

Cannabis Retail Store Licensing in Ontario

**General Committee
December 10, 2018**

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1. Federal Regulatory Framework For Cannabis

- Canadians continue to use cannabis at some of the highest rates in the world.
- The Cannabis Act (Bill C-45) is a federal law that, upon coming into effect on October 17, 2018, legalized recreational use & cultivation of cannabis in Canada, when combined with Bill C-46, An Act to Amend the Criminal Code.

1. Federal Regulatory Framework For Cannabis (Cont'd)

- The Act aims to:
 - keep cannabis out of the hands of youth.
 - keep profits out of the hands of criminals.
 - protect public health & safety by allowing adults access to safe, legal cannabis.
- Canada has become the first “advanced industrialized nation” to legalize & regulate recreational cannabis from production to consumption.
- Legalization is complicated & will have a significant impact on governments, communities & businesses in Canada.

1. Federal Regulatory Framework For Cannabis (Cont'd)

- Offences:
 - Giving or selling cannabis to youth.
 - Using a youth to commit a cannabis-related offence.
- Prohibitions:
 - Cannot sell cannabis in vending machines.
 - Promotion/advertising where seen by youth.

1. Federal Regulatory Framework For Cannabis (Cont'd)

- Possession – can have up to 30 grams.
- Share – up to 30 grams.
- Purchase – through provincially regulated vendors. Currently only through the online Ontario Cannabis Store(OCS). Beginning April 1, 2019, private cannabis retail stores will be permitted.
- Cultivation – 4 cannabis plants per residence (indoor or outdoor).
- Can make products at home provided that organic solvents are not used.

1. Federal Regulatory Framework For Cannabis (Cont'd)

- Production (growing & manufacturing).
- Types of cannabis products permitted.
- Packaging & labelling.
- Serving sizes and potency.
- Ingredients.
- Promotion.

2. Provincial Regulatory Framework For Cannabis

- On October 17, 2018, the Provincial Government passed the Cannabis Statute Law Amendment Act, 2018 with the following components:
 - Restricts legal age to 19 for purchase & consumption.
 - Online sales only until April 2019 through provincially-regulated Ontario Cannabis Store.
 - After April 2019 allows for physical private-sector retail stores except where a municipal government has opted out of retail sales.

2. Provincial Regulatory Framework For Cannabis (Cont'd)

- Established the Alcohol & Gaming Commission of Ontario (AGCO) as the retail store licensing body.
- Aligned cannabis smoking rules with the Smoke Free Ontario Act, 2017 tobacco permissions.

3. Where You Can Smoke Cannabis In Ontario

- Private residences – this does not include residences that are also workplaces (e.g. long-term care &/or retirement homes).
- Many outdoor public places (e.g. sidewalks, parks).
- Designated guest rooms in hotels, motels & inns.
- Residential vehicles & boats that meet certain criteria (e.g. have permanent sleeping accommodations & cooking facilities, & are parked or anchored).

3. Where You Can Smoke Cannabis In Ontario (Cont'd)

- Scientific research & testing facilities (if the cannabis use is for scientific research & testing purposes);
- Controlled areas in:
 - Long-term care homes
 - Certain retirement homes
 - Residential hospices
 - Provincially-funded supportive housing
 - Designated psychiatric facilities or veterans' facilities

*Additional restrictions on smoking & vaping may exist in lease agreements & the policies of employers, condos & property owners.

4. Markham Cannabis By-law

- The Ontario Government has publicly indicated that municipalities have the authority to provide additional local restrictions on the smoking or vaporizing of cannabis in public places.
- On October 16, 2018, Markham City Council passed a new Cannabis By-law 2018-135 that further protects the health and well-being of Markham residents and ensures local community needs and concerns are fully addressed.
- By-law prohibits the smoking and vaporizing of recreational cannabis in any public place in the City. Markham was the first municipality in the Greater Toronto and Hamilton Area to pass such a by-law.

4. Markham Cannabis By-law (Cont'd)

- By-law-135 is more restrictive than the Provincial cannabis legislation and includes the following provisions:
 - Cannabis consumption is generally restricted to private residences.
 - No person shall smoke or vaporize cannabis, or hold or otherwise use lighted cannabis in any public place.
- Introduces fines and penalties of up to \$1,000 for contraventions of the By-law.
- Provides an exemption for medical cannabis users.

5. Cannabis Retail Store Licensing

- The government of Ontario has announced the Alcohol and Gaming Commission of Ontario (AGCO) as the regulator for privately run recreational cannabis retail stores.
- The AGCO's regulatory focus is on the safe, responsible and lawful sale of cannabis, consistent with the government legislation.
- The government is moving forward with a tightly regulated private retail model for cannabis that will launch by April 1, 2019.
- No firm location or setback restrictions are currently in place - private stores will be introduced with strict controls established by the Province, not the local municipality, to safeguard to safeguard children and youth and to combat the illegal market.

6. Opting Out Of Cannabis Retail Stores

- Ontario municipalities may opt out of having cannabis retail stores within their jurisdiction.
- If they wish to do so, the Cannabis Licence Act, 2018 requires them to pass an “opting out” resolution by **January 22, 2019**.
- The City Clerk, CAO or Mayor is required to send the AGCO Registrar written notification that the City has passed a resolution prohibiting cannabis retail stores in Markham.

6. Opting Out Of Cannabis Retail Stores (Cont'd)

- Under the Cannabis Licence Act, 2018:
 - A municipality that decides to prohibit cannabis retail stores may later reverse its decision; and,
 - A decision by a municipality to allow cannabis retail stores is final and irreversible.
- If the AGCO has not received written notification from Markham by January 22, 2019, private cannabis retail stores (by default) will be allowed within the City beginning April 1, 2019 (providing they have met all other eligibility criteria).

7. Opting In To Allow Cannabis Retail 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.
- Early notification 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 will not change the date that licensed retail stores may open - which remains April 1, 2019 at the earliest.

8. Additional Information If Considering Permitting Private Retail Cannabis Stores

- The AGCO may issue a Cannabis Retail Store Authorization to an applicant unless the Registrar finds it is not in the public interest, as defined by Ontario Regulation 468/18 made under the Cannabis Licence Act, 2018.
- Once a complete Retail Store Authorization application is received by AGCO:
 - The applicant will be notified that they have 24 hours to post a placard at the location of the proposed retail store location.
 - The placard must be posted for 15 calendar days and will indicate that an application has been submitted for a cannabis retail store at that location.

8. Additional Information If Considering Permitting Private Retail Cannabis Stores (Cont'd)

- All cannabis Retail Store Authorization applications that are placarded under the public notice process will be searchable on the AGCO's website through the iAGCO portal.
- AGCO will be providing more information and education opportunities to municipalities and the public about this feature.

8. Additional Information If Considering Permitting Private Retail Cannabis Stores (Cont'd)

- Written submissions regarding how a Retail Store Authorization is not in the public interest, as per the criteria set out in regulation, can only be made to the Registrar by:
 - A resident of the municipality in which the proposed store is located;
 - The municipality representing the area in which the proposed store is located;
 - If the municipality is a lower-tier municipality, then the upper-tier municipality of which it forms a part may also make a submission.

9. Zoning And Licencing Controls

Zoning Controls

- Municipalities will not be able to designate cannabis retail as a separate land use from general retail land uses.

Licencing Controls

- Municipalities cannot create their own cannabis retail licensing program (no dual licensing system).

10. Municipal Funding

- The Ontario Cannabis Legalization Implementation Fund (the Fund) is provided to municipalities to help with the implementation costs of recreational cannabis legalization.
- The Provincial government has committed to provide \$40 million in funding over two years to municipalities to help with the implementation costs of recreational cannabis legalization.
- This fund will be distributed as follows:
 - In early January, the first payment of \$15 million will be made to municipalities on a per household basis, adjusted so that at least \$5,000 is provided to each municipality.

10. Municipal Funding

- On November 26, 2016, the City received notification from the Provincial government that under this funding formula, the City of Markham would be receiving \$136,187 as an initial payment broken down as follows:
 1. Number of households 106,813
 2. Funding Amount per 100 Households \$127.50

Notes and Data Sources

- *Household figures are based on the 2018 returned roll provided by the Municipal Property Assessment Corporation (MPAC)*
- *Funding represents the amount per 100 households for lower-tier municipalities*

10. Municipal Funding (Cont'd)

- For the second payment, the Province will distribute \$15 million of the Fund between all municipalities based on the following:
 - If a municipality has *not* opted out of hosting private retail stores in accordance with the Cannabis Licence Act, it will receive funding based on the 2018 MPAC household numbers, adjusted so that at least \$5000 is provided to each municipality.
 - If a municipality *has* opted out of hosting private retail stores in accordance with the Cannabis Licence Act, it will receive a maximum additional amount of \$5,000.

Note: If a municipality opts out by January 22, 2019, and opts back in at a later date, that municipality will not be eligible for additional funding.

10. Municipal Funding (Cont'd)

- Municipalities must use the money they receive from the Fund solely for the purpose of paying for implementation costs directly related to the legalization of cannabis such as:
 - Increased enforcement (police, public health and by-law enforcement);
 - Increased response to public inquiries (Contact Centre calls);
 - Increased fire services;
 - By-law/policy development (police, public health, workplace safety policy);

10. Municipal Funding (Cont'd)

- Upper tier municipalities and lower tier municipalities may transfer any money that they receive from the Fund between each other.
- Despite any transfer of money that may occur, municipalities remain responsible for ensuring compliance with the terms and conditions of the Fund.

11. Conclusion

- Markham City Council has now passed two resolutions (on September 12, 2018 and on October 16, 2018) indicating its wish to opt out of retail cannabis sales.
- It is staff's understanding of the legislation that such a resolution has to be adopted by the new Council (for the 2018-2022 term).

12. Staff Recommendations

1. That the December 10, 2018 presentation entitled “Cannabis Retail Store Licensing in Ontario” be received; and,
2. That the City of Markham reaffirm that it is not a willing host of cannabis retail locations and that City is opting out of permitting physical cannabis retail stores within Markham; and,
3. That the City Clerk provide written notice of Markham’s opting out decision to the Registrar of the Alcohol and Gaming Commission of Ontario in accordance with the Cannabis Licence Act, 2018; and further,
4. That a copy of this resolutions be provided to all municipalities within York Region.