

MEETING DATE: June 25, 2018

SUBMITTED BY: Darrell Melvie, General Manager, Community and Protective Services

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

REPORT TITLE: Bylaw No. 981-2018 Amendment to Community Standards Bylaw No. 711-2008 (2nd & 3rd Reading)

REPORT NUMBER: 2018-CR-048

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, effective October 17, 2018.

This report contains Administration analysis of the elements brought forward at the Public Hearing and contains recommendations towards the next steps with Bylaw 711-2008.

RECOMMENDATION

1. That Council give Bylaw 981-2018 a second reading.
2. That Council give Bylaw 981-2018 a third reading.

BACKGROUND

KEY ISSUE(S) / CONTEXT:

At the June 11, 2018 Council meeting, a non-statutory public hearing was held to allow interested parties to express their thoughts and views on the proposed bylaw dealing with the public use of cannabis in Leduc. This non-statutory hearing followed the same procedures as a statutory hearing under the Municipal Government Act. At the public hearing, six presentations were given by various interested parties. The key messages were:

1. The City should consider treating cannabis like alcohol and prohibit its consumption in public. Concern was expressed that it is ok to get high in public but not drink alcohol in public.

Administration provided various options to Council and took a moderate approach similar to what is being done by many other Alberta communities. The Province of Alberta, along with several other Canadian provinces made the public use of cannabis similar to how tobacco is legislated in public places. This provides an individual the ability to smoke and vape cannabis wherever they can currently smoke tobacco with the exception of additional prohibited locations for cannabis. The City of Leduc is following the Provincial government's legislation but adding additional restrictions for where cannabis can be used. While an individual could become impaired by cannabis in a public place, it would be no different from an individual consuming alcohol in a licensed premise and then moving outside to a public place.

2. The burning of cannabis products produces smoke and the inhalation of such smoke is harmful to a person's health given the byproducts. In addition, some individuals are allergic to smoke. Given the legalization of cannabis, there were concerns that there will be an increase in second hand smoke for non-smokers. In addition, there were concerns of the exposure of second hand cannabis smoke and the possibility of bystanders introducing THC into their bodily fluids.

Administration does not dispute the dangers relating to substance abuse of any kind. A broad based comprehensive smoking reduction strategy will be further explored in the future by Administration. Exposure to second hand smoke would be significantly minimal or non-existent in situations where any smokers (tobacco or cannabis) are in wide open spaces. While academic studies have shown that THC can be introduced into the bodily fluids of bystanders, these studies were conducted in enclosed environments (i.e. unventilated rooms) and not locations such as the outdoors where cannabis would be legal to consume in an open or moderate model. While people may be exposed to second-hand cannabis smoke outside, in parks or in passing on the sidewalk, this type of exposure may not result in cannabinoid metabolites in bodily fluids, as the exposure may be shorter and less intense than in unventilated areas.¹

3. The City should consider a designated area to allow cannabis users to smoke or vape cannabis as it would lower exposure to non-users in public spaces.

In the presentation by AHS at the public hearing on June 11th, this was discouraged by AHS and viewed as an enforcement concern. With respect to a designated area within the City for public cannabis use, this would be viewed as an enforcement concern due to the issues relating to possible intoxication and the inappropriate conduct in an unmonitored area that could occur. While policing data on designated areas could not be found, an inquiry with the Alberta Legislature Security Detail advised that they have had enforcement issues during past 420 protests. They are reviewing the use of cannabis on Crown lands as a result given the pending legalization.

4. The Downtown area should be prohibited from the consumption of cannabis given that families or non-users of cannabis will be present.

Should Council wish to adapt this type of location restriction, the downtown area (or any other special area) could be added as a restricted area under the powers of the City Manager under the proposed bylaw. Proper signage would be required for enforcement.

5. A cautious approach was used for land use but this was not considered for public consumption of cannabis.

Administration presented various models for consideration to Council and made recommendations based on public survey feedback and Council input. Many other municipalities are adapting the same strategy (or even more moderate) that Administration for the City of Leduc has proposed.

6. The moderate approach used by the City of Leduc is not consistent with other communities or areas where cannabis is fully restricted. Examples of Colorado, Amsterdam and numerous Canadian provinces were provided where cannabis is legal but not legal to use in public places.

As noted in point five, the City of Leduc is following an approach used by many other municipalities. It should be noted that a wide variety of approaches varying from open (no further changes to the Provincial legislation) to fully restricted (treated the same as alcohol) have been followed by municipalities across Alberta.

7. The City of Leduc was a leader in bringing in restrictive use of tobacco products yet is proposing to allow the smoking of cannabis in public areas. There is concern for the normalization of smoking of all forms and the gains made over the last several decades in the reduction of the smoking of tobacco.

As noted previously, Administration will be looking in the future to a broad based comprehensive smoking reduction strategy. It should be noted that for the public use of cannabis, no consultation with the public was done on tobacco usage in public places.

8. AHS officials provided to Council a presentation on the medical effects of using cannabis. This included paranoia, panic, confusion and nausea. The impact of usage can vary from individual to individual. AHS also outlined the mutagenic and cytotoxic hazards associated with second hand smoke from cannabis and their concern for the normalization of smoking. AHS encourage municipalities to prohibit public consumption and align smoking restrictions of cannabis and tobacco together. AHS suggested to proceed slow, monitor, assess and adjust as required.

Administration notes the recommendations of AHS and will be monitoring the impact of cannabis public use in our community following the legalization of cannabis.

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

On March 19, 2018, Administration presented Committee of the Whole with an update on Cannabis – Public Use. Three models were presented to Council by Administration (open, moderate and restricted)

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 April 23, 2018, first reading of Bylaw 981-2018 was done and accepted by consent.

On June 18, 2018, cannabis public use was discussed at Committee of the Whole with direction that the matter would go forth to second reading on June 25, 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 parks and one skateboard park. Sign costs alone could exceed \$70,000 if you have at least four signs per location.

POLICY:

Policy would be required to determine appropriate standards for use of any temporary ban. Policy would also have to provide definitions for locations as referenced in the *Act to Control and Regulate Cannabis* so that the area would include a distance of 50 meters from the location.

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 defeat Bylaw No. 981-2018 at 2nd reading. (Attachment 1)
2. Proceed with Restricted model, Bylaw No. 995-2018, and prohibit use of cannabis (smoking or vaping) in public places within Leduc. This would treat cannabis use as the same as the consumption of alcohol in public. (Attachment 2)
3. Proceed with Restricted model, Bylaw No. 994-2018, and prohibit all smoking or vaping in public places within Leduc. (Attachment 3)
4. Further amend Bylaw 981-2018 or direct Administration to lessen or increase the proposed moderate model.

REFERENCE:

Health Effects of Exposure to Second and Third-Hand Marijuana Smoke: A Systematic Review
Published in the CMAJ Open 2017 Oct-Dec; 5(4): E814–E822. 2017 Nov 24
Authors: Hanna Holitzki, Laura Dowsett, Eldon Spackman, Tom Noseworthy and Fiona Clement
Weblink: <https://www.ncbi.nlm.nih.gov/pubmed/29192095>

ATTACHMENTS:

1. Bylaw No. 981-2018 Amendment to Community Standard Bylaw No. 711-2008 Cannabis Public Use
2. Bylaw 995-2018 – Prohibiting Smoking or Vaping of Cannabis in Public Places
3. Bylaw 994- 2018 – Prohibiting All Smoking and Vaping in Public Places

Approval Information

P. Benedetto, City Manager / B. Loewen, City Solicitor / J. Cannon, Acting General Manager, Corporate Services / D. Melvie, General Manager, Community & Protective Services / M. Pieters, General Manager, Infrastructure & Planning / J. Cannon, Director, Finance

Bylaw No. 981-2018

PAGE 1

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

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.

City Solicitor

Bylaw No. 981-2018

PAGE 2

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 23 DAY OF April, 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

Bylaw No. 995-2018

PAGE 1

A BYLAW OF THE CITY OF LEDUC IN THE PROVINCE OF ALBERTA, TO AMEND BYLAW NO. 711-2008 COMMUNITY STANDARDS BYLAW, PROHIBITING SMOKING OR VAPING OF CANNABIS IN PUBLIC PLACES

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 *Cannabis Act*, as amended or repealed and replaced from time to time;

(m.1) "**Smoke**" where used as a verb, 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**" 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 a Public Place.

3. 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

Bylaw No. 994-2018

PAGE 1

A BYLAW OF THE CITY OF LEDUC IN THE PROVINCE OF ALBERTA, TO AMEND BYLAW NO. 711-2008 COMMUNITY STANDARDS BYLAW, PROHIBITING SMOKING AND VAPING IN PUBLIC PLACES

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:



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

(m.2) **"Vape"** 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 or tobacco or any similar product;

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

SMOKING

7.5 A Person shall not Smoke or Vape in a Public Place.

3. 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