

January 2nd, 2019

To: Planning & Development Executive Committee

From: T. Dennis, CBO/Planner & P. Briere, By-Law Enforcement Officer.

Re: Ontario Cannabis Retail.

As you may recall Mayor & Council at their regular scheduled meeting on December 10th, 2018, discussed a report from D. Brown, CAO regarding the legislative requirements surrounding recreational cannabis retail stores in Ontario and the options available to Municipalities. The report was referred to the Planning & Development Executive Committee for further consideration and recommendation.

With this stated, below you will find a background of all of the information known to date regarding Recreational Cannabis.

Background:

Recreational cannabis was legalized on October 17, 2018 by the Federal Government. Ontario now has laws in place about how, where and who can buy and possess cannabis in the province. Ontario has also passed the Cannabis Statute Law Amendment Act, 2018 which sets out the legal structure for private cannabis retail in Ontario and gives the Alcohol and Gaming Commission of Ontario (AGCO) the authority to license, regulate and enforce the sale of recreational cannabis through privately run stores in communities where municipal governments have not opted out. Approved cannabis retail stores will be subject to the following regulations;

- Minimum distance of 150 metres (approximately 500 feet) between cannabis retail stores and schools, including private and federally-funded First Nation schools off-reserve. No buffers from any other use has been specified by the regulations.
- Retailers will not be permitted to allow anyone under the age of 19 to enter their stores. This approach and other regulations were developed to address the risk of youth exposure to the cannabis retail market.
- Specific instances in which applicants will be denied a license, including cannabis-related criminal offences. Notably, illegal cannabis retailers who were operating after October 17, 2018 are not eligible for Ontario cannabis sales licenses.
- A prohibition on the issuance of a license to any individual or organization who has an association with organized crime.
- Requirement that individuals or entities applying for an operator license demonstrate their tax compliance status to show that they are in good standing with the government.

- A requirement for all private recreational cannabis retail storefronts to be stand-alone stores only. These stores have to be located in areas zoned for retail and cannot be located in unorganized territories.
- Individuals with a store authorization, cannabis retail managers and all retail employees will be required to complete the approved training to ensure that any individual who works in the cannabis retail market is trained in the responsible sale of cannabis.
- License and Authorization Fees;
 - Retail Operator License - \$6,000 2-year term, \$2,000 renewal
 - Retail Store Authorization - \$4,000 2-year term, \$3,500 renewal
 - Cannabis Retail Manager License - \$750 2-year term, \$500 renewal

AGCO Licensing:

AGCO licensing process will begin with it reviewing and completing due diligence on applications from corporations and individuals seeking to sell recreational cannabis. The licensing regime will have three parts; operator approval, retail site location approval, and store management licensing.

The AGCO cannabis licensing process, much like the process for liquor licensing applications, requires that a notice of a proposed cannabis store site be posted for comments from area residents and businesses before a site authorization is made. At this point, the municipal government will not be provided pre-notification of the application but can make comments about whether the proposal is in the public interest as described by regulation.

The AGCO will have a 15-day window for public and municipal government comments for each store site proposed by an approved operator. The legislation provides that municipal comments should focus on whether a proposed storefront location is in the public interest, as defined in the regulation. **In the regulation, public interest is defined as public health or safety, protecting youth and eliminating the illegal market.**

AGCO announced on December 13th, 2018 that it will be utilizing a lottery system (which will be overseen by KPMG) to determine who can apply for the initial round of twenty-five (25) licenses for Cannabis Retail Stores. According to the regulation, no applicant shall be granted more than one license during this initial phase. The AGCO will start accepting expression of interest for storefronts from persons wishing to participate in the lottery between January 7-9, 2019. Following this process, the expression of interest that are received will be placed into the lottery pool for a draw which will take place on January 11, 2019. The results of the lottery will be posted to the AGCO website within twenty-four (24) hours of the draw.

Ontario Cannabis Legalization Implementation Fund (OCLIF):

Attached to this report is the Minister of Finance's letter to AMO outlining the details of the funding approach to help municipal governments offset implementation costs. The highlights of this letter are;

- In early January, all municipalities will receive a portion of a \$15 million payment based on a per household basis with the minimum payment being at least \$5,000. Funding is intended to aid with planned legalization activities.
- A second \$15 million will be made following the January 22 deadline to opt out;
 - Municipalities that haven't opted out receive a portion based on a per household basis with the minimum payment being at least \$5,000. Funding is intended to support initial costs related to hosting retail storefronts.
 - Municipalities that have opted out will receive only a second \$5,000 payment each.
- \$10 million of the municipal funding is set aside to address costs from unforeseen circumstances. Priority for funding is given to municipalities that haven't opted out.
- If Ontario's portion of the federal excise duty on cannabis over the first two years of legalization exceeds \$100 million, the Province provides 50% of the surplus only to municipalities that have not opted out as of January 22, 2019.

Municipalities must use this funding to address the implementation costs that directly relate to the legalization of cannabis. Examples of the permitted costs include:

- Increased enforcement (police, public health, by-law enforcement, court administration, litigation);
- Increased response to public inquiries;
- Increased paramedic and fire services; and
- By-law/policy development

Building, Planning and Business Licensing:

Zoning amendments related to permitted use in a zone under the current legislation is NOT under Municipal authority as per section 42(2) of the Cannabis Act 2018. Therefore, any existing or new by-laws passed is deemed to be of no effect. The AGCO will be responsible for licensing, and together with the local law enforcement agencies, will be responsible for inspections and enforcement of the Act as it is currently stipulated.

Buffers or minimum separation distances and the establishment of this between any cannabis related facility and sensitive land uses are stipulated by AGCO. The municipality

is unable to enforce further restrictions in this regard but can provide input through the 15-day window during the consideration of retail licensing.

Signage and lighting requirements will have to comply with any current regulations and by-laws.

It is the intention of the Building and Planning Department to ensure a consistent level of care in monitoring building code compliance through the permitting and inspection process. With the legalization of cannabis, inspections could include the following:

- change of use i.e. from one specific use to a retail store and/or resulting occupant load change.
- construction required or needed to accommodate an area for a secure storage of product to adhere to licensing requirements.
- ensuring possible requirements such as security system installation and fire alarm and suppression installation.
- construction changes such as window glass to be vandal and/or shatter resistant.
- parking considerations that may require zoning amendment.
- ensuring all means of gaining unauthorized access to premises shall be eliminated, such as a licensed premise located in a building with other tenants. This licensed premise, in this case, must be secured from other tenant spaces through crawl spaces, ceiling spaces and ventilation systems.
- Adequacy of odor control and mechanical ventilations systems.

A Town of Fort Frances business license is required for all retail store front operations within Municipal boundaries. The business licensing process will include verification of all required permits and licenses from all regulatory bodies such as the AGCO, Building Official, Fire Department, etc.

Discussion:

Municipal governments have the one-time opportunity to opt out of allowing retail cannabis stores in their communities. The decision to opt out must be made by January 22, 2019. Unless a municipal government opts out as per Ontario Regulation 468/18 s. 22, they opt in to recreational cannabis retail sale by default.

Opting Out of Retail Cannabis Stores:

Municipalities opting out of having cannabis retail stores within their jurisdiction are required, as per the Cannabis License Act, 2018, to pass a resolution to that effect by January 22, 2019.

The municipality's Clerk, CAO or Mayor must notify the AGCO of their decision to opt out by sending the AGCO Registrar written notification that the municipality has passed a

resolution prohibiting cannabis retail stores. This written notification must be sent by email to municipal@agco.ca and received by the AGCO no later than midnight, January 22, 2019. The notification must include:

1. The official name of the municipality, and;
2. The date the resolution was passed.

Once received, the AGCO will acknowledge receipt by email.

A municipality that decides to prohibit cannabis retail stores may later reverse its decision; however, under the Cannabis License Act, 2018, a decision by a municipality to allow cannabis retail stores is final and may not be subsequently reversed.

If the AGCO has not received written notification from a municipality within the process described above, by January 22, 2019, then, by default, private cannabis retail stores will be allowed within this jurisdiction beginning April 1, 2019, providing all other eligibility criteria have been met.

Opting In to Allow Retail Cannabis Stores:

If at any time before January 22, 2019, a municipality decides it will allow cannabis retail stores within its jurisdiction, they are encouraged to notify the AGCO as soon as possible. This will allow the AGCO to process retail store applications, complete the public notice process and, provide more time for stores to set up their operations. Early notification to the AGCO, using the municipal@agco.ca email, will not change the date that licensed retail stores may open, which remains April 1, 2019 at the earliest.

If a municipality opts in, AMO suggests that a 'Municipal Cannabis Retail Policy Statement' be adopted by council. Such a policy statement could address what council sees as significant local sensitive uses. This would give municipal staff direction in responding to the 15-day window during the AGCO licensing process. For example, a policy statement may identify specific sensitive uses and express some parameters to consider proximity to these sensitive areas or may set out concerns regarding store concentration in certain areas of their communities. Examples of sensitive areas may be; licensed daycares, public recreational facilities, libraries, and places of worship.

Allowing cannabis retail stores within the municipal boundaries could result in economic benefits such as business and employment growth and additional consumer traffic from our catchment area already being serviced by the Town.

Staff have consulted with Ontario Provincial Police regarding allowing cannabis retail stores in the Municipality. Ontario Provincial Police's assessment is that they don't anticipate any significant impacts, but they are recommending that the Town's Smoking By-Law be reviewed and updated to encompass the legalization of cannabis. Staff agree

with this recommendation and have begun reviewing this By-Law and preparing a Draft By-Law for this Committee's review and recommendation for Council.

Staff have also consulted with Canada Border Services (CBSA) with regards to allowing cannabis retail stores in the Municipality. CBSA has advised that they don't anticipate any significant impacts to their operations or have any concerns with the potential future implementation of retail stores in proximity to the International Border.

Attachments (Reference Material):

Draft Municipal Cannabis Policy with Map Displaying 150m Buffer Zones around all facilities/properties that have children at regularly.

Recommendation:

We are asking the Planning & Development Executive Committee to provide direction to Administration to do one of the following:

provide direction to Administration to prepare a resolution prohibiting cannabis retail stores in the Town of Fort Frances by January 22, 2019 and provide written notice to AGCO once the said resolution has passed;

OR

provide direction to Administration to prepare a resolution allowing cannabis retail stores in the Town of Fort Frances and written notice to AGCO be completed by January 22, 2019 and, THAT direction to Administration to bring forward a 'Municipal Cannabis Retail Policy, with Map Displaying 150m Buffer Zones around all facilities/properties that have children at regularly to be adopted by Council before January 22, 2019. then, by default, private cannabis retail stores will be allowed beginning April 1, 2019;

Respectfully submitted,

Original Signed by

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P. Briere, By-Law Enforcement Officer