

What's in Store for Cannabis?

Cannabis Retail Outlet Considerations for Municipalities in Renfrew County and District

On October 17, 2018, the Ontario Government passed legislation that privatized the cannabis retail model. The newly enacted *Cannabis License Act, 2018* sets the Alcohol and Gaming Commission of Ontario (AGCO) as the regulator of cannabis retail outlets, and the Ontario Cannabis Retail Corporation (OCRC) as the exclusive wholesaler and online retailer of cannabis in Ontario. The first retail stores are to be operational on April 1, 2019. In the interim, the public can purchase cannabis from OCRC's online store. Retail applications to the AGCO will be received starting December 17, 2018.

Municipalities must declare by January 22, 2019 whether they will opt-out of privatized retail outlets in their communities. To opt-out, municipal councils must provide a notice of resolution to opt-out to the Registrar no later than January 22, 2019. Opting out is a one-time option for municipalities, however, those that choose to opt out may opt-in at a later date. If a council does not opt out, cannabis retail outlets will be permitted.

The recently released Ontario Regulation 468/18 made under the *Cannabis Licence Act, 2018* governs private cannabis retail in Ontario and sets out requirements regarding retail store authorizations and operations. For example, minimum distances between a retailer and a school has been set at 150 metres and hours of operations are between 09:00 and 23:00. The Ontario government indicated that municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. Municipalities are also prohibited from passing a by-law providing for a licensing system for cannabis retailers.

The Government of Ontario's response to the federal government's legalization of cannabis is a phased approach and information is still emerging. The decision to introduce retail outlets into your municipality may be difficult, particularly in the absence of a complete understanding of community impacts of allowing stores within a municipality. Municipal councils may want to include considerations from a public health perspective in their deliberations on the issue.

Is your Municipal Council considering HAVING cannabis retail outlets in your community?

You may want to consider the following:

The physical availability of a legal substance matters.

Research shows that increased availability and exposure of substances, such as alcohol and tobacco, increases related harms; for example:

- High retail outlet density can contribute to increased consumption and harms.²
- Retail outlet proximity to sensitive use spaces increases normalization among sensitive populations.^{3,4}
- Longer retail hours significantly increase consumption and related harms.²
- High number of retailers impacts cannabis use and frequency of use⁶
- Fewer restrictions on where cannabis, tobacco and vapes can be used may increase the risk of normalization, second-hand smoke exposure and impairment^{7, 8, 9, 10, 11}

Municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. At this time, it is unclear if municipalities will be able to enact more restrictive by-laws controlling other aspects of the physical availability of cannabis, such as minimum distance requirements between cannabis retail outlets and other substance retailers; the number of outlets in a neighbourhood; proximity to other sensitive use spaces; and restricting retail hours.

The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.

The bulk of provincial funding for municipalities is tied to not opting out. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs, with municipalities receiving at least \$10,000. A municipality that has not opted out would receive additional funds on a per household basis. Furthermore, if Ontario's portion of the federal excise taxes exceed \$100 million in the first two years, the province will provide 50% of the surplus only to municipalities that have not opted out.^{1,5}



Is your Municipal Council considering OPTING OUT of cannabis retail outlets?

You may want to consider the following:

A central tenet of the Cannabis Act is the curtailing of the illegal cannabis market.

Opting out may not decrease cannabis use and its impact on the community, rather it will maintain the demand on the illegal market. Some consumers will access cannabis through legal sources, however, in the absence of retail outlets the demand for the illegal cannabis market will remain.

The retail system provides access to regulated and controlled cannabis products.

Some marginalized groups will not be able to access regulated products (e.g., individuals without a physical address, a credit card or access to transportation). These marginalized groups will be pushed to utilize the illegal cannabis market, creating a demand for the illegal market; as well as putting them at risk of unregulated products and the risks associated with these products such as, unknown potency, lacing with other substances, chemicals and mould.

The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.

Municipalities will incur costs associated with cannabis legalization regardless of the presence of retail storefronts in their communities. Municipalities should consider how they will fund the costs and manage the risks associated with cannabis legalization. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs. If opting out of the retail model, communities will receive only \$10,000 to help with associated costs. Furthermore, they will not be able to access additional funding at a later date as communities that have opted out will not receive a portion of surplus excise taxes, should some be available in the first two years of legalization.¹

Opting out will allow municipalities to fully understand the regulations and funding prior to committing to retail outlets.

Opting out now and approving retail outlets at a later date will allow for time to develop business regulations, further clarify municipalities' role and responsibilities as information emerges, and to prepare for the edibles market. It is unknown if municipalities will receive funding if they choose to opt-out now and decide later to host retail storefronts in their communities.

References

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