

Charter Bylaw 18720

Text Amendment to Zoning Bylaw 12800 - Cannabis Related Updates

Purpose

To amend Zoning Bylaw 12800 to make minor adjustments to land use regulations for Cannabis Retail Sales, and provides an exemption to separation distances for sites zoned (DC2) Site Specific Direct Control Provision or (CSC) Shopping Centre Zone that are greater than 2.0 hectares in total site area.

Readings

Charter Bylaw 18720 is ready for three readings after the public hearing has been held. If Council wishes to give three readings during a single meeting, then prior to moving third reading, Council must unanimously agree “That Charter Bylaw 18720 be considered for third reading.”

Advertising and Signing

This Charter Bylaw was advertised in the Edmonton Journal on February 8, 2019, and February 16, 2019. The Charter Bylaw can be passed following the third reading.

Position of Administration

Administration supports this Charter Bylaw.

Report

Background

Charter Bylaw 18720, which established Section 70 Cannabis Retail Sales, was passed at the June 12, 2018, City Council Public Hearing following a comprehensive stakeholder engagement and public consultation process. This bylaw was passed in anticipation of cannabis legalization. As a result of uncertainty about the dates for legalization and its accompanying federal and provincial legislation coming into force, Administration proposed the inclusion of a clause in Section 70 of the Zoning Bylaw that would result in the expiry of any permits issued after nine months. This regulation allowed the City to issue permits in advance of the date of legalization that would expire within nine months, in the event the legislation was not enacted. Now that legalization has become effective and is on a path to normalization, the nine-month expiry provision has served its purpose and is no longer required.

Proposed Amendments

Administration has drafted amendments to Section 70, Cannabis Retail Sales (see Attachment 1 - Mark-up of Proposed Text Amendments to Zoning Bylaw 12800). The proposed amendments remove the nine-month expiry provision from Section 70, as previously committed to by Administration at the June 12, 2018, Public Hearing.

The changes will also provide clarity that the City of Edmonton is expressly varying the Government of Alberta regulations on separation distances, as contained in the Gaming, Liquor and Cannabis Regulation, which the City has the authority to do. This clarification is recommended due to recent decisions of the Subdivision and Development Appeals Board that were grounded in a concern that the City had not been clear in its bylaws that it was expressly varying the provincial regulations.

The amendments continue to specify the required separation distances between uses, including exceptions for measuring the separation distances between uses (under certain circumstances). No changes are proposed to the decisions made by City Council regarding the land use framework for Cannabis Retail Sales, except to provide an enhanced opportunity on large shopping mall sites; all other amendments can be classified as housekeeping. The proposed changes are discussed in greater detail below.

Clarification on the method for determining the separation distance between Uses

The proposed amendments clarify the method of determining the separation distance between uses. While the provincial regulations stipulate one method of measuring the separation space for a Cannabis Retail Services use, Edmonton City Council previously approved a different method for measuring the separation between uses.

Administration continues to propose measuring separation distance as approved in Section 70, the same method currently used for Alcohol Sales in Section 85 of Zoning Bylaw 12800. This approach measures the distances from the closest point of the subject site boundary containing Cannabis Retail Sales to the closest point of the boundary of the site containing the listed sensitive use.

Exceptions to separation distances between Uses for large sites

Separation distances include a 200-metre distance between Cannabis Retail Sales and public libraries, and public or private schools, as well as a 100-metre separation distance between Cannabis Retail Sales and parks, public recreation facilities and provincial health care facilities. These separation distances align with the provincial regulations and remove cannabis stores from locations where children and youth gather.

While this approach is useful in protecting youth from being exposed to cannabis, it does not allow for flexibility when dealing with large, single-site developments, such as major shopping malls or undeveloped portions of land that have yet to be subdivided. As such, Administration is proposing a new notwithstanding clause affecting the

required separation distances. This will exempt sites zoned (DC2) Site Specific Direct Control Provision or (CSC) Shopping Centre Zone greater than 2.0 ha in total site area from the prescribed separation distances. This is similar to an existing provision in Section 85.4.

Deleting conditions for commencement of operations

Administration included regulations 70.6 and 70.7 within the Special Land Use Provisions with the express purpose of imposing conditions that required any approved development permits issued for Cannabis Retail Stores to be compliant with superior legislation and to expire after nine months. This was done for multiple reasons:

- The regulation, which requires the development to be authorized by and compliant with superior legislation, was included as cannabis legalization had not been enacted when this text amendment was approved by City Council. This provision is no longer needed, as legalization of cannabis has now been enacted.
- Should legalization have not occurred, cannabis retail sales development permits issued would expire in a timely manner; and
- A nine-month expiration date would also help ensure that locations are not sitting unopened indefinitely, preventing other store operators from opening in the vicinity.

Administration is recommending amendments that remove the nine-month permit expiry provision from Section 70. All future development permits for cannabis retail sales will have the same permit expiry timeframes and criteria for determining the date of establishment as any other permit. This is specified in Section 22 of Zoning Bylaw 12800 and will help normalize the permitting process for this use.

Policy

The proposed amendment to Zoning Bylaw 12800 supports the following policies in The Way We Grow, Edmonton's Municipal Development Plan:

- 6.5.1 Work cooperatively and in partnership with school boards, other orders of government, health institutions and educational institutions to foster the sustainable development of Edmonton.
- 11.3 Implementation Strategy: Implementation of the Municipal Development Plan will require incremental or wholesale amendments to the Zoning Bylaw over time.

The proposed amendment to Zoning Bylaw 12800 supports Administration's Principles on Cannabis Legalization:

- Public health and safety
- Keeping drugs, alcohol and tobacco away from youth
- Business friendly
- A balanced approach to community perspectives

Corporate Outcomes

The proposed amendment contributes to the following corporate outcomes:

- "Edmonton is a safe city" by requiring that cannabis retail stores be separated from places where children and youth gather.
- "Edmonton has a globally competitive and entrepreneurial business climate" by ensuring Zoning Bylaw 12800 can accommodate the new cannabis industry.

Public Engagement

Public engagement was not completed for these amendments due to short timelines and the limited ability of any input to shape these amendments, however, extensive public engagement was undertaken in 2017 and 2018 and helped to inform the land use framework and the decisions made by Council cannabis prior to legalization.

Attachments

1. Bylaw 18720
2. Markup of Proposed Text Amendments

Others Reviewing this Report

- T. Burge, Chief Financial Officer and Deputy City Managers, Financial and Corporate Services
- R. Smyth, Deputy City Manager, Citizen Services