

A By-law to Prohibit the Smoking or Vaporizing of Recreational Cannabis in Public Places

**General Committee
October 16, 2018**

Presentation Outline

- Item 1 - Federal Regulatory Framework for Cannabis
- Item 2 - Former Provincial Government Proposed Regulations
- Item 3 - Current Provincial Government Proposed Regulations
- Item 4 – Regulatory Options for Markham (Status Quo or Passage of City By-law)
- Item 5 – Enforcement
- Item 6 - Recommendations

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 will, upon coming into effect on October 17, 2018, legalize 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 will 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.
- 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. Proposed Legislative Framework Previous Ontario Government

- Ontario Government (prior to June 2018) passed the Cannabis Act, 2017 (to take effect on October 17, 2018) which included the following components:
 - Restrict legal age to 19 for purchase & consumption;
 - Designated Provincial vendors (Ontario Cannabis Store);
 - No consumption on public property, workplaces, vehicles or boats & any additional prescribed places;
 - Permitted on private property including residences & associated parking lots;
 - Penalties for impaired driving.

3. Proposed Legislative Framework – Current Ontario Government

- On September 27, 2018, the current Provincial Government introduced Bill 36 - Cannabis Statute Law Amendment Act, 2018 with the following components:
 - Restrict 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.

3. Proposed Legislative Framework Current Provincial Government (Cont'd)

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

Proposed Bill 36: Where You Can Smoke Cannabis

- 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).

Proposed Bill 36: Where You Can Smoke Cannabis)

- 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. Municipal Option 1 - Status Quo

- Use current Federal & Provincial Legislative & Enforcement model - smoking & vaporizing areas in accordance with Smoke-Free Ontario Act, 2017;

4. Municipal Option 2 – Adopt a City By-law

- The negative health risks associated with smoking of any kind (tobacco or cannabis) are well documented in academic/medical research. This is especially true with respect to youth.
- In an effort to better protect the health of Markham residents & ensure local community needs/concerns are fully addressed, Markham City Council may wish to implement a regulatory framework that is **more restrictive** than the proposed Provincial one by passing a local By-law.
- The Attorney General & Finance Minister of Ontario have both publicly stated that municipalities have the authority to restrict the smoking of cannabis in public spaces.

4. Municipal Option 2 – Adopt a City By-law

- Staff have drafted a proposed Cannabis By-law with the following features:
 - Prohibits the smoking & vaporizing of recreational cannabis in all **public places**.
 - **Public places** include any place to which the public has access as of right or invitation, express or implied, regardless of whether it is owned by a public or private entity, & any motor vehicle located in a public place or in any place open to public view.

4. Municipal Option 2 – Adopt a City By-law

- Prohibits the smoking & vaporizing of recreational cannabis in all public places, including the following:
 - Anthony Roman Centre
 - Municipal parks
 - Public parking lots, including those of arenas, community centres, libraries, pools, trails, any other City-owned facilities
 - Roads

4. Municipal Option 2 – Adopt a City By-law (Cont'd)

- Sidewalks & municipal boulevards
 - Shopping centres
 - Schools, daycare facilities & other child care facilities
 - Any other location or area owned by the City
 - Commercial or business premises, including associated parking lots
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- Provides for an exemption to medical cannabis users.
 - Creates offences for contravention of the By-law under the Provincial Offences Act & provides an option for proceeding under the Administrative Monetary Penalty System.
 - Creates fines/penalties for offences.

4. Municipal Option 2 – Adopt a City By-law

- The proposed By-law would not come into force until the Cannabis Statute Amendment Act, 2018 comes into force & effect (potentially today).

5. By-Law Enforcement

- It is the City's expectation that York Regional Police would enforce the proposed By-law (similar to Markham's Public Nuisance By-law) where resources permit.
- The City would explore its participation in the enforcement of the proposed By-law once a funding source for municipal law enforcement has been provided.

6. Recommendations

1. That the October 16th, 2018 presentation entitled “A By-law to Prohibit the Smoking or Vaporizing Recreational Cannabis in Public Places in the City of Markham” be received; and,
2. That Staff re-evaluate the impact (including financial implications) of all Provincial & Federal cannabis legislation and regulations once they have been fully implemented.