



## HEALTH UNIT AND PLANNING & DEVELOPMENT

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To: Mayors/Reeves and Members of Local Councils in Huron County  
Municipal Staff  
From: Courtney Feeney, Public Health Promoter  
Victor Kloeze, Planner  
Date: November 27<sup>th</sup>, 2018  
Re: Update on Cannabis Legalization and Municipal Impact

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### PURPOSE:

To update local municipal councils on the land use planning and public health related factors resulting from the legalization of cannabis and the provincial model for retail stores prior to the municipal January 22, 2019 opt-out deadline for retail stores.

### BACKGROUND:

On October 17<sup>th</sup>, 2018, the Ontario Government passed legislation that privatized the cannabis retail model. The new enacted *Cannabis Licence Act, 2018* sets the Alcohol 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<sup>st</sup>, 2019. In the interim, the public can purchase cannabis from OCRC's online store, which will continue to be available after cannabis retail stores begin to open. Retail applications to the AGCO will be received starting December 17<sup>th</sup>, 2018.

Cannabis will continue to be produced by Part 1 Licenced Producers, which are licenced by the federal government under a continuation of the previous medical licencing program. While this report specifically addresses the implementation of cannabis legalization and the provincial retail store model, it is envisioned that future housekeeping amendments to the local Comprehensive Zoning By-laws will review the processing and production aspects of this industry.

There are a few key facts for municipal governments to be aware of:

#### 1) Opting In and Opting Out

Section 41 of the *Cannabis Licence Act, 2018* establishes that municipalities have a one-time opportunity to refuse to allow private cannabis retail stores to operate within their municipality, or opt out. The deadline for opting out is January 22<sup>nd</sup>, 2019. If a municipality opts out of allowing retail stores, the AGCO will not issue licences for cannabis retail stores in that municipality. Opting out would be done through a resolution of local municipal councils, which would be sent to the AGCO. A list of municipalities that have refused to allow cannabis retail stores would be included on the AGCO website.

Municipalities will have the opportunity to allow cannabis retail stores to operate after they have opted out by passing an additional resolution at any time.

Municipalities are automatically opted-in if no resolution of Council is passed. Any municipality that has been automatically opted in (in other words, did not actively opt out before January 22<sup>nd</sup>, 2019), will not be able to refuse to allow retail stores in the future.

The province has indicated that funds will be distributed to municipalities on a per household basis, with each municipality receiving at least \$10,000, to address implementation costs directly related to legalization of cannabis. Refusing to allow cannabis retail stores in a municipality by opting out will disqualify a municipality from some additional cannabis-related grants and transfer payments from the province.

The Huron County Economic Development Department has provided comments that they would support a decision by municipal councils to allow cannabis retail stores. They cite the potential for local benefits of employment and wages, occupancy of vacant retail store spaces and the resulting rents and taxes.

## **2) Business Licences and Zoning**

Section 42 of the *Cannabis Licence Act, 2018* establishes that municipalities do not have the authority to pass a by-law providing for a system of licences respecting the sale of cannabis or cannabis retail stores.

Section 42 also establishes that zoning by-laws, interim control by-laws and site plan control by-laws cannot distinguish between a use of land, a building or a structure that includes the sale of cannabis and a use of land, a building or a structure that does not include the sale of cannabis.

As such, business licence, zoning, and site plan control requirements specific to cannabis retail stores are not permitted or operable. The legislation would not allow these tools to be used to prevent cannabis retail stores from opening in a municipality, or to control the number of stores, location, or retail density.

Information provided by the Association of Municipalities of Ontario indicates that cannabis retail stores would still be subject to the same regulations as any other retail store, so in that way site plan control, zoning regulations, building permits and other standard requirements would apply.

## **3) Provincial Regulations for Cannabis Retail Stores**

The location requirements for cannabis retail stores are as follows:

- Hours of operation must be within 9 a.m. and 11 p.m.
- Stores and their storage areas must be enclosed by walls separating them from other commercial establishments, activities, or outdoor areas
- Stores must be a minimum of 150 metres away from a school or private school
- A cannabis retail store may be permitted as part of a licenced production facility, however, each licenced producer may only have one retail licence

There are no requirements for cannabis retail stores that regulate:

- Retail outlet density
- Proximity to youth-serving facilities including child care centres, community centres or recreational facilities
- Setback requirements between cannabis, tobacco, or alcohol retail locations

## **4) Public Notice & Comment**

Section 4(7), (9) and (11) of the *Cannabis Licence Act, 2018* establishes that the AGCO Registrar shall give notice and receive submissions on a proposed cannabis retail licence for a 15 day period prior

to making a decision regarding a licence. The notice will be given on the AGCO website, via a physical notice at the proposed location, and in any other way the Registrar considers appropriate.

Residents, local municipalities, and the County will be requested to provide comments on whether the issuance of the retail store authorization is in the public interest, having regard to the needs and wishes of the residents. All comments must be received by the Registrar within the 15 day notice period.

## **5) Smoking / Vaping Cannabis**

In order to protect workers and the public from second-hand smoke and vapour, the *Smoke-Free Ontario Act, 2017* prohibits the smoking of tobacco, the use of electronic cigarettes (e-cigarettes) to vape any substance, and the smoking of cannabis (medical and non-medical) in enclosed workplaces and enclosed public places, as well as other designated places. Smoking refers to the smoking or holding of lighted tobacco or cannabis (medical or non-medical). Vaping refers to inhaling or exhaling vapour from an electronic cigarette or holding an activated electronic cigarette. In addition, there are some additional restrictions included in the *Highway Traffic Act* and the *Cannabis Control Act*.

Smoking or vaping cannabis is not permitted in the following locations:

- Schools, publicly-owned playgrounds and sports areas, community recreational facilities
  - o On grounds, including fan/ viewing areas (excluding golf courses)
  - o Public areas within 20 metres of these places
- Hospitals, hospices, health, and long-term care facilities
  - o Within 9m of the entrance or exit of hospitals (public/private), psychiatric facilities, long-term care homes, or independent health facilities
  - o On outdoor grounds of hospitals (public/private) and psychiatric facilities
  - o In non-controlled areas in long-term care homes, certain retirement homes, provincially-funded supportive housing, designated psychiatric or veterans' facilities, and residential hospices as outlined in the *SFOA, 2017*
- Vehicles and boats
  - o You cannot consume cannabis (smoking, vaping, eating) in a motor vehicle (including motorized vehicles such as snowmobiles and ATVs) or boat that is being driven, or is at risk of being put into motion
- Other areas
  - o In restaurants and on bar patios and public areas within 9m of a patio
  - o On outdoor grounds of specified Ontario government office buildings
  - o In reserved seating areas at outdoor sports and entertainment locations
  - o In sheltered outdoor areas with a roof and more than two walls which the public or employees frequent, or are invited to (e.g., a bus shelter)
  - o In a licenced day nursery and in a private home daycare, whether children are present or not
  - o On County-owned property as outlined in County of Huron By-Law No. 2018-002

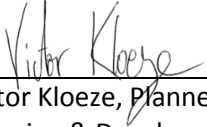
Staff from the Huron County Health Unit could assist local councils with reviewing and updating their Smoking By-laws.

## **OTHERS CONSULTED**

- Courtney Feeney, Public Health Promoter, Huron County Health Unit
- Chris Watson, Economic Development Officer, County of Huron

- Director and Planners, Huron County Planning and Development

Sincerely,



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