

Request for Decision



To: Regular Meeting
From: **Development, Engineering & Planning**
Date: January 14, 2019
Subject: ZONING BYLAW 2039 – CANNABIS RETAIL SEPARATION DISTANCE
Recommendation: **THAT Council direct staff to bring forward an amendment to Zoning Bylaw No. 2039 to remove the 100-metre separation distance requirement between Non-Medical Cannabis Retail stores.**

Background

On July 23, 2018 Council passed Zoning Bylaw Amendment Bylaw No. 2039-A1, 2018 which regulates and permits Cannabis Retail in the Core Commercial (CC), Neighbourhood Commercial (NC) zones, Airport Industrial (AP), Light Industrial 1 (I1), General Industrial 2 (I2), Value Added Industrial 3 (I3) and Gravel/Mineral Processing Industrial 4 (I4) zones.

The Freedom of Information and Protection of Privacy Act (FOIPPA) provisions and the provisions of the zoning bylaw that govern Retail Cannabis stores are such that an applicant can meet relevant zoning requirements upon application to the City of Grand Forks (the City) and the Liquor and Cannabis Regulation Branch (LCRB) but be non-compliant with the City's zoning bylaw requirements by the time the LCRB has finished their review of the application.

Staff are obliged to reject applications that are non-compliant with the City's bylaws and this could trigger a recommendation to the LCRB that the application for a Retail Cannabis store Licence application be denied.

Policy Context

The trigger for the City to review an application for a Non-Medical Cannabis Retail Licence is notification from the LCRB that an application has been submitted and receipt by the City of a business licence application from the applicant.

Zoning Bylaw Context:

Section 58.3 of zoning bylaw 2039 reads as follows:

“Unless otherwise permitted in this bylaw, no building or structure may be within 100 m of the nearest parcel boundary of a lot in a Community Use Zone, or a youth-centred facility; or **from the nearest edge of building of another Cannabis Retail site.**”

Sample Scenario:

The following situation could arise:

Applicant “A” applies for a Non-Medical Cannabis Retail Store Licence from the LCRB and for a business Licence from the City. Notification from the LCRB to the City then triggers the City’s review process.

Applicant “B” later applies for a licence to locate a Non-Medical Cannabis Retail Store on a parcel within 100m of the location of applicant “A’s” store.

Because of the FOIPPA provisions staff cannot divulge that the proposed retail store location for applicant “B” is less than 100m from the proposed retail store location of applicant “A.”

If the application from applicant “A” successfully passes through the LCRB review process and is compliant with the City’s zoning bylaw the retail cannabis license may be approved by the LCRB thereby causing applicant “B” to be non-compliant with the City’s zoning bylaw.

In the absence of a Development Variance Permit that relaxes the 100m separation requirement between stores, the City would forward a recommendation to the LCRB that a Non-Medical Retail Store Licence **NOT** be issued to Applicant “B” resulting in applicant “B” forfeiting their \$7,500.00 application fee if the LCRB denies the licence application based on City’s recommendation.

Proposed Solution:

Staff recommends removing the separation distance bylaw requirement so that there is more certainty and more equitable application of the regulations for all applicants.

Benefits or Impacts

General

Removing the separation distance would provide applicants with certainty since they will know that once their chosen location meets the bylaw requirements, at the time of application, this status of their compliance will not change during the review process.

Strategic Impact



Community Engagement

- Applications for cannabis retail stores are advertised in the local paper and property owners/occupants within 100m are also notified. Applicants are invited to provide comments.



Community Livability

- There may be situations where there is a cluster of Non-Medical Cannabis Retail stores within the community.
- More stores may be permitted within the City.



Economic Growth

- The process for applying for a Non-Medical Cannabis licence is more transparent allowing applicants to be make more informed decisions when they submit their application to the LCRB.
- Provides more equitable access to the cannabis retail market.

Policy/Legislation

Freedom of Information and Protection of Privacy Act, Zoning Bylaw, Official Community Plan, Local Government Act.

Attachments

Zoning Bylaw Amendment Bylaw No. 2039-A1, 2018

Recommendation

THAT Council direct staff to bring forward an amendment to Zoning Bylaw No. 2039 to remove the 100-metre separation distance requirement between Non-Medical Cannabis Retail stores.

Options

1. THAT Council accepts the report.
2. THAT Council does not accept the report.
3. THAT Council refers the matter back to staff for further information.

Report Approval Details

Document Title:	Cannabis_Overlay_ZoningBylaw2039_Amendment-RFD.docx
Attachments:	- By2039-A1-to-amend-Zoning-Bylaw-2039-2018.pdf
Final Approval Date:	Jan 10, 2019

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Dolores Sheets was completed by assistant Daniel Drexler

Dolores Sheets - Jan 10, 2019 - 9:36 AM

Diane Heinrich - Jan 10, 2019 - 9:56 AM