

## Next Steps to Review Separation Distances for Cannabis Retail Sales

At the September 22, 2020 Public Hearing Council approved a rezoning that provided an exemption to the minimum separation distance required between cannabis stores<sup>1</sup> in a direct control zone in Oliver. During the discussion at the meeting, Council asked if a city wide policy to amend the separation distance between cannabis stores should be considered as part of the Zoning Bylaw Renewal Initiative based on knowledge gained since the legalization of cannabis.

The conversation of separation distances was raised again at the December 8, 2020 Public Hearing where Council approved a rezoning that modified how the separation distance requirement is measured between a cannabis store and a public library in a direct control zone in Mill Woods Town Centre. At the Public Hearing, Council passed a motion directing Administration to provide data on the separation distance requirements. This attachment provides an overview of the following:

- Current status of the separation distance requirements for cannabis stores in Zoning Bylaw 12800 and other jurisdictions, for reference
- Development Permits issued for cannabis stores
- Subdivision and Development Appeal Board decisions that approved variances to the separation distance requirements
- Impacts of the cannabis store separation distance requirements
- The monitoring Administration will undertake to help inform a review of the separation distances after the new Zoning Bylaw is implemented

### Current Status

In 2018, Council approved amendments to Zoning Bylaw 12800 to include land use regulations to enable cannabis stores in advance of cannabis legalization. Currently, Zoning Bylaw 12800 requires the following separation distances for cannabis stores:

- 200 metres from another cannabis store
- 200 metres from a site of a:
  - Public library
  - Public or private education service
  - Provincial health care facility
- 100 metres from a site of a:
  - Municipal and school reserve
  - Community recreation facility
  - Public lands zoned Public Parks (AP) or Metropolitan Recreation (A)

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<sup>1</sup> For the purposes of this attachment, Cannabis Retail Sales, as defined in Zoning Bylaw 12800, is referred to as cannabis stores.

The 200 metre separation distance required from the site of a cannabis store to the site of a public or private education service exceeds the 100 metre separation distance required by the Government of Alberta in the Alberta Gaming, Liquor & Cannabis Regulation legislation. Although zoning is typically not intended to regulate the market of specific industries, Edmonton's separation regulations are informed by a variety of factors, including provincial cannabis regulations, public engagement and the intent to provide an evenly distributed opportunity across the city for cannabis locations.

Although Zoning Bylaw 12800 requires a minimum separation distance of 200 metres between cannabis stores, a Development Officer can exercise discretion to vary this distance by 20 metres. The 200 metre separation distance is based on public engagement feedback that indicated that large separation distances between cannabis stores is not necessary, but cannabis stores should not be clustered on the same block or at a particular intersection.

The 200 metre separation distance for cannabis stores was also informed by insights gained from other municipalities and an assessment of typical block lengths in commercial areas, most of which were found to be 200 metres. It was determined that a 200 metre separation between cannabis stores would prevent the clustering of cannabis stores in main street areas as a precautionary measure to ensure that the new industry would not be concentrated at the outset of legalization. The zoning regulations for cannabis stores were intended to provide a balanced approach to separation distances to address concerns about incompatibility of cannabis stores and places where minors gather, and the impacts of clustering cannabis stores.

In review of other larger municipalities in Alberta (with populations greater than 50,000), it was found that a number of municipalities require separation distances of varying distances between cannabis stores and between cannabis stores and schools, parks and libraries, and other land uses, as outlined in the table below.

Municipality	Separation Distance Requirements
<b>Calgary</b>	<ul style="list-style-type: none"> <li>● 300 metres from any other cannabis store</li> <li>● 100 metres from site that is designated as a municipal and school reserve</li> <li>● 150 metres from a site that has an emergency shelter or a school (with the exception of specific zones in regional shopping centres and the downtown)</li> <li>● Must not abut a liquor store (with the exception of specific zones in regional shopping centres and the downtown)</li> </ul>

<b>Red Deer</b>	<ul style="list-style-type: none"> <li>● Cannot be co-located with the retail sale of tobacco and/or pharmaceuticals, a drinking establishment, microbrewery or liquor, beer, and/or wine sales use</li> <li>● Cannot be located adjacent or connected to a drinking establishment, microbrewery or liquor, beer, and/or wine sales use</li> <li>● 100 metres away from a school as defined by the <i>School Act</i>, other than early childhood services programs or homeschool sites</li> <li>● 300 metres from a: <ul style="list-style-type: none"> <li>○ Provincial health care facility</li> <li>○ Schools operated by Red Deer Public School District, Red Deer Regional Catholic Schools, and Conseil Scolaire Centre-Nord</li> <li>○ Day care facility</li> <li>○ Indoor City-operated recreation facility</li> </ul> </li> </ul>
<b>Lethbridge</b>	<ul style="list-style-type: none"> <li>● 100 metres from a site of a: <ul style="list-style-type: none"> <li>○ Provincial health care facility</li> <li>○ School</li> <li>○ School or municipal reserve</li> </ul> </li> </ul>
<b>St. Albert</b>	<ul style="list-style-type: none"> <li>● 100 metres from any other cannabis store</li> <li>● 100 metres from a site of a provincial health care facility</li> <li>● 150 metres from a site of a elementary or secondary school</li> <li>● Exemptions are provided to the distance required from a provincial health care facility and schools when the sites are separated by a major arterial roadway</li> <li>● Limits variances to separation distance requirements to a maximum of 10 metres</li> </ul>
<b>Medicine Hat</b>	<ul style="list-style-type: none"> <li>● 100 metres from a site of a: <ul style="list-style-type: none"> <li>○ Provincial health care facility</li> <li>○ School</li> <li>○ Public library</li> <li>○ Recreation facility</li> <li>○ School reserve or municipal reserve that has been planned for use as a future school site</li> <li>○ The development authority can vary the 100 metre requirement up to 10%</li> </ul> </li> <li>● 25 metres from a site of a: <ul style="list-style-type: none"> <li>○ Emergency shelter</li> <li>○ Addiction treatment and recovery service</li> <li>○ Community health service</li> <li>○ Day care facility</li> <li>○ Public playground</li> <li>○ The development authority can vary the 25 metre requirement up to 20%</li> </ul> </li> </ul>
<b>Grande Prairie</b>	<ul style="list-style-type: none"> <li>● No more than three cannabis stores can be located within 360 metre radius of each other</li> <li>● 180 metres between cannabis stores in the downtown district when the stores are facing the same street</li> <li>● 100 metres from a site of a: <ul style="list-style-type: none"> <li>○ Provincial health care facility</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Addiction treatment facility</li> <li>● 150 metres from a site of a elementary school (not applicable in the specific zones downtown)</li> <li>● 300 metres from a site of a high school (not applicable in the specific zones downtown)</li> </ul>
<b>Airdrie</b>	<ul style="list-style-type: none"> <li>● No specific separation distances noted; however, the bylaw refers to the requirements in the Alberta Gaming, Liquor &amp; Cannabis Regulation</li> <li>● Includes a specific map for where cannabis stores are permitted, discretionary and prohibited</li> </ul>
<b>Strathcona County</b>	<ul style="list-style-type: none"> <li>● 100 metres from a site of an existing or future: <ul style="list-style-type: none"> <li>○ Public health care facility</li> <li>○ Public or private education facility</li> </ul> </li> </ul>
<b>Wood Buffalo</b>	<ul style="list-style-type: none"> <li>● In the Urban Service Area - 150 metres from a site of a: <ul style="list-style-type: none"> <li>○ Elementary school</li> <li>○ Junior high school</li> <li>○ High school</li> <li>○ College</li> <li>○ Hospital</li> <li>○ Child care facility</li> <li>○ Alcohol and drug rehabilitation centre</li> </ul> </li> <li>● In the Rural Service Area and Hamlets - 100 metres from a site of a: <ul style="list-style-type: none"> <li>○ Elementary school</li> <li>○ Junior high school</li> <li>○ High school</li> <li>○ Park</li> </ul> </li> <li>● The development authority can vary the separation distance of to 10%</li> <li>● Cannabis stores cannot be located on a parcel abutting an existing property that is being used for a residential purpose on its main floor, but can be allowed on the main floor of a mixed-use building</li> </ul>

### Research and Monitoring

Since the legalization of cannabis in 2018, Administration has been monitoring development permit decisions for cannabis stores. In 2019, changes were made to the regulations to clarify the separation distance requirements and to provide exemptions to the separation distances for large shopping mall sites.

Administration also initiated a cannabis research project in 2019 to study the negative health or criminal outcomes associated with the clustering of cannabis stores. However, due to the COVID-19 pandemic, the research project has been put on hold indefinitely.

### Complaint Data

To better understand if cannabis stores are creating impacts that generate complaints, Administration reviewed calls made to 311 regarding cannabis stores. Based on the data, there have been 12 complaints made since 2018 related to concerns of a cannabis store not having a business licence. Since 2018, there have also been 95 bylaw complaints related to cannabis, but only 13

related to cannabis retail stores. The following is a breakdown of these bylaw complaints:

- 71 were related to smoking and odours associated with cannabis, either: near an entrance of a property or business (13 - including one near a cannabis store); in a private residential property (23); in a private commercial property (12 - including three cannabis stores); in a public area (8); in a public park or parkland (19); on school grounds (1); associated with a cannabis production facility (3); or associated with a cannabis vaping accessories store (1)
- 7 included a sign for a cannabis store not having a valid permit
- 4 were related to litter from cannabis product packaging
- 1 complaint was the result of a neighbour being not in favour of a rezoning to allow for a cannabis store
- 1 included lighting associated with a cannabis store extending beyond the property

None of the complaints examined illustrate an obvious relationship with cannabis separation distance requirements. However, it should be noted that the absence of such data is not proof that separation distances are unnecessary - it is possible that the current separation distances may be contributing to the lack of complaints.

#### Subdivision and Development Appeal Board Decisions

Since the legalization of cannabis, 213 development permits and 108 business licences have been issued for cannabis retail stores. Of these, 33 (15%) were approved by the Subdivision and Development Appeal Board to vary the separation distance requirements for cannabis stores.

A breakdown of the decisions made by the Subdivision and Development Appeal Board related to separation distances is included in the table below.

Required a Variance to	SDAB Approved (% of total permits approved)	SDAB Refused	Discontinued / Withdrawn	SDAB Assumed No Jurisdiction
Another cannabis store	9 (4 %)	4	3	1
A site with a public library	8 (5%)	1	0	0
A site with a public or private education service	10 (5%)	2	0	0
A site that is	10	2	0	1

zoned for parkland (A or AP)	(5%)			
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**Notes:**

- Seven of the appeals included a combination of separation distance variance requests. For example, one application required a variance to the separation distance required from a site with a park, a site with a public or private school, and site with a public library.
- One appeal that the Subdivision and Development Appeal Board assumed no jurisdiction due to the appeal not being filed in time included a variance request to the separation distance between cannabis stores and a variance to the distance required from a site that is zoned for parkland.

Of these decisions eight approvals included variances to the separation distance required between cannabis stores in excess of 20 metres, which is beyond what the Development Officer has the authority to vary.

In cases where a variance was granted, some common themes for supporting the variance included factors relating to:

- Location - major arterial roadways would separate or create a significant barrier between the cannabis stores
- Context - the variance would not create an adverse effect in a high density neighbourhood with a diverse range of businesses
- Visibility - the sight lines between cannabis stores or between cannabis stores and a public library, school, or park not being visible from each other's location due to the siting and location of premises on their respective sites such that there would be visual separation
- Travelling distance - the travel path compared to physical distance from one location to the other would be more than 200 metres
- Lack of community objection to the proposed development

Two decisions that resulted in a refusal to vary the separation distance did consider the impact the variance would have on the diversity of businesses within the portion of the main street affected. One decision upheld the 200 metre separation distance required from a school site due to the Subdivision and Development Appeal Board determining they could not vary the separation distance to schools on the basis of jurisdiction. Four other decisions that resulted in a refusal were due to the limitations of direct control provisions, such that the variance to the provisions would not be following the direction of Council.

**Impact of Cannabis Store Separation Distance Regulations**

Overall, the majority of cannabis stores approved comply with the separation distances required, which has helped ensure certainty in the development permit process, an evenly distributed opportunity for cannabis store locations, and limited multiple cannabis stores occurring on the same block.

Though the majority of cannabis stores comply with the separation distance requirements, there have been some consequences of the separation distance requirements when applicants do not act on their development permits to commence operations. When this occurs, other applicants still have to maintain a 200 metre distance from an approved cannabis store regardless of whether it is in operation, and in some instances the market is constrained for a period of time. In addition, if a cannabis store does operate but then closes at a later date, the separation distance remains in effect until a subsequent development permit for that space changes to another use.

Another impact of the separation distance requirement is that neither the Development Officer nor the Subdivision and Development Appeal Board can vary the minimum separation distance requirements for cannabis stores located in direct control zones. Due to this limitation, applicants seeking to operate a cannabis store in a direct control zone that does not meet the minimum separation distance requirements must get an approval for an exemption by Council through a rezoning process.

### **Next Steps and Other Considerations**

Although removing separation distances for cannabis stores would be consistent with the goals of the Zoning Bylaw Renewal Initiative to simplify regulations and remove barriers to economic development, regulations for cannabis stores are still fairly new. Due to the need to focus resources on the Zoning Bylaw Renewal Initiative, Administration does not propose to complete a full review and potential amendment of cannabis separation distances at this time. Such a review would be expected to generate public and stakeholder interest and require thorough engagement in addition to the research and analysis required to inform a potential policy shift.

Administration will continue to monitor the decisions related to cannabis stores over the next three years, spanning in the renewal and implementation of the new Zoning Bylaw. Once the new Zoning Bylaw is implemented, Administration will conduct a review of separation distance requirements for cannabis stores to determine whether they should be reduced or removed. This would provide a total of five years of data and allow additional time for the broad public adjustment to the legalization of cannabis.

To help determine whether or not separation distances should be reduced or removed, Administration will use a decision making framework (see Attachment 3) and will also consider the impacts related to the following:

- Provincial requirements resulting in cannabis storefront screening
- Court of Appeal cases regarding Subdivision and Development Permit decisions related to cannabis separation distances

- Provincial changes to eliminate the maximum percentage of cannabis store licences held by a single company
- The cannabis research study, provided the study recommences

If there is a desire to reduce the separation distance required between cannabis stores, the impact of the Alberta Gaming, Liquor and Cannabis Commission's requirements for cannabis products to be screened from view from outside should be given further consideration. The effect of this requirement tends to result in stores screening entire storefronts with opaque materials or other displays. This screening occurs despite crime prevention through environmental design regulations in Zoning Bylaw 12800, which are intended to enhance safety through passive surveillance, and Main Street Overlay regulations intended to support a vibrant pedestrian-oriented environment. If the separation distance requirements are relaxed there may be a cumulative impact on the streetscape and safety if there are too many opaque storefronts in one area.

Additionally, the City is currently involved in a Court of Appeal case involving three development permit decisions made by the Subdivision and Development Appeal Board, where variances were granted to the 200 metre separation distance required between cannabis stores and public libraries. The Court of Appeal decision may impact future decisions the Subdivision and Development Appeal Board makes regarding variances granted to the separation distance requirements.

Furthermore, the Government of Alberta recently amended the Gaming, Liquor and Cannabis Regulations to remove the 15 percent cap on the number of cannabis licences any one company can hold in Alberta. This change is intended to reduce red tape and is anticipated to create more competition among cannabis retailers. This change could impact the number of cannabis store applications the City sees in the future, potentially including locations in proximity to existing stores.