

VILLAGE OF HEISLER

BYLAW 515-18

WHEREAS A Bylaw of the Village of Heisler in the Province of Alberta, pursuant to the provisions of the *Municipal Government Act*, being Chapter M-26 of the Statutes of Alberta 2000 and amendments thereto, to amend the Village of Heisler Land Use Bylaw #452-11.

WHEREAS copies of this Bylaw and related documents were made available for inspection by the public at the Village office as required by the Municipal Government Act Revised Statutes of Alberta 2000, Chapter M-26;

NOW THEREFORE, the Council of the Village of Heisler, duly assembled, enacts as follows:

1. That the Land Use Bylaw #452-11, being the Land Use Bylaw of the Village of Heisler is hereby amended.
2. That Section 2. Definitions is hereby amended to add:

Cannabis means cannabis plant, fresh cannabis, dried cannabis, cannabis oil and cannabis plant seeds and any other substance defined as cannabis in the Cannabis Act (Canada) and it's regulations, as amended from time to time and includes edible products that contain cannabis.

Cannabis Accessory means cannabis accessory including but not limited to, rolling paper or wraps, holders, pipes, water pipes, bongs and vaporizers, or any other thing described in the Cannabis Act (Canada) that is used in the consumption or production of cannabis."

Cannabis Lounge means a development where the primary purpose of the facility is the sale of cannabis to the eligible public, for the consumption within the premises that is authorized by provincial or federal legislation. This use does not include cannabis production and distribution;

Cannabis Production and Distribution Facility means a development used principally for one or more of the following activities relating to cannabis:

- (a) The production, cultivation, and growth of cannabis;
- (b) The processing of raw materials
- (c) The making, testing, manufacturing, assembling, or in any way altering the chemical or physical properties of semi-finished or finished cannabis goods or products
- (d) The storage or shipping of materials, goods or products, or;
- (e) The distribution and sale of materials, goods and products to cannabis retail sales stores or to individual customers

Cannabis Retail Sales means a retail store licensed by the Province of Alberta where:

- (f) where cannabis is sold for consumption off the premises,
- (g) where consumption of cannabis must not occur, and

(h) that may include the ancillary retail sale or rental of merchandise;

Head Shop means a retail outlet which specializes in drug paraphernalia related to consumption of cannabis, other recreational drugs and new age herbs, as well as counterculture art, magazines, music, clothing and home décor. This does not include cannabis retail sales or cannabis production and distribution facility;

3. That Section 12.1 Development Permits be amended to read:
A development permit does not come into effect until 21 days after the date of issue, and if a person starts construction prior to that, he does so at his own risk because permit may be overturned on appeal
4. That 12. Decision Process – Development Authority shall be added:

12. DECISION PROCESS – DEVELOPMENT AUTHORITY

- 12.1 In making a decision, the Development Authority may approve the application unconditionally, approve the application subject to conditions, approve the application for a limited period of time as specified in the approval, or refuse the application.
- 12.2 The Development Authority may require that as a condition of issuing a development permit, the applicant enter into an agreement in accordance with Section 650 of the Municipal Government Act to construct or pay for the construction of roads, pedestrian walkways or parking areas which serve the development or which connect the walkway with another walkway system that serves or is proposed to serve an adjacent development, to install or pay for the installation of public utilities other than telecommunications systems or works, to pay an off-site levy, and/or to give security to ensure that the terms of the agreement are carried out.
- 12.3 In the case where a proposed specific use of land or a building is not provided for in any District in the Bylaw, the Development Authority may determine that such use is similar in character and purpose to the definition of a permitted or discretionary use prescribed for a particular District.
- 12.4 The Development Authority may approve an application for a development permit for new development or an application for a development permit that authorizes a non-conforming building to be enlarged, added to, structurally altered even though the proposed development does not comply with the regulations of this Bylaw, if, in the opinion of the Development Authority:
 - (a) the proposed development would not: (i) unduly interfere with the amenities of the neighbourhood, or (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and
 - (b) the proposed development conforms to the use prescribed for that land or building in this Bylaw.

- 12.5 Upon receipt of an application, the Development Authority must review the application for completeness within 20 days of the application being received. The Development Authority shall provide the applicant either:
- (a) A complete certificate, if in the opinion of the Development Authority, the application contains the information necessary to review the application;
 - (b) An incomplete certificate if in the opinion of the Development Authority, the application is incomplete. An incomplete certificate shall specify:
 - (i) the additional information that the Development Authority will require in order for the application to be considered complete;
 - (ii) the deadline for submission of the additional information or at such other later date as agreed between the applicant and the Development Authority; and
 - (iii) any other information identified as being necessary by the Development Authority
 - (c) Applications that have been issued an incomplete certificate, will be
 - (i) Issued a complete certificate shall be issued once the Development Authority receives the necessary information.
 - (ii) deemed refused if an applicant fails to submit all the outstanding items indicated as being outstanding in the incomplete certificate by the deadline set in the incomplete certificate, If an application is deemed refused the Development Authority shall issue a Development Permit refusal. The refusal must give reasons for the refusal.
 - (d) Despite the issuance of a complete certificate or incomplete certificate, the Development Authority may request additional information from the applicant if, in the course of reviewing the application, the Development Authority determines that additional information is necessary to review the application.
- 12.6 An application for a development permit shall, at the option of the applicant, be deemed to be refused if a decision on the application is not made by the Development Authority within forty (40) days after receipt of the complete application by the Development Authority. The person claiming to be affected by the deemed refusal may appeal in writing as provided for in Part 4 of this Bylaw as though he has received a refusal at the end of the forty (40) day period. The Development Authority and the applicant, may in a written agreement extend the 40 day period in which the Development Authority is to make a decision on the application.
- 12.7 A Development Authority may suspend or revoke a development permit in writing to the applicant at any time:
- (a) Where the permit was issued on the basis of incorrect information, fraud, non-disclosure, or misrepresentation on the part of the applicant; or
 - (b) Where the permit was issued in error.
- 12.8 If an application is made for a development that is identified as a temporary development in

a land use bylaw, the Development Authority:

- (a) May consider and approve a development for a specific period of time, not exceeding one year;
- (b) Shall impose a condition on such a permit that the Village is not liable for any costs involved in the cessation or removal of the development at the expiration of the time period stated in the permit; and
- (c) May require the applicant to post acceptable security guaranteeing the cessation or removal of the development. The amount of the security shall be the greater of 25% of the value of the structure or \$1,000.

5. That Section 13. Decision Process – Subdivision Authority shall be added:

13. DECISION PROCESS – SUBDIVISION AUTHORITY

- 13.1 Upon receipt of an application for subdivision, the Subdivision Authority must review the application for completeness twenty (20) days of the application being received. The Subdivision Authority shall provide the applicant either:
- (a) A complete certificate, if in the opinion of the Subdivision Authority, the application contains the information necessary to review the application;
 - (b) An incomplete certificate if in the opinion of the Subdivision Authority, the application is incomplete. An incomplete certificate shall specify:
 - (i) the additional information that the Subdivision Authority will require in order for the application to be considered complete;
 - (ii) the deadline for submission of the additional information or such other later date as agreed between the applicant and the Subdivision Authority; and
 - (iii) any other information identified as being necessary by the Subdivision Authority
 - (c) Applications that have been issued an incomplete certificate, will be
 - (i) Issued a complete certificate once the Subdivision Authority receives the necessary information.
 - (ii) deemed refused if an applicant fails to submit all the outstanding items indicated as being outstanding in the incomplete certificate by the deadline set in the incomplete certificate. If an application is deemed refused the Subdivision Authority shall issue a notice to the applicant that the subdivision application has been refused. The refusal must give reasons for the refusal.
 - (d) Despite the issuance of a complete certificate or incomplete certificate, the Subdivision Authority may request additional information from the applicant if, in the course of reviewing the application, the Subdivision Authority determines that additional information is necessary to review the application.
- 13.2 An application for a subdivision shall, at the option of the applicant, be deemed to be refused if a decision on the application is not made by the Development Authority within forty (40) days after receipt of the complete application by the Development Authority.

The person claiming to be affected by the deemed refusal may appeal in writing as provided for in Part 4 of this Bylaw as though he has received a refusal at the end of the forty (40) day period. The Development Authority and the applicant, may in a written agreement extend the 40 day period in which the Development Authority is to make a decision on the application.

6. Schedule A, General Regulations shall be amended to add:

2. CANNABIS PRODUCTION AND DISTRIBUTION FACILITY

- 2.1 Cannabis facilities must have a licence issued by the Health Canada.

- 2.2 The following regulations apply to cannabis facilities:

- (a) An ancillary building or structure used for security purposes may be located on the parcel containing the use as an accessory building which meets the regulations of this Land Use Bylaw.
- (b) Facilities must include equipment designed and intended to remove odours from the air where it is discharged from the facility as part of a ventilation system.
- (c) Facilities must not be within 100 metres of a residential district measured from the building containing the use to the nearest property line of a parcel designated as a residential district.

- 2.3 An application for a Development Permit for Cannabis Production and Distribution Facility requires a Development Permit shall be made to the Development Authority and shall include reports prepared by the appropriate professionals for the following:

- (a) the incineration of waste products and air borne emission, including smell;
- (b) the quantity and characteristics of liquid and waste material discharged by the facility; and
- (c) the method and location of collection and disposal of liquid and waste material.
- (d) Additional information as required by the Development Authority.

- 2.4 The operator of a Cannabis Production and Distribution Facility must ensure that nuisances, including odour, are addressed to the satisfaction of the Development Authority.

3. CANNABIS RETAIL SALES

- 3.1 Cannabis stores and where all cannabis that is offered for sale or sold must be from a federally approved and licensed facility.

- 3.2 Cannabis stores must be licensed by the Alberta Government.

- 3.3 Cannabis stores must be a stand-alone use, which means it cannot be combined with another use, such as a convenience store. However, cannabis stores can occur in a multi-tenant building or as part of a mixed-use development.
- 3.4 The operator of a Cannabis Retail Sales must ensure that nuisances, including odour, are addressed to the satisfaction of the Development Authority.
- 3.5 Cannabis stores shall not be located within 100 metres of any other Cannabis Store, when measured from the closest point of a parcel of land containing a Cannabis Store to the closest point of another parcel of land containing a Cannabis Store with the following exceptions:
- (a) A proposed cannabis store is at the same location as an existing retail store that currently sells cannabis-related paraphernalia as its main merchandise,
 - (b) There is only one other cannabis store within the minimum separation distance,
 - (c) A proposed cannabis store is located on a different street or on the opposite side of the same street as the existing cannabis store,
 - (d) A major road, expressway or river separates the proposed cannabis store from the existing cannabis store,
 - (e) A proposed cannabis store is located in an enclosed shopping centre, or
 - (f) An existing approved cannabis store proposes to relocate to a new location within 100 metres of its original location, provided that it does not move within the separation distance of a different cannabis store.
- 3.6 Cannabis stores shall not abut a Liquor Store.
- 3.7 Cannabis stores shall not be located within 100 metres of the following:
- (a) A building containing a public school, private school, or a boundary of the parcel of land which the facility is located, or
 - (b) All properties which are designated as School Reserve or municipal and school reserve on the certificate of title.
 - (c) A provincial health care facility, or a boundary of the parcel of land on which the facility is located, or
 - (d) Emergency shelter.

7. Schedule B, Regulations For Land Use Districts shall be amended to add:

4.3 Cannabis Retail Sales

Head Shop

5.3 Cannabis Retail Sales

Head Shop

6.3 Cannabis Production and Distribution Facility

EFFECTIVE DATE, This Bylaw shall come into effect on the ____ day of _____, 2018, A.D.

Read a first time this ____ day of _____, 2018, A.D.

Read a second time this ____ day of _____, 2018, A.D.

Read a third time by unanimous consent of council and passed this ____ day of _____, 2018, A.D.

Bonita Wood, Mayor

Heidi Rohe, Interim CAO