



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall
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Esquimalt, B.C. V9A 3P1

Legislation Text

File #: 19-521, Version: 1

REQUEST FOR DECISION

DATE: December 9, 2018

Report No. DEV-19-105

TO: Laurie Hurst, Chief Administrative Officer

FROM: Tricia deMacedo, Policy Planner and Bill Brown, Director of Development Services

SUBJECT:

Zoning Bylaw amendments for the regulation of cannabis within the Township

RECOMMENDATION:

That Council resolves that "Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2984 [Appendix A] as attached to Staff Report DEV-19-105, which would amend Zoning Bylaw, 1992, No. 2050, by replacing text as detailed in the contents of amending Bylaw No. 2984, be given first and second readings; and

That Council authorizes the Corporate Officer to schedule a Public Hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2984, and advertise the same in the local newspaper.

RELEVANT POLICY:

Cannabis Act

Cannabis Control and Licensing Act (BC)

Tobacco and Vapor Products Control Act (BC)

Agricultural Land Commission Act (BC)

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

STRATEGIC RELEVANCE:

The amendments are not directly related to any strategic goals or objectives.

BACKGROUND:

The following appendices are attached to this report:

Appendix A: Zoning Bylaw, 1992 No. 2050, Amendment Bylaw No. 2984

Appendix B: Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2929

Appendix C: Cannabis Classes and Subclasses of Licences from the Cannabis Licensing Application Guide (Canada).

Appendix D: Information Bulletin No. 4: Cannabis Production in the ALR (Agricultural Land Commission BC).

On June 11, 2018, Council adopted a series of Zoning Bylaw amendments to regulate the production, sale and consumption of recreational and medical cannabis in the Township (Appendix B). Since then, Bill C-45, the *Cannabis Act*, received Royal Assent, and became law on October 17, 2018. This Act, and its associated regulations, have changed the licensing process for cannabis, such that there is no longer any differentiation between cannabis production for recreational use and production for medical use (Appendix C). Medical cannabis is still sold primarily through an online service; however, it is now legal to sell medical cannabis (with the appropriate licence) via brick-and-mortar businesses.

In addition, in July of 2018, the provincial government amended Section 2 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, BC Reg. 171/2002 (the ALR Regulation) to change how cannabis production facilities in the ALR qualify as a “farm use”. These changes are intended to address public concerns regarding the conversion of arable farm land to concrete based industrial structures for cannabis cultivation.

In order to qualify as a farm use, cannabis production must now take place in an existing licensed production facility, an open field, in a structure with a soil base, in a pre-existing structure or a structure that was under construction prior to July 13, 2018 (Appendix D). These structures are required to have been built for the purpose of crop production; any other building cannot be converted for cannabis cultivation. Any proposal that does not comply with these guidelines would require a non-farm use application to the ALC.

Staff have prepared the amending bylaw, attached as Appendix A to the Zoning Bylaw, to address these changes in legislation, to fix grammatical errors, and to add two definitions that provide more clarity on cannabis production and distribution.

The changes are as follows:

1. Fix grammatical errors and capitalization in the definitions for ‘Cannabis’, ‘Cannabis Lounge’ and ‘Cannabis Plant’.
2. Remove the definition for ‘Medical Marijuana Production Facility’. This addresses the change in producer licensing through Health Canada that will no longer differentiate between recreational and medical cannabis production.
3. Amend the definition of ‘Store, Cannabis Sales’, to reference the *Cannabis Control and Licensing Act* (BC).
4. Add definitions for ‘Cannabis Production’ and ‘Cannabis Distribution’ as these activities were not defined in the previous bylaw amendment.
5. Amend Section 11 (5) to allow for the sale of cannabis for medical purposes by a licensed pharmacist to a person with a medical prescription. This prevents pharmacies having to rezone in order to provide cannabis for medical purposes.
6. Amend Section 11 (6) to remove the indication that the Township would entertain rezoning applications for Cannabis Lounges. Smoking or vaping in “any fully or substantially enclosed public place or work place, or in the buffer zone around doors, open windows and air intakes to these locations” is not permitted under the *Tobacco and Vapor Products Control Act* (BC).
7. Amend Section 11(7a) to better align with the recent amendments made to the ALR Regulation. Going forward, only cannabis production that is defined as a “farm use” would be

- permitted on ALR land, thus preventing the construction of concrete 'bunkers' on ALR land.
8. Amend Section 11 (7b) and deletes Section 11(d) to remove the differentiation between the production of medical cannabis and the production of recreational cannabis. Health Canada no longer issues licences solely for the cultivation of medical cannabis. The list of new Health Canada licences is shown in Appendix C.
 9. Amend Section 11 (7c) to reference the section of the new federal *Cannabis Regulations* that regulates access to cannabis for medical purposes.
 10. Amend Section 11 (7d) to use the definitions of 'Cannabis Plant' and 'Dwelling Unit' for clarity.

ISSUES:

1. Rationale for Selected Option
The proposed amendments to the Zoning Bylaw are based on one or more of the following rationale:
 - a) Align with changes in federal and provincial regulation.
 - b) Reduce ambiguity in the zoning bylaw.
 - c) Fix grammatical errors and create more clarity in definitions.
2. Organizational Implications
There are no organizational implications of the recommendation.
3. Financial Implications
There are no financial implications of the recommendation.
4. Sustainability & Environmental Implications
There are no sustainability or environmental implications of the recommendation.
5. Communication & Engagement
A public hearing will be required and Statutory notices will be published in a local newspaper.

ALTERNATIVES:

1. That Council resolves that "Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. " attached as Appendix A to Staff Report DEV-19-105, which would amend Zoning Bylaw, 1992, No. 2050, by replacing text as detailed in the contents of the amending bylaw, be given first and second readings; and
That Council authorizes the Corporate Officer to schedule a Public Hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2984, and advertise the same in the local newspaper.
2. That Council defeat Zoning Amendment Bylaw No. 2984.
3. That Council provide alternative direction to staff.