



Request for Bylaw Reading

TO: Mayor and Council
FROM: Jeff Brunen
Municipal Planner I
Development & Infrastructure Services
DATE: December 4, 2018
RE: **First Reading of Bylaw 020-18 to adopt the Personal Cultivation of Cannabis Bylaw**

REPORT SUMMARY:

Applicant: Development & Infrastructure Services
City of Chestermere
105 Marina Road
Chestermere, AB T1X 1V7

Project Location: The City of Chestermere

Proposal: To adopt a Personal Cultivation of Cannabis Bylaw in order to allow for the residential licencing of personal cannabis cultivation for single-detached dwellings within the City of Chestermere.

Applicable Regulations: Sections 7, 184, 187, 188, 189, 230, 606, 639, 640, 640.1, 641, 642, and 692 of the Municipal Government Act (MGA), the City of Chestermere's *Land Use Bylaw 022-10 as amended*, the Chestermere Municipal Development Plan (Chestermere MDP)

History:

October 15, 2018 – Chestermere City Council approved Bylaw 016-18 “Cannabis Land Use Bylaw Amendments” which included a motion to create a Cannabis Cultivation License.

October 17, 2018 – Effective date of legalized recreational cannabis in Canada.

November 6, 2018 – Start of public survey

December 4, 2018 – All Readings of Bylaw 020-18.

Vision Chestermere is a sustainable lakeside recreational community that is safe and family oriented.

Mission Chestermere is creating an amazing place to call home through innovation and community collaboration.

Values Accountable · Connected · Transparent · Inclusive · Viable · Ethical

Action Required:

There is no time frame in which Council is required to act on a Land Use Bylaw amendment application request within the *Municipal Government Act (MGA)*, however any bylaw requires three (3) separate readings by Council under Section 187 of the *MGA*, and a Public Hearing must be held by Council prior to Second Reading of the proposed bylaw under Section 692 of the *MGA*.

Section 188 of the *MGA* states that once First Reading is granted, the bylaw must receive Third Reading within two (2) years, otherwise all readings are rescinded. The bylaw, as presented, would be concluded without passing.

BACKGROUND INFORMATION & PROPOSAL

Federal Government

On October 17, 2018, recreational adult-use of cannabis became legalized in Canada. One aspect of this federal legalization was allowing a maximum of four (4) cannabis plants for personal growing per household. The Province of Alberta has adopted the same legislation for its municipalities.

Overall prominent provincial cannabis legalization highlights include:

- Would have to be 18 years of age to purchase or possess cannabis
- Private retailers would operate physical stores under the supervision of the province's liquor commission; the provincial government would operate online retail
- Cannabis sales would not be permitted where alcohol, pharmaceuticals and tobacco are available for sale
- Would have zero tolerance for drug-impaired driving for drivers in the province's graduated licensing program
- Only four (4) cannabis plants per household
- No minors, even children accompanied by an adult, permitted in cannabis stores
- Municipalities set consumption in public places within their jurisdiction
- 30 grams is the most an adult can buy or carry at a time
- Cannabis stores must have *at minimum* a 100m buffer from schools and provincial health facilities

Provincial Government

The *Municipal Government Act* allows the City of Chestermere to pass bylaws on a variety of matters for municipal purposes. These include, but are not limited to: providing good government; fostering the well-being of the environment; developing

and maintaining safe and viable communities; and regulating the land use and activities on lands located within the municipality.

Municipal Government

On Monday, October 15, 2018, Chestermere City Council passed Bylaw 016-18 which requires a resident to register with the City of Chestermere prior to cultivating cannabis in their single-detached residence (dwelling-house) and obtain a municipal Cannabis Cultivation License. It was also approved that Council direct Administration to “develop a Cannabis Cultivation Bylaw, as per the Cannabis Land Use Bylaw, which requires residents to obtain a municipal Cannabis Cultivation License. Administration has completed a Personal Cultivation of Cannabis Bylaw scheduled for Council’s review on Tuesday, December 4th, 2018.

PUBLIC NOTICE/COMMUNICATIONS:

The City of Chestermere conducted a public survey from November 6 to 16 on the topic of residential personal cannabis cultivation licenses. The three question survey was advertised on social media and on the City’s website homepage and dedicated cannabis legalization project page. 255 people took the survey with over 60% of respondents opposed to a cannabis cultivation license.

- 1) Are you in favour of requiring licenses for those who wish to grow cannabis in their homes?
 - a. Yes – 34.51%
 - b. No – 60.78%
 - c. Other – 4.71%

- 2) How long do you believe a cannabis cultivation license should be valid for?
 - a. 1 year – 25.90%
 - b. 2 years – 6.77%
 - c. 3 years – 10.36%
 - d. Other – 56.97%

- 3) As with any regulation, there a costs associated (e.g. administrative and processing). Do you believe that license applications should have to cover the entire cost of the process or should the license application costs be capped to ensure it is accessible?
 - a. I believe applicants should cover full license costs – 33.73%
 - b. I believe applications costs should be capped – 22.22%
 - c. Other – 44.05%

PROPOSED BYLAW

Administration has created a cannabis cultivation bylaw as directed by Chestermere City Council at the October 15th, 2018 Council Meeting. Using federal legislation, public survey results, and research a Personal Cultivation of Cannabis Bylaw is

proposed to City Council. These amendments are designed to be a fair approach to this new legislative change to regulate, educate, and license the personal cultivation of cannabis activity and limit this activity to municipally-registered residential cannabis cultivation sites only for single-detached dwellings and appropriate accessory buildings:

- PART 1 – TITLE
 - This bylaw may be cited as the “Personal Cultivation of Cannabis Bylaw”
- PART 2 – DEFINITIONS
 - Added definitions for Accessory Building, Cannabis, The Cannabis Act, Cannabis Plant, CAO, City, Commence, Cultivation, Dwelling-house, Municipal Government Act, License/Licensed, Occupant, Peace Officer, Produce, Single-detached Dwelling, Work Forces
- PART 3 – APPLICATION
 - This bylaw applies to any single-detached dwelling, appropriate accessory buildings, and any adult occupants
 - This bylaw does not apply to cannabis cultivation for medical purposes
- PART 4 – CANNABIS CULTIVATION LICENSE
 - No person shall cultivate cannabis plants unless that person has registered the dwelling-house with the City of Chestermere as a residential cannabis cultivation site, and obtained a municipal cannabis cultivation license
 - A license may only be issued for single detached homes and an appropriate accessory building
 - An appropriate accessory building must be fully-enclosed and include a locking mechanism
 - Adults will be able to grow up to four (4) plants per dwelling-house from seeds purchased from licensed cannabis retailers
 - Cannabis cultivation may only occur indoors within single-detached dwellings or an appropriate accessory building
 - License holders must be in accordance with all applicable federal and provincial legislation (eg. cultivation, storage, consumption, safety of minors)
 - All license holders must possess a valid license by January 31st of the current license year
 - A Personal Cultivation of Cannabis License is valid for a period of one (1) year
 - The CAO or designate may attach terms or conditions to a Personal Cultivation of Cannabis License

- License records will be retained and destroyed in accordance with *Freedom of Information and Protection of Privacy Act* (FOIP) rules and municipal records retention policy
- Only pesticides approved for cannabis use by Health Canada will be permitted
- Sufficient safety measures must be followed (e.g. plant disposal, smoke detectors, product storage)
- Only growing equipment certified for use in Canada shall be permitted
- No gas-powered carbon dioxide generators shall be permitted

- PART 5 – INSPECTIONS
 - Peace Officers may enter in or upon the property in accordance with Section 542 of the *Municipal Government Act*
 - Peace Officers shall provide forty-eight (48) hours' notice prior to entering a property for an inspection or enforcement

- PART 6 – PENALTIES
 - Information relating bylaw contraventions, ticket issuance, and minimum or specified penalties
 - Associated with Schedule "A" Offences and Penalties

- PART 7 – VIOLATION TICKETS
 - Establishes how a Peace Officer can proceed with issuing tickets

- PART 8 – SEVERABILITY
 - If any parts of the bylaw are found by a court of law to be illegal or beyond the power of Council to enact, then the other separate and independent parts of the bylaw would still apply

EDUCATIONAL COMPONENT

In addition to the rules and regulations laid out in Bylaw 020-18, administration will be providing growing and safety information to all personal cultivation licensees. These tips were researched and developed from the cannabis industry and a local licensed master grower to ensure healthy plants, building safety, and secure cultivation and storage from minors. Examples of the information to be provided to license applicants include:

- Maintaining a humidity level between 40% to 55%
- Achieving total air exchange of the growing area 3 to 5 times per hour
- Providing 30 to 40 Watts per square foot
- Locked doors to cultivation area
- Providing 18 hours of light for vegetative stage; 12 hours of light for flower (final) stage

- Disposal methods of drying plants, removing all product, and cutting up dead plants
- Providing a carbon filter with a fan for air exchange to reduce and/or eliminate odor
- Install a smoke detector
- Keep the plants and their product out of sight
- Prohibiting gas-powered/fired carbon dioxide generators (open flame)
- Ensure all growing equipment is certified for use in Canada

Sources of Information

In the creation this bylaw, information was used from the following sources:

- *Bill C-45 – Cannabis Act* by the Government of Canada
- *Bill 26 – An Act to Control & Regulate Cannabis* by the Province of Alberta
- City of Grande Prairie Bylaw C-1293A “Personal Cannabis Cultivation”
 - Grande Prairie residents must obtain a permit to grow cannabis plants
 - Each residence is limited to four (4) plants
 - There is no cost to the permit
- *Municipal Guide to Cannabis Legalization* by the Federation of Canadian Municipalities

ADMINISTRATION’S RECOMMENDATION

Planning Staff recommend that Council extend the allowable area of a cannabis cultivation site to include not only the single-detached dwelling-house, but also to any appropriate accessory building on the private property of the license holder. An appropriate accessory building must be fully enclosed and have a lockable mechanism. Cannabis cultivation in detached garages, sheds, or greenhouses could better prevent the negative effects of growing cannabis (e.g. mold, fire risk) than in the principal dwelling.

CONCLUSION

Planning Staff have completed a “Personal Cultivation of Cannabis Bylaw” aligning with Council’s motion from the October 15, 2018 Council Meeting. This Bylaw creates a one-year Cannabis Cultivation License at a fee of \$35 for any resident who resides within a single-detached dwelling-house and wishes to grow cannabis plants. The Bylaw also provides safe cultivation regulations for registered growers.

OPTIONS CITY COUNCIL MAY WANT TO CONSIDER

1. Approve First Reading of Bylaw 020-18 as proposed with or without additional changes as deemed appropriate by City Council.

2. Postpone the decision on Bylaw 020-18 as proposed and request further information if required.

3. Refuse Bylaw 020-18 as proposed.

RELATED COUNCIL POLICIES/BYLAWS & STRATEGIC PLAN:
<ul style="list-style-type: none"> • Bylaw 016-18 Cannabis Land Use Bylaw Amendments
PREVIOUS REPORTS/COUNCIL DECISIONS (if any):
<ul style="list-style-type: none"> • Bylaw 016-18 Cannabis Land Use Bylaw Amendments, Oct. 15, 2018 <ul style="list-style-type: none"> ○ Council passed a motion by Councillor Bold directing Administration to develop a Cannabis Cultivation Bylaw, as per the Cannabis Land Use Bylaw, which requires residents to obtain a municipal Cannabis Cultivation Permit/License.
ATTACHMENTS (including all In Camera items):
<ul style="list-style-type: none"> • Bylaw 020-18 “Personal Cultivation of Cannabis” & Schedule “A”, 7 pages • City of Grande Prairie’s “Cultivation Bylaw” C-1293A, 2 pages • Federation of Canadian Municipalities Spring 2018 “Municipal Guide to Cannabis Legalization” (refer to pages 15-19 of the guide), 52 pages

CHIEF ADMINISTRATIVE OFFICER’S COMMENTS (if any):

RECOMMENDED ACTION:

That Council approve First Reading of Bylaw 020-18, being the Personal Cultivation of Cannabis Bylaw, as presented.

Approved by:
John Popoff
Director, DIS

Approved by:
Bernie Morton
Chief Administrative Officer