

 COBOURG	THE CORPORATION OF THE TOWN OF COBOURG	
	STAFF REPORT	
TO:	Mayor and Council Members	
FROM:	Brent Larmer	
TITLE:	Municipal Clerk/Manager of Legislative Services	
DATE OF MEETING:	October 1, 2018	
TITLE / SUBJECT:	Update on Legalization of Cannabis	
REPORT DATE:	September 27, 2018	File #:

1.0 STRATEGIC PLAN

Not Applicable

2.0 PUBLIC ENGAGEMENT

The Town of Cobourg will engage with residents, local business and other stakeholders on the proposed cannabis retail establishment's implementation in the Town of Cobourg.

3.0 RECOMMENDATION

THAT Council receive both the Technical Briefing from the Government of Ontario regarding "Moving Forward with Cannabis Retailing", attached hereto as **Appendix "I"** and the Report from the Municipal Clerk/Manager of Legislative Services regarding an update on Legalization of Cannabis, for information purposes; and

FURTHER THAT Council direct Staff to implement a strategy to engage and initiate a non-statutory public meeting and engagement process with the residents of the Town of Cobourg and local businesses on the current regulations of the legalization of cannabis, implementation of cannabis retail establishments and effects on the community; and

FURTHER THAT Council direct municipal staff to report to the new Municipal Council on the engagement process and provide a recommendation for Council decision prior to the proposed January 22, 2018 Municipal Cannabis Retail Establishments opt out deadline.

4.0 ORIGIN

This staff report responds to General Government direction to assess the impending introduction of legalized recreational cannabis by the Federal and Provincial governments and to provide information to Council on the legalization of Cannabis and implications on the Town of Cobourg.

5.0 BACKGROUND

On June 20, 2018, the Canadian Federal Government passed the Cannabis Act Bill C-45 and the companion Bill C-46 which addresses the production, distribution, sales, cultivation, consumption and possession of recreational cannabis. This Act seeks to achieve the following objectives:

- restrict youth access to cannabis;
- regulate promotion or enticements to use cannabis;
- enhance public awareness of the health risks associated with cannabis;
- impose serious criminal penalties for those breaking the law, especially those who provide cannabis to young people;
- establish strict product safety and quality requirements;
- provide for the legal production of cannabis;
- allow adults to possess and access regulated, quality-controlled, legal cannabis;
- reduce the burden on the criminal justice system.

Bill C-45 received Royal Assent on June 21, 2018 with the legalization of Cannabis on October 17, 2018.

On December 12, 2017, Bill 174 Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017 received Royal Assent. This Bill enacts the Cannabis Act, 2017 and the Ontario Cannabis Retail Corporation Act, 2017. It also repeals the Smoke-Free Ontario Act and the Electronic Cigarettes Act, 2015 and replaces them with the Smoke-Free Ontario Act, 2017, and makes amendments to the Highway Traffic Act regarding driving with alcohol or drugs present in the body and other matters. The purpose of these Acts is to protect youth, public health and safety, as well as to deter illicit activities in relation to cannabis through appropriate enforcement and sanctions. Key points to recognize within Bill 174 are:

- Minimum age of 19 to consume, purchase possess,
- Banning the use in public places, workplaces vehicles and boats, similar to alcohol,
- Prohibiting the unlawful sale/distribution, similar to alcohol,
- Authority for Police Officers to enforce the illegal possession/use/sale of cannabis,
- Restricting the use of Medical Cannabis in workplaces and enclosed public places,

- Immediate penalties/closures for illegal uses, and
- Youth referral programs

Up until the last few months and with the previous Provincial Government, in Ontario, cannabis retailing was to be accomplished by a provincial cannabis retailer, as required by Ontario's Cannabis Act, 2017. To implement this initiative Ontario created an organization called the Ontario Cannabis Retail Corporation (OCRC) through legislation known as the Ontario Cannabis Retail Corporation Act, 2017 (OCRCA). This entity was to open and operate 40 stores called the Ontario Cannabis Store by July 2018, with further stores to open through 2019. The purpose of Ontario's Cannabis Act (Act) included establishing prohibitions relating to the sale, distribution, purchase, possession, cultivation, propagation and harvesting cannabis.

On Monday August 13, 2018 the newly elected Provincial Government announced the introduction of new legislation to allow private sector cannabis retail storefronts in Ontario, this reversed the previous governments approach on retail for recreation cannabis through a provincial cannabis retailer. This announcement brought with it the introduction of online cannabis sales starting on the Federal legalization date of October 17, 2018 with a retail sales date of cannabis on April 1, 2019.

On September 26, 2018, the Ontario Attorney General and the Minister of Finance announced details of the plans to allow private cannabis retail in Ontario stemming from a month of consultations with stakeholders and municipalities on private cannabis retail and a municipal opt out option. This announcement came with the introduction of new cannabis legislation on September 27 2018 to authorize the Alcohol and Gaming Commission of Ontario (AGCO) to licence private cannabis stores in Ontario communities. Licenced stores will open on April 1, 2019 as announced previously. The AGCO will have a 15-day comment period for the public, communities and municipal governments to provide input on proposed locations before granting a licence.

In addition the Provincial Government announced that Ontario Municipal Governments will have the opportunity to opt out of cannabis sales in their communities by January 22, 2019. Also to be implemented within the new legislation is opportunities for Councils that opt out of private sales can opt back in at a later dates, but this dates has not yet been announced. Additionally it was announced that municipalities will receive at least \$10,000 to support the transition to legal cannabis and the province will announce full funding allocation in the future.

The new legislation will set out requirements to require cannabis stores to observe minimum distances from schools in places of local planning controls. In addition to private retail stores, the province announced that they would harmonize cannabis with the current rules for places of use for tobacco under the *Smoke Free Ontario Act, 2006*. These regulations still will need to be passed by the provincial legislature.

6.0 ANALYSIS

Since the announcement from the Federal Government to introduce legislation to legalize Cannabis the Town of Cobourg Municipal Departments have maintained regular updates on the impending introduction of legalized recreational cannabis by the Federal and Provincial governments and the impact on the municipality and the various municipal departments that will be affected by the legislative changes; including Legislative Services, Protection Services and Planning and Developmental Services.

As part of the review there are a number of considerations to consider with the legalization of recreational Cannabis such as:

- Federal and Provincial framework;
- Land use management;
- Business regulation;
- Public consumption;
- Cannabis in the workplace for municipal employers; and
- Enforcement issues.

Over the past few months, there have been several updates and announcements from the Provincial government in regards to the provincial regulations of legalized cannabis in Ontario with no official legislation in place for local governments to provide direction to staff and provide information to the public.

7.0 FINANCIAL IMPLICATIONS/BUDGET IMPACT

There are no financial implications related to this report.

8.0 CONCLUSION

As the date of this report, legislation remains under development. With the recent announcement of the Provincial government, there is no official legislation passed in the provincial legislature outlining the new provisions on the proposed regulations to be brought forward by the newly elected provincial government. Elements continue to be developed while the province prepares for legalization and, as such, there is a necessity to continue to monitor the legislative process in order to respond accordingly when issued related to legalization are realized.

As part of the staff recommendation, applicable departments will meet in order to develop a plan and strategy to engage the public and to provide additional information and recommendations to the newly elected Municipal Council.

Prepared by:

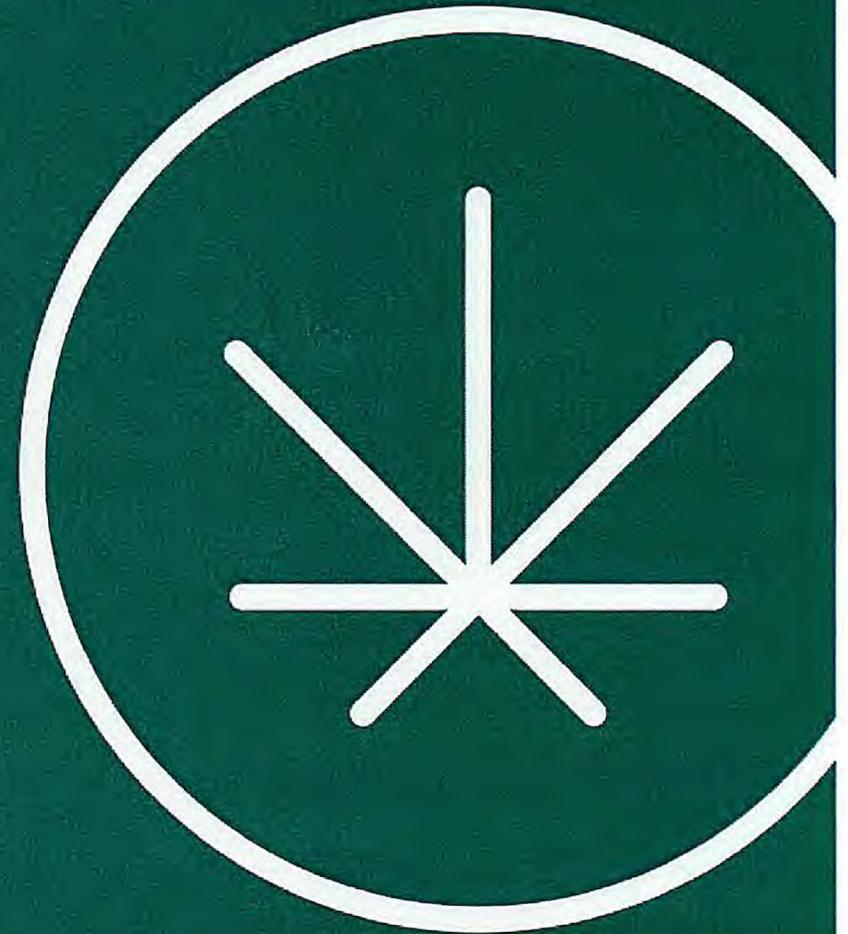


Brent Larmer
Municipal Clerk/Manager of Legislative Services



Moving Forward with Cannabis Retailing

Technical Briefing
September 27, 2018



Enabling Private Retail

- The government is introducing legislation which, if enacted, would create a tightly regulated licensing model and regulatory framework for private retail of cannabis in Ontario
- The design of the model was informed by engagement with municipalities, Indigenous leadership, and key public safety, industry, and health stakeholders
- In this new model:
 - Private retailers would be licensed by the Alcohol and Gaming Commission of Ontario (AGCO)
 - The Ontario Cannabis Retail Corporation (OCRC) would be the exclusive wholesaler and online retailer of cannabis in the province
 - Municipalities would be able to pass a council resolution by January 22, 2019 to opt-out of retail stores
 - First Nation communities would be able to opt-out of cannabis deliveries and retail stores
- The province will provide \$40 million over two years to help municipalities with the costs of recreational cannabis legalization
- Proposed legislation, if enacted, would support this direction with the intent of enabling the AGCO to begin to accept applications in December 2018



Provincial Regulator

- The government is introducing legislation which, if enacted, would enable the implementation of a tightly regulated licensing and regulatory framework for private storefront cannabis retailing in Ontario and establish the AGCO as the provincial regulator for cannabis storefronts
- AGCO currently licenses, regulates and ensures compliance in the alcohol, gaming and horse racing industries in Ontario, and as such offers considerable experience and expertise as a regulator of controlled substances
- If the legislation were passed, AGCO, as the independent provincial regulator, would oversee the private channel and ensure the province's objectives related to cannabis retailing, protecting youth and combatting the illegal market are met
- If the proposed legislation is enacted, AGCO would:
 1. Issue a Retail Operator Licence after investigation (i.e. due diligence) into the business
 2. Issue a Retail Store Authorization to a licensed Retail Operator for the operation of a specified retail store after a local public notice process (administered by the AGCO), and upon confirmation of meeting certain requirements (e.g. safety and security plans in place)
 3. Issue certain individuals a Cannabis Retail Manager Licence
 4. Conduct compliance and audit processes, including store inspection prior to opening



Licensing Parameters

Licensing Eligibility

- The proposed legislation, if enacted, would establish due diligence requirements and specific eligibility criteria for the issuance of licenses and store authorizations, including financial responsibility and conduct based on the principles of integrity and public interest.
- If legislation is passed, persons operating in contravention of provincial and federal Cannabis legislation would not be eligible to operate a cannabis retail store
- The proposed licensing framework would:
 - Not cap the total number of licenses or authorizations
 - Enable ownership concentration limits for private retailers to be established by regulation in advance of December 2018 following appropriate consultation
 - Prohibit the sale or transfer of licences
 - Permit licensed producers to operate a single store at a single production facility in Ontario, per company, including all affiliates
 - Require authorized retailers to display the cannabis retailer seal and create new offences for false representations as an authorized cannabis retailer.

Store Operating Parameters & Distance Buffers

- Additional store operating parameters (e.g. store format, security requirements, staff training requirements) would be established by regulation or by AGCO Registrar's standards and requirements subject to additional consultation and before the AGCO begins accepting applications in December 2018
- A distance buffer between private cannabis retail stores and schools would be set through regulation in advance of December 2018 following further consultation with municipalities and key stakeholders



Municipalities

- It is proposed that local municipalities would be provided with the opportunity to opt-out of cannabis retail stores in their communities by January 22, 2019
 - Municipalities that opt-out of cannabis retail stores could allow them in the future, but municipalities that do not opt-out of stores by January 22nd, cannot opt-out of them at a later date
- In municipalities that have not opted-out of stores, if a request for a store location authorization request is received, the AGCO would initiate a public notice process in which the affected municipality and the public would have an opportunity to identify any comments within a 15-day period
 - AGCO Registrar would consider any comments raised through this process when making its final decision to grant an authorization for that location
 - MAG will continue to consult with municipalities on the implementation of this process
- Municipalities would not be able to designate cannabis retail as a separate land use from retail generally or create a cannabis retail licensing regime within their jurisdiction



Municipal Funding

- The province will provide \$40 million over two years to help municipalities with the implementation costs of recreational cannabis legalization, with each municipality receiving at least \$10,000 in total
- As soon as possible this year, the province would make the first payment to all municipalities on a per household basis, with at least \$5,000 provided to each municipality
- The province would then distribute a second payment following the proposed deadline for municipalities to opt-out, which would be January 22, 2019
 - Municipalities that have not opted-out as of that date would receive funding on a per household basis
 - This funding would support initial costs related to hosting retail storefronts
 - Municipalities that have opted-out would receive only a second \$5,000 each
- The province is considering setting aside a certain portion of the municipal funding in each of 2018-19 and 2019-20 for unforeseen circumstances, and priority would be given to municipalities that have not opted-out
- Finally, if Ontario's portion of the federal excise duty on recreational cannabis over the first two years of legalization exceeds \$100 million, the province will provide 50% of the surplus only to municipalities that have not opted-out as of January 22, 2019



First Nations

On Reserve Delivery Prohibition

- Proposed amendments would require that OCRC implement a prohibition of on-reserve delivery when requested by a First Nation community through a band council resolution

Retail Store Opt-out & Approval

- First Nations would be able to opt out of private cannabis retail stores by way of band council resolution
 - A First Nation community's ability to prohibit stores on reserve would not be time-limited to accommodate for First Nation election cycles and ongoing community engagement
- A band council resolution would be required to approve a store on reserve before the AGCO issues a retail store authorization

Agreement with Council of the Band

- The Attorney General would be able to enter into agreements with First Nation communities on a wide scope of legislative components (e.g. minimum age, retail, etc.)



Places of Use

- Smoking of cannabis (medical and recreational) would be prohibited in the same places where the smoking of tobacco is prohibited (e.g. enclosed public places, enclosed workplaces, and other specified places)
 - The vaping of cannabis would be captured by existing provisions in the *Smoke-Free Ontario Act, 2017* (not yet in force) that will regulate the use of an electronic cigarette
- All methods of consuming cannabis (e.g. smoking, vaping, ingestion) would be prohibited in vehicles and boats that are being driven or under a person's care or control, subject to certain exceptions that would be prescribed by regulation (e.g. use of medical cannabis edibles by a passenger who is a medical cannabis user)
- Generally speaking, municipalities could pass by-laws further restricting the use of cannabis
- The government's commitment to review rules regarding vapour products prior to implementation of the Act are also included in the bill
 - Rules for the display and promotion of vapour products would be separate from the display and promotion rules for tobacco products and tobacco product accessories:
 - Any seller of vapour products could display and promote products subject to restrictions outlined in the federal *Tobacco and Vaping Product Act*. There would be no additional provincial restrictions
 - Specialty vape stores would be permitted to let customers sample vapour products within the store, subject to certain conditions



Ontario Cannabis Retail Corporation

- On October 17th, the OCRC will be the exclusive online retailer for legal cannabis in Ontario
 - Consumers 19 and older will be able to purchase cannabis via OCRC's online retail platform
 - Online sales would be implemented in a socially responsible manner, including secure home delivery with age verification at the customer's door, and no packages left unattended at the door
- The OCRC would also be the exclusive wholesaler to future private retail stores
- Proposed changes to the governance structure of the OCRC would result in the agency's board reporting directly to the Minister of Finance rather than operating as a subsidiary of the LCBO
 - This change would better support the mandate of OCRC as Ontario's online retailer and cannabis wholesaler



Next Steps

- If legislation is enacted, regulations would be developed to enable the AGCO to accept applications in December 2018
- Municipalities would have the opportunity to opt out of retail stores by January 22, 2019
- The government will continue to consult on further details to enable private retail stores by April 1, 2019

