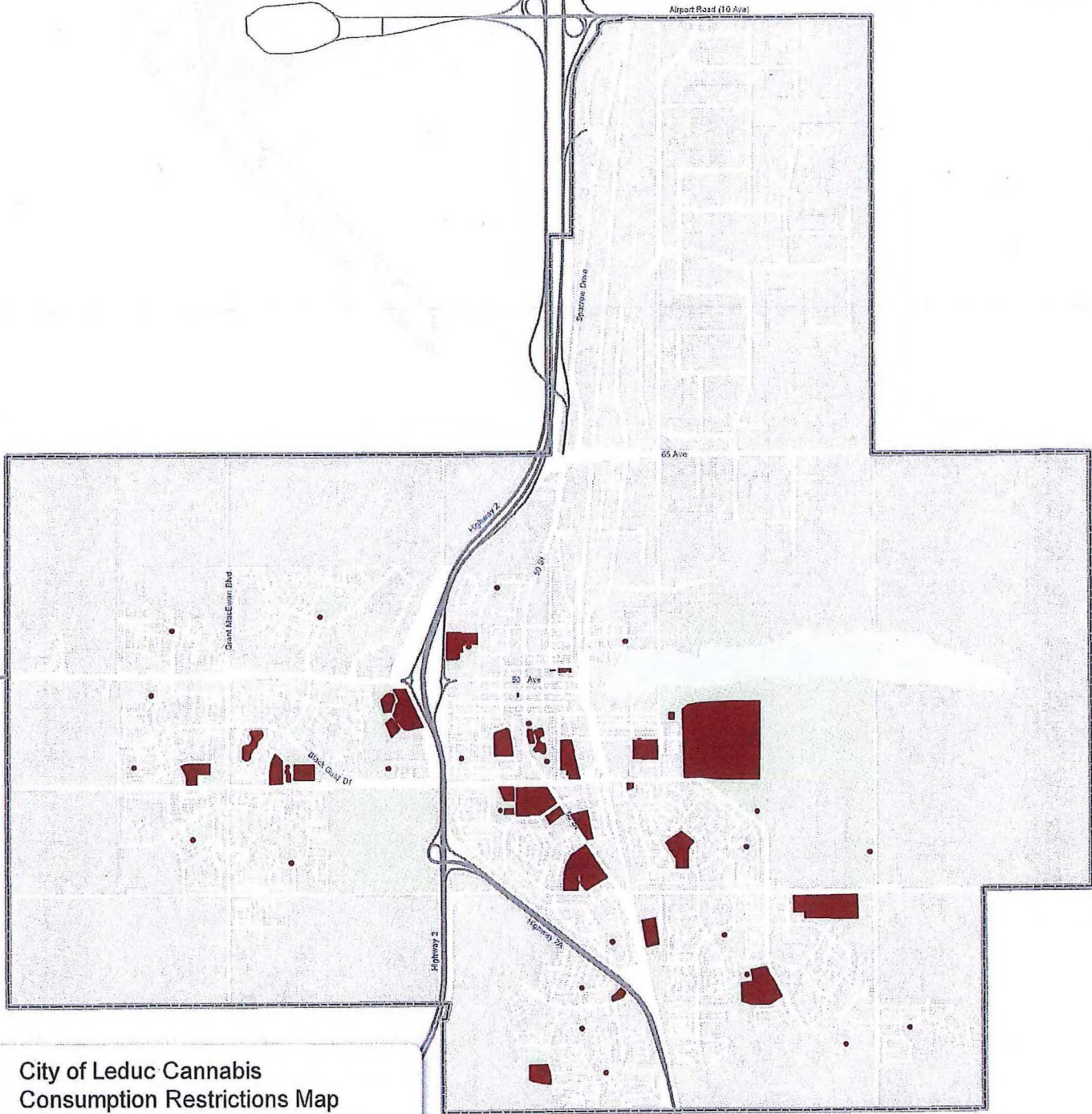
### **ATTACHMENTS:**

Appendix 1: Map of Leduc with prohibited areas under Open option


Appendix 2: Map of Leduc with prohibited areas under Moderate option using 50 metres as prescribed distance

Others Who Have Reviewed this Report

P. Benedetto, City Manager / B. Loewen, City Solicitor / D. Melvié, General Manager, Community & Protective Services / M. Pieters, General Manager, Infrastructure & Planning



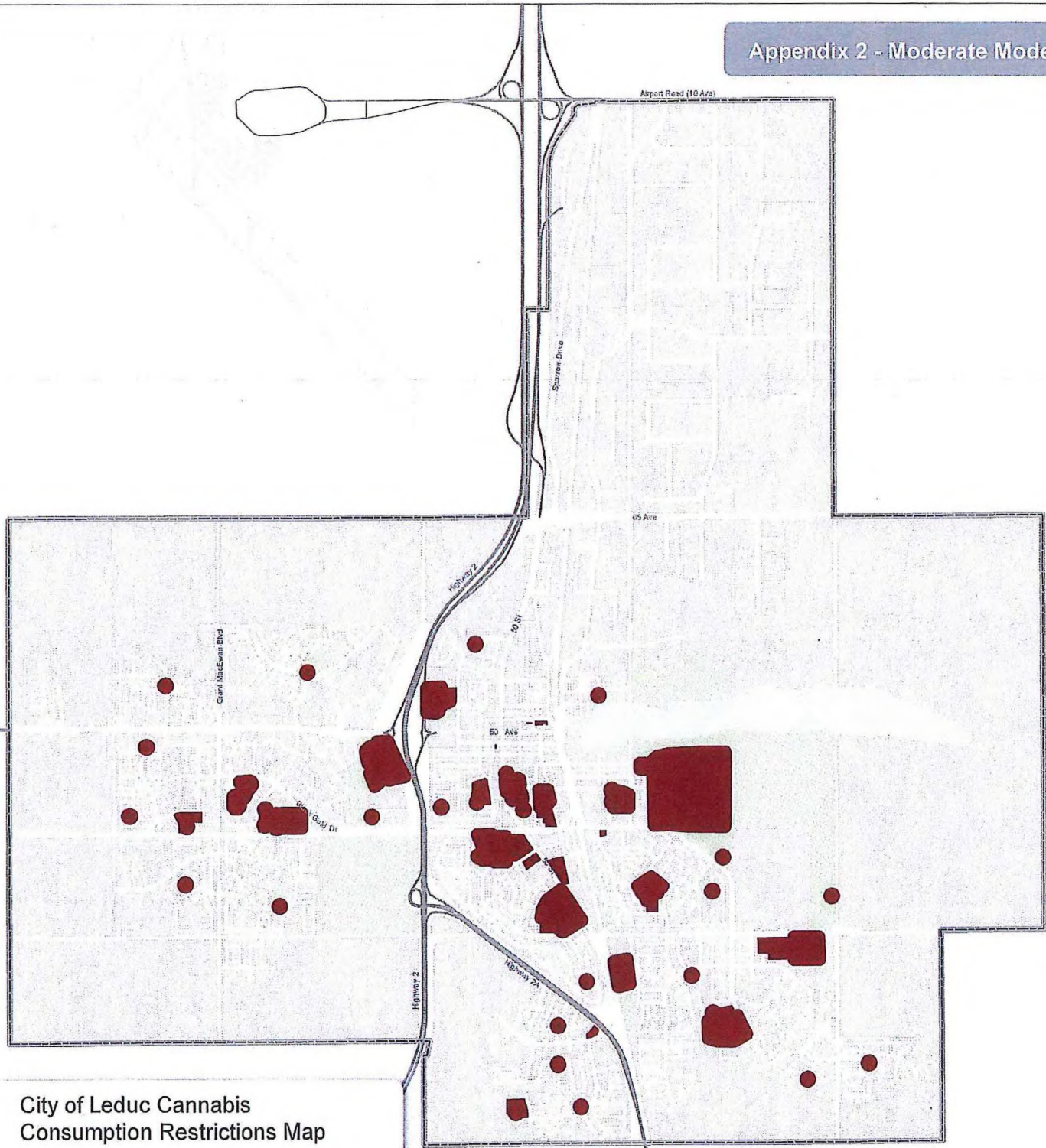
**City of Leduc Cannabis Consumption Restrictions Map**  
Open Scenario

-  Hospital, school, registered daycares, and 5m separating distance from playground, sports or bicycle park, playground\*, outdoor theater, outdoor pool and splash pad


Total restricted consumption area: 1073157 m<sup>2</sup>

\* playground areas were assumed with an average of 225m<sup>2</sup> and a radius of 15m from designated playground center.



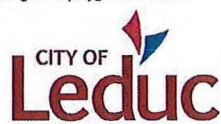


**City of Leduc Cannabis  
Consumption Restrictions Map**  
Moderate Scenario

-  Hospital, school, registered daycares, and 50m separating distance from playground, sports or bicycle park, playground\*, outdoor theater, outdoor pool and splash pad

Total restricted consumption area: 1941473 m<sup>2</sup>

\* playground areas were assumed with an average of 225m<sup>2</sup> and a radius of 15m from designated playground center.





# Bylaw No. 981-2018

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## A BYLAW OF THE CITY OF LEDUC IN THE PROVINCE OF ALBERTA, TO AMEND BYLAW NO. 711-2008 COMMUNITY STANDARDS BYLAW

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**WHEREAS** The *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended, grants a municipality the authority to pass, amend and repeal a bylaw.

**AND**, the Council of the City of Leduc has deemed it expedient and necessary to amend Bylaw No. 711-2008;

**THEREFORE**, the Council of the City of Leduc in the Province of Alberta duly assembled, hereby enacts as follows:

That Bylaw 711-2008 shall be amended as follows:

1. The following new definitions shall be alphabetically added to Section 2:

(b.1) **"Cannabis"** has the meaning given to it in the federal Act;

(m.1) **"Smoke"** where used as a verb in respect of Cannabis, means inhaling or exhaling the smoke produced by lit Cannabis or holding or otherwise having control of lit Cannabis or any device or thing that contains lit Cannabis;

(m.2) **"Vape"** in respect of Cannabis, means inhaling or exhaling the vapour, emissions or aerosol produced by, or holding or otherwise having control of, an electronic cigarette or similar device containing Cannabis;

2. The following new section shall be added following Section 7:

### **CANNABIS**

7.5 A Person shall not smoke or vape Cannabis in any location identified as an area where smoking or vaping Cannabis is prohibited.

3. The following new section 42 (e.1) shall be added following section 42 (e) :

42 (e.1) establish areas where the smoking or vaping of Cannabis is prohibited;

**APPROVED**  
*As to Form*

B.L.

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*City Solicitor*

## Bylaw No. 981-2018

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4. This Bylaw shall come into force and effect when it receives Third Reading and is duly signed.

READ A FIRST TIME IN COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, AD 2018.

READ A SECOND TIME IN COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_ AD 2018.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, AD 2018.

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
**Bob Young**  
**MAYOR**

\_\_\_\_\_  
**Sandra Davis**  
**CITY CLERK**