

MEMORANDUM

TO: Mayor Bonnette and Members of Council

FROM: Keith Hamilton – Planner, Policy

DATE: November 28, 2018

MEMORANDUM NO.: MEM-PLS-2018-0013

RE: Cannabis Retail Stores

PURPOSE OF THE MEMORANDUM:

The purpose of this memorandum is to inform Council on legislation, passed and proposed, related to Cannabis Retail Stores in Ontario.

BACKGROUND:

Currently the sale of medical cannabis is licensed and regulated by the federal government. This memorandum will focus entirely on the retail sale of recreational cannabis, which is licensed and regulated by the Government of Ontario.

On October 17th, 2018 the production, sale and consumption of recreational cannabis became legal across Canada. While licences for all production-related activities are under regulation of the federal government, the retail sale of recreational cannabis is under the authority of the provinces and territories. In Ontario, current retail sale of cannabis is online only, until April 1, 2019 when private sellers, under the authority of the Alcohol and Gaming Commission of Ontario (AGCO), can begin to open stores.

The Ontario Cannabis Licence Act, also passed on October 17th, regulates licences related to the sale of recreational cannabis; retail store authorization; retail store operation; and enforcement. Additionally this Act provides municipalities the opportunity to 'opt-out' of Cannabis Retail Stores within their boundaries, effectively prohibiting the over-the-counter sale of recreational cannabis. This provision has been discussed in greater detail in other reports to Council (ADMIN-2018-0028 "Cannabis Legalization", and ADMIN-2018-0033 "Cannabis Consultation Plan").

To date, one regulation (468/18) has been passed under the Cannabis Licence Act. This regulation provides rules and restrictions on eligibility to obtain licences, store authorizations, and the operation of retail stores. Greater detail on this regulation will be provided under Cannabis Retail Store Rules in the COMMENTS Section.

COMMENTS:

Retail Licences Available

There are two licences and one authorization governed by the Cannabis Licence Act:

- Retail Operator Licence
- Retail Store Authorization
- Cannabis Retail Manager Licence

The **Retail Operator Licence** permits an applicant to sell cannabis for recreational purposes. In order to sell cannabis under a licence, **Retail Store Authorization** would also be required in order for a person/company to establish a Cannabis Retail Store. This authorization establishes an appropriate site for a retail operation, as approved by the Alcohol and Gaming Commission of Ontario (AGCO) and allows the Retail Operator Licence holder to enter into product distribution contracts with the Ontario Cannabis Retail Corporation. Private retail stores granted authorization will not be permitted to sell cannabis online. A **Cannabis Retail Manager Licence** is required for anyone working in a Cannabis Retail Store who does not possess a Retail Operator Licence who wishes to: oversee or coordinate the sale of cannabis; manage employees within the store; manage compliance issues; or have signing authority to purchase cannabis. Any store that is not a sole-proprietor is required to have one of these licences.

In addition to identifying the types of licences required for Cannabis Retail, the AGCO has recently established application fees for prospective retailers:

- \$6,000 per Retail Operator Licence application
- \$4,000 per Retail Store Authorization application
- \$750 per Cannabis Retail Manager Licence application

Both licences and store authorizations are required to be renewed every 2 or 4 years.

Retail Store Rules

To date, Ontario Regulation 468/18 has been created under the Cannabis Licence Act to regulate the authorization and licensing of Cannabis Retail Stores. This Regulation has helped provide clarity on how Cannabis Retail Stores would be integrated into the business community.

On the physical make-up and organization of a store, Section 9 of the Regulation states all stores will be standalone in nature, more specifically:

- The store must be separated from other establishments by walls and have its own private entrance (i.e. cannot locate within a department, grocery or convenience store, but can be part of a plaza or shopping mall); and,

- The store cannot be combined with any other activities, meaning only cannabis and federally approved cannabis accessories can be sold at an establishment.

In addition to the physical standards set out in Section 9, Section 11 states stores must be setback a minimum of 150 metres from schools (as defined under the Education Act). Maps showing school properties with 150 metre buffers and zones where retail stores are permitted in Halton Hills are provided in Schedule 1 attached to the report.

A set of operating rules are also set out in the Regulation that must be followed by all stores. Section 14 states all distribution contracts for cannabis sold in stores must go through Ontario Cannabis Retail Corporation with the intent of enforcement officials being able to easily identify illegal product. The Regulation also mandates legal operating hours for stores to be 9am to 11pm every day, where actual opening and closing times within these hours are at the discretion of the operator. Additionally, the Regulation permits only those 19 and older are allowed to be in the store, allowing operators to check identification at the door and deny entrance to those they believe to be under 19 years of age.

Retail Stores and Zoning

The Cannabis Licence Act provides the Alcohol and Gaming Commission of Ontario authority over the location of retail stores across the province. This, in effect, takes away the ability of the municipality to control the location of Retail Cannabis Stores through zoning. Communication from the AGCO has revealed Retail Store Authorization applicants must show when they apply that their location would meet local zoning requirements for retail stores. However, prospective operators seeking authorization are not required to notify municipalities on their intent to open a retail store. Additionally, the AGCO has stated municipalities cannot distinguish Cannabis Retail Stores from other retail in their Zoning By-laws. As a result a municipality cannot prohibit a Cannabis Retail Store in a zone where retail is permitted without restricting all retail uses.

Currently in the Town of Halton Hills, retail stores are permitted in the following zones: Downtown Commercial One (DC1); Georgetown Community Node Zones 1-3 (GCN1-3); Secondary Node Commercial (SNC); Corridor Commercial (CC); Local Commercial (LC); Hamlet Community Core (HCC); Hamlet Commercial (HC); Rural Cluster Commercial (RCC) and the Gateway (G) zone in the Premier Gateway. Retail stores are also permitted in Agricultural and Protected Countryside zones on commercial farms to a maximum of 500m² net floor area, where agriculture is the primary activity on the property.

Under Section 4 of the Cannabis Licence Act a federally licenced producer can receive authorization for one store at their production site. At this time, Halton Hills has not identified or regulated cannabis production within its Zoning By-law, which is subject to a separate and ongoing study. Should production be permitted (in the future) in zones

that also permit retail stores, the potential exists for Cannabis Retail to become part of a production operation.

Public Notice and Appeals

The Cannabis Licence Act mandates the AGCO to provide notice of an application for Retail Store Authorization. This notice would appear on the storefront seeking authorization and on the AGCO's website. Municipalities (both upper and lower tier) and their residents can appeal the application within 15 calendar days of the notice. Appeals must argue the location of the store is not in the public interest. Ontario Regulation 468/18 stipulates that for the purposes of the Cannabis Licence Act, matters of the public interest are limited to:

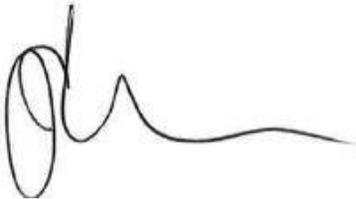
- Protecting health and safety;
- Protecting youth and restricting their access to cannabis; and,
- Preventing illicit activities in relation to cannabis.

After an appeal is made to the AGCO, the Retail Store Authorization applicant has 5 calendar days to respond, after with a Registrar for the Commission will issue a decision issuing authorization or refusing the application.

CONCLUSION:

This memorandum summarizes current provincial policy on Cannabis Retail Stores that will begin operating in participating municipalities as of next April. Information provided is intended to help Council understand how stores would establish themselves in Halton Hills should the Town choose to allow them. As not all legislation related to Cannabis Retail has been finalized, Town staff will continue to monitor and keep Council informed on any changes and additional regulations.

Reviewed and Approved by,



John Linhardt, Commissioner of Planning and Sustainability



Brent Marshall, CAO