

**MEETING DATE:** May 28<sup>th</sup>, 2018

**SUBMITTED BY:** Ken Woitt, Director, Planning & Economic Development

**PREPARED BY:** Sylvain Losier, Manager, Current Planning and Development

**REPORT TITLE:** Bylaw 970-2017 – Amendment 74 to the Land Use Bylaw

## REPORT SUMMARY

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This report contains Administration analysis of the elements brought forward at the Public Hearing and contains recommendations towards the next steps with Bylaw 970-2017.

## RECOMMENDATION

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1. That Council give Bylaw 970-2017 second reading.
2. That council gives Bylaw 970-2017 third reading.

## BACKGROUND

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### KEY ISSUE(S) / CONTEXT:

At the May 14, 2018 Council meeting, a Public Hearing was held under the Municipal Government Act for the purpose of allowing interested parties to communicate their thoughts and views on the proposed bylaw. At the Public Hearing, seven presentations were made by various interested parties. The key messages were:

1. Medical cannabis counselling shouldn't be located within the employment area far away from the hospital and the people that need this type of services.

Administration believes that the proposed bylaw address this situation. As noted in report 2017-CR-131, the proposed definition for Cannabis Counselling is targeting non-medical persons offering their service for counselling. This use is definitively geared towards the recreational side of cannabis. Our current Land Use Bylaw does support the presence of Health Services in numerous districts throughout the City of Leduc. This use includes medical staff which may choose or not, to provide their services to the public in regards to cannabis. However, there are no sales permitted at these locations.

2. Cannabis should not be allowed for personal growth from the date of cannabis legalization and therefore, people would buy from store.

Administration has looked into personal cultivation and is still investigating this component. Currently, the Land Use Bylaw doesn't regulate plants growing within dwelling units or their yards. It is our understanding that personal cultivation of four plants will be allowed by the federal regulation and this activity doesn't include any right of selling cannabis. Should a person decide to not obey the regulation, then the RCMP would have the ability to intervene.

As for the municipal role related to personal cultivation, there might be some merit in investigating the creation of awareness and/or educational material for people that intend to grow. This could help ensuring that personal cultivation is done in a respectful manner to the neighbourhood.

3. Separating distance from schools is important.

The current approach with its overlay will ensure that cannabis related land uses are not in proximity to schools.

4. Cannabis store should be separated from school and parks, but not from liquor store.

From the experience drawn from the American cities and Alberta Health Services, having a separating distance may help minimize the dual consumption of liquor and cannabis as the access to both products will be slightly less conducive if separated. Furthermore, by adding the separating distance between these two activities, it will reduce the amount of options for cannabis and liquor stores within the overlay, and therefore, reduce access to the product. Studies reviewed by Administration tend to support that conflict and issues increase as ease of accessibility to liquor or cannabis increase.

5. How was the 100 meter separating distance reached?

Administration reviewed the situation in numerous cities in the United States as well as the proposed bylaw of municipalities in Alberta, and it was noted that separating distances fluctuated from one municipality to another depending on the structure and the desire of the community. As the City of Leduc was already using 100 meters for separating distance between liquor store and parks, it was felt that this measure would be sufficient. After looking into it, Administration believes that the proposed separating distance, combined with the overlay approach, will provide a certain balance between protecting sensitive uses and enabling this new industry.

6. Cannabis store shouldn't be located within the downtown at this time, and therefore, the approach undertaken is appreciated.

Administration has presented various options to Council in the past and it was decided to explore a phased-in approach that could be reviewed in the future. Therefore, the proposed bylaw doesn't contain opportunities for Retail Store (Cannabis) downtown.

7. The cannabis regulation should be relaxed.

Administration has noticed that in many cities (USA) where cannabis has been legalized by the State, the regulations seem to relax over time. This is definitively something that Council could consider over time after the legalization has occurred and we have had more experience with the land uses related to cannabis within our community.

## LEGISLATION AND/OR POLICY:

1. Municipal Government Act, RSA 2000, Chapter M-26, as amended
  - S. 640(2)(a) requires a municipality be divided into land use districts.
  - S. 606 and S. 692 govern the requirements for advertising a bylaw.

## PAST COUNCIL CONSIDERATION:

The upcoming legalization of cannabis has been previously discussed at various Committee of the Whole meetings (June 26 and December 4, 2017; March 19, 2018) and at the March 12, 2018 Council meeting. Bylaw 970-2017 received 1<sup>st</sup> reading on Monday, April 23, 2018. The Public Hearing was held on May 14, 2018 in accordance with the MGA.

## CITY OF LEDUC PLANS:

Bylaw 970-2017 is consistent with the City's Municipal Development Plan, as amended.

## IMPLICATIONS OF RECOMMENDATION

### ORGANIZATIONAL:

Should Council agree with the recommendation, Administration will coordinate to ensure there is efficient communication with the community and the interested parties.

### POLICY:

No policy changes are required.

### LEGAL:

If the recommendation is accepted, the planning framework will be created to manage cannabis related land uses. This would include the creation of the overlay and the addition of Cannabis Production and Distribution, Cannabis Counselling, and Retail Store (Cannabis) as discretionary uses within the overlay, as well as the regulations in terms of location and separating distance.

### IMPLEMENTATION / COMMUNICATIONS:

The public hearing was advertised in the April 27<sup>th</sup> and May 4<sup>th</sup>, 2018 issues of *'The Representative'* and notification was also made available on the City of Leduc cannabis webpage. Pending Council's decision, Administration will communicate the outcome using various platforms.

### ALTERNATIVES:

1. After consideration of the Public Hearing information, that Council decide to make changes to the proposed bylaw and direct staff to prepare the amendment to the bylaw and come back at the June 25, meeting for 2<sup>nd</sup> reading.
2. After consideration of the Public Hearing information, that Council defeat Bylaw 970-2017.

### ATTACHMENTS:

1. Bylaw 970-2017

Others Who Have Reviewed this Report

P. Benedetto, City Manager / M. Pieters, General Manager, Infrastructure & Planning

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**AMENDMENT #74 - TO BYLAW NO. 809-2013, THE LAND USE BYLAW**

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The *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended (the "Act") grants a municipality the authority to pass a Land Use Bylaw;

**AND:** in accordance with the Act, the City of Leduc passed Land Use Bylaw No. 809-2013 to regulate and control the use and development of land and buildings in the City of Leduc, and the Council has deemed it expedient and necessary to amend Bylaw No. 809-2013;

**AND:** notice of intention to pass this bylaw has been given and a public hearing has been held in accordance with the Act;

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

**PART I: APPLICATION**

That Bylaw No. 809-2013 be amended as follows:

1. Section 3.4.1. is deleted and replaced with the following:

"3.4.1. Overlays shall provide a means to add or remove land uses as well as to alter or specify regulations for Permitted and Discretionary Uses in otherwise appropriate districts in order to achieve the local planning objectives in specially designated areas throughout the City of Leduc."

2. Section 3.4.2.3. is deleted and replaced with the following:

"3.4.2.3. every use and regulation specified or changed by the Overlay."

3. Section 3.4.3. is deleted in its entirety.

4. The following new sections are added after Table 42.1.1:

"18.10. Cannabis Overlay

18.10.1. Purpose

18.10.1.1. The purpose of this overlay is to enable and coordinate the land uses associated with cannabis in order to ensure their proper integration within the Cannabis Overlay area.

18.10.2. Applicability

18.10.2.1. This Overlay shall apply to the area outlined in Figure 3.3: City of Leduc Cannabis Overlay Area.

**APPROVED**  
*As to Form*  
B.L.

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*City Solicitor*

Figure 3.3 City of Leduc Cannabis Overlay Area



18.10.3. Development Regulations

- 18.10.3.1. Development within this overlay shall be evaluated with respect to compliance with the underlying district and all other provisions of this Bylaw where not specifically overridden by this overlay. In the case of

conflicting regulations within this overlay and other sections of the Land Use Bylaw, the regulations contained in the overlay shall prevail.

18.10.3.2. Within the Cannabis Overlay, for any Parcel of land that is 1.99 ha or less at the time of the Development Permit application, a minimum separating distance of 100 meters shall be required between specific land uses located within the overlay as follow:

1) if the proposed use is Retail Store (Cannabis) - separating distance from an existing Retail Store (Cannabis) or an existing Retail Store (Liquor); or

2) if the proposed use is Retail Store (Liquor), - separating distance from an existing Retail Store (Cannabis) or an existing Retail Store (Liquor).

For the purpose of this section, the minimum 100.0 m separating distance shall be measured from the closet point of the subject Parcel of land boundary to the closest point of another Parcel of land boundary, and shall not be measured from the District boundaries or from the edges of Structures.

18.10.3.3. Within the Cannabis Overlay, for any Parcel of land that is 2.00 ha or greater at the time of the Development Permit application, no separating distance shall be required, but there shall be a limit of one (1) Retail Store (Liquor) or one (1) Retail Store (Cannabis) per Parcel of land.

18.10.3.4. Within the Cannabis Overlay, a Retail Store (Cannabis) or a Retail Store (Liquor) cannot be located on a Parcel of land abutting another Parcel of Land where a Retail Store (Cannabis), a Retail Store (Liquor), or a Day Care Facility exist at the time of the Development Permit application. Furthermore, a Day Care Facility cannot be located on a Parcel of land abutting another Parcel of Land where a Retail Store (Cannabis) or a Retail Store (Liquor) exist at the time of the Development Permit application.

18.10.3.5. Within the Cannabis Overlay, a Retail Store (Cannabis) or a Retail Store (Liquor) cannot be located on a Parcel of land abutting another Parcel of Land which is under the district General Recreation or Urban Services at the time of the Development Permit application.

18.10.3.6. Within a Cannabis Production and Distribution Use, all activities linked to the production, cultivation, and processing of cannabis shall be done indoors, within an enclosed building designed and equipped to prevent odours and noise from negatively impacting adjacent properties as per the requirement of Health Canada and Federal Legislation.

#### 18.10.4. Land Uses

18.10.4.1. Permitted and Discretionary Uses within the underlying Land Use Districts remain Permitted and Discretionary within this Overlay.

18.10.4.2. In addition to the Uses identified in Section 18.10.4.1., the following Uses will be Discretionary within this Overlay:

1) Cannabis Counselling within the following underlying Land Use Districts: GC – General Commercial; CSC – Commercial Shopping Centre; IL – Light Industrial; IBL – Business Light Industrial; and IM – Medium Industrial.

2) Cannabis Production and Distribution within the following underlying Land Use Districts: IL – Light Industrial and IM – Medium Industrial.

3) Retail Store (Cannabis) within the following underlying Land Use Districts: GC – General Commercial; CSC – Commercial Shopping Centre; IL – Light Industrial; IBL – Business Light Industrial; and IM – Medium Industrial."

5. Section 26.0. Table 48: Glossary of Terms and Uses is amended as follows:

a) The definition for Agriculture is deleted and replaced with:

- i) "Agriculture means an agricultural activity conducted on agricultural land for gain or reward or in the hope or expectation of gain or reward, and includes:
- (a) the cultivation of land,
  - (b) the raising of livestock, including domestic cervids within the meaning of the Livestock Industry Diversification Act and poultry,
  - (c) the raising of fur-bearing animals, game birds or fish,
  - (d) the production of agricultural field crops,
  - (e) the production of fruit, vegetables, sod, trees, shrubs and other specialty horticultural crops,
  - (f) the production of eggs and milk,
  - (g) the production of honey,
  - (h) the operation of agricultural machinery and equipment, including irrigation pumps,
  - (i) the application of fertilizers, insecticides, pesticides, fungicides and herbicides, including application by ground and aerial spraying, for agricultural purposes, and
  - (j) the collection, transportation, storage, application, use, transfer and disposal of manure, composting materials and compost, and the abandonment and reclamation of confined feeding operations and manure storage facilities.

Agriculture does not include Cannabis Production and Distribution."

b) The following new definitions are added after the definition for Campground:

- i) "Cannabis means a cannabis plant and any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not, any substance or mixture of substances that contains or has on it any part of such a plant and any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained but does not include a non-viable seed of a cannabis plant, a mature stalk,

without any leaf, flower, seed or branch, of such a plant, fibre derived from a such a stalk and the root or any part of the root of such a plant."

- ii) "Cannabis Accessory  
(a) means a thing, including rolling papers or wraps, holders, pipes, water pipes, bongs and vaporizers, that is represented to be used in the consumption of cannabis or a thing that is represented to be used in the productions of cannabis; or  
(b) for the purposes of this definition a thing is deemed to be represented to be used in the consumption or production of cannabis if the thing is sold at the same point of sale as cannabis."
  - iii) "Cannabis Counselling  
means a use where counselling on cannabis is provided by a person or group of persons who are not medical professionals, and whereas no sales or consumption of cannabis is permitted at the premise where the activity is conducted."
  - iv) "Cannabis Plant  
means a plant that belongs to the genus *Cannabis*."
  - v) "Cannabis Production and Distribution  
means a Development operated by a person who holds a licence under the federal Act that authorizes the person to produce cannabis. Typical activities would include the production, cultivation, processing, making, testing, manufacturing, packaging, storing, and transshipping of Cannabis in conformity with all federal and provincial Acts."
- c) The definition for Commercial Storage Facility is deleted and replaced with:
- i) "Commercial Storage Facility  
means a single Building storage facility in which all storage is indoors with an interior loading and unloading dock. Exterior storage is not permitted except for licenced vehicles that may be parked for extended periods of time, but does not include recreation vehicles. The Building will be of a single or multi Storey design with a higher exterior architectural standard suitable to a commercial usage area and does not include Cannabis Production and Distribution."
- d) The definition for General Industrial (Light) is deleted and replaced with:
- i) "General Industrial (Light)  
means Development industrial business uses that conduct their operations such that no significant adverse effects or nuisance factors such as noise, effluent, odour or emission is created or apparent outside an enclosed building or beyond the site that would make the use incompatible with adjacent nonindustrial uses. These uses are low risk prone activities, with no Dangerous Goods above minimum acceptable thresholds. This Land Use category may include, but is not limited to the following:
    - (a) processing of raw or finished materials;
    - (b) transshipment of goods;
    - (c) manufacturing or assembly of goods, products or equipment;
    - (d) cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial business or those associated with personal or household use, where such operations have impacts that would typically make them incompatible in non-industrial districts;
    - (e) research and development uses and laboratory facilities;

- (f) the training of personnel in general industrial operations;
- (g) these uses may include any indoor display, office, technical or administrative support areas or any sales operation accessory to the General Industrial (Light) businesses.

Pipe storage yards and Cannabis Production and Distribution are both excluded from this use class."

- e) The definition for General Industrial (Medium) is deleted and replaced with:

- i) "General Industrial (Medium) means industrial logistics or industrial manufacturing, including activities involved in storage, transportation, distribution, wholesaling, manufacturing and servicing of industrial goods or equipment, which do not, in the opinion of the Development Authority, emit a significant level of noise, smoke, dust, odour, vibration or other nuisance factor beyond the Medium Industrial District boundary. Where these uses include on-site Dangerous and Hazardous Goods, a Dangerous Goods Impact Assessment (DGIA) will be required identifying the estimated risks using the Major Industrial Accidents Counsel of Canada (MIACC) Version 1 methodology (The MIACC's Acceptability Criteria). These uses may include any indoor display, office, technical or administrative support areas or any sales operation accessory to the General Industrial (Medium) businesses.

Cannabis Production and Distribution is excluded from this use class."

- f) The definition for General Industrial (Special) is deleted and replaced with:

- i) "General Industrial (Special) means industrial operations similar to those classified as General Industrial (Medium) uses, but which include moderate risk activities with Dangerous and Hazardous Goods. A Dangerous Goods Impact Assessment (DGIA) must be completed identifying the estimated risks using the Major Industrial Accidents Counsel of Canada (MIACC) Version 1 methodology (The MIACC's Acceptability Criteria). The uses must demonstrate that there is no more than a 10 in 1,000,000 risk fatality within a 160 meter diameter radius from the dangerous goods/products on site. These uses may include any indoor display, office, technical or administrative support areas or any sales operation accessory to the General Industrial (Special) businesses.

Cannabis Production and Distribution is excluded from this use class."

- g) The definition for Greenhouse is deleted and replaced with:

- i) "Greenhouse means a Development for the growing, acclimating, propagating, harvesting, displaying and selling of bedding, edible, Household and ornamental plants and may include accessory uses related to the storing, displaying and selling of gardening, nursery and related products. Cannabis Production and Distribution and Retail Store (Cannabis) are both excluded from this use class."

h) The definition for Home Occupation is deleted and replaced with:

- i) "Home Occupation means a secondary use to the residential use of a Dwelling for the purpose of a business which:
  - (a) is operated by a principal resident of the Dwelling;
  - (b) may have business associated visits to the residence to a maximum of fifteen (15) per week;
  - (c) may have a non-resident person employed in the Dwelling;
  - (d) is not detectable from outside the Dwelling;
  - (e) may have some business activities extend to the Garage and/or an Accessory Development;
  - (f) may have some storage related to the business located inside the dwelling, Garage and/or an Accessory Development;
  - (g) may have a business-related vehicle; and
  - (h) does not use any outside Yard for storage or any type of business activity.

Cannabis Counselling and Retail Store (Cannabis) are both excluded from this use class."

i) The definition for Home Office is deleted and replaced with:

- i) "Home Office means a secondary use located within a Dwelling for the purpose of a business which:
  - (a) is operated by a principal resident of the Dwelling;
  - (b) does not require business associated visits;
  - (c) does not require any non-resident persons employed within the Dwelling;
  - (d) is not detectable from outside the Dwelling;
  - (e) does not extend the business activity to the Garage or outside yard;
  - and
  - (f) does not require parking of business-related vehicle.

Cannabis Counselling and Retail Store (Cannabis) are both excluded from this use class."

j) The definition for Late Night Club is deleted and replaced with:

- i) "Late Night Club means any premises or part thereof, the primary purpose of which is to host regular dances, entertainment performances or other events where:
  - (a) no alcohol, alcoholic beverages, or cannabis are available on the premises for consumption or sale;
  - (b) 20 or more patrons are assembled at any time between 2:00 A.M. and 6:00 A.M.;
  - (c) the events are held for the purpose of gain or profit;
  - (d) tickets are sold or an entrance or attendance fee is charged for persons to attend; and
  - (e) music, noise or sound of any kind or source is emitted, including, but not limited to the performing or playing of live music, amplified recorded or computer generated sounds."

- k) The definition for Personal Service is deleted and replaced with:
  - i) "Personal Service means a Development used for the provision of Personal Services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects and includes such uses as barbershops, hairdressers, tattoo parlours, beauty salons, tanning salons, shoe repair shops, Laundromats, dry cleaning outlets, but does not include Cannabis Counselling, Health Service, Retail Stores, Service Stations or Adult Entertainment Facilities."
  
- l) The definition for Private Club is deleted and replaced with:
  - i) "Private Club means Development used for the meeting, social or recreational activities of members of a non-profit philanthropic, social service, and athletic, business or fraternal organization, without on-site residences. Private Clubs may include lodges as well as rooms for eating, drinking and assembly. This use class does not allow for any cannabis consumption on the premise. Cannabis Production and Distribution is excluded from this use class."
  
- m) The following new definition is added after the definition for Residential unit:
  - i) "Retail Store (Cannabis) means a retail store licenced by the Province of Alberta to sell Cannabis and Cannabis Accessory to the public, for consumption elsewhere."

**PART II: ENACTMENT**

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.

\_\_\_\_\_  
**Robert Young**  
**MAYOR**

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

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