

November 28, 2018



Dear Mayor and Municipal Council:

RE: Cannabis Retail Sale in Municipalities

By direction of a motion from the Board of Health meeting November 23, 2018, I am writing to provide local municipalities in Grey Bruce the Board's position supporting a public health perspective on the regulation of cannabis storefront retail sales with regard to operating parameters, citing requirements and public notice of such establishments.

As you are no doubt aware, the provincial government has introduced new legislation providing the legal framework for retail sale of cannabis in Ontario. The *Cannabis Statute Law Amendment Act, 2018* (Bill 36) received royal assent on October 17, 2018, establishing the Alcohol and Gaming Commission of Ontario (AGCO) as the regulating body for retail licensing and operation. Further, the act amends the *Smoke-Free Ontario Act, 2017* (SFOA), putting cannabis consumption to the same prohibitions as smoking and vaping of tobacco products.

Within this legislative framework, municipal governments face a key decision with respect to permitting cannabis sales in their jurisdiction. The proposed retail model takes effect April 1, 2019. Municipalities have until January 22, 2019, to identify, by a resolution of council, their decision to opt out of hosting retail stores. If no resolution is forthcoming, the municipality will be deemed to have chosen to host retail outlets. It should also be noted that municipalities opting out may re-consider and opt in at a future date but that process has not been specified. However, once a municipality decides to host retail outlets they cannot change their position after January 22, 2019.

The attached document *Cannabis Retail Outlet Considerations for Grey and Bruce Municipalities* provides rationale and supporting evidence for your consideration in making these decisions.

With respect to operating parameters, public health supports enabling municipalities to enact bylaws that regulate retail hours of store operation to further limit those set by the province. Minimum formal training requirements for retail staff, as identified by AGCO, align with recommendations from public health and the Centre for Addiction and Mental Health (CAMH).

As proximity and high retail density can contribute to increased consumption and related harms, it is public health's position to support strict regulation of siting requirements including minimum distances between cannabis storefronts and sensitive use areas, retail densities and to prohibit co-location with alcohol and tobacco outlets.

A healthier future for all.

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We encourage full and rigorous use of the 15-day public notice process for municipalities to provide comment to the AGCO in consideration of a retail store seeking authorization within their jurisdiction. Those considerations should include public health and safety, protecting youth and preventing illegal activities.

The Grey Bruce Health Unit is committed to working collaboratively with municipal partners and welcomes the opportunity to provide comment on pending decisions regarding opt out options and smoking bylaws. Should you have any questions, please do not hesitate to contact Public Health Manager Lynda Bumstead at l.bumstead@publichealthgreybruce.on.ca or 1-800-263-3456 ext. 1463.

Working with you to create healthy and safe communities for all,



Dr. Ian Arra
Medical Officer of Health (Acting)
Grey Bruce Health Unit

Cc: Municipal Clerks

Encl. *Cannabis Retail Outlet Considerations for Grey and Bruce Municipalities*

Cannabis Retail Outlet Considerations for Grey and Bruce Municipalities



Background on cannabis

About cannabis

Cannabis is also known as: marijuana, kush, pot, weed, Mary J/MJ, grass, ganja. It comes in the form of dried plant buds, hashish (dried resin from plant leaves) or oil (boiled resin).

There are many ways that cannabis can be consumed. These include:

- Smoking, such as a “joint”, in a pipe or bong
- Ingested as an edible or drink
- Consumed through vaping

Reason for legalization

Cannabis is now legal in Canada as of October 17, 2018. According to the federal government, rationale for legalization include:

- Keeps cannabis out of the hands of youth
- Keep profits out of the hands of criminals
- Protect health and safety by allowing adults access to legal cannabis
- Reduce burden on criminal justice system

Public health concerns

After alcohol, cannabis is the most widely used substance in Canada. The risk and harms associated with use are not entirely clear, but research shows that it is not benign. Delta-9-tetrahydrocannabinol (THC) is the psychoactive component which causes the “high” experienced by those who use. Cannabidiol (CBD) is a chemical that is thought to regulate the effects of THC.

Key public health concerns include:

Youth Use

- The adolescent brain is still developing until around the age of 25
- THC in cannabis can negatively affect brain development
- Cannabis use in youth can lead to behaviour and cognitive problems and mental illness
- 19% of Ontario students ages 14-17 reported cannabis use within the past year (OSDUHS, 2017)

Impaired Driving

- Cannabis slows reaction time, impairs coordination and decreases attention span
- Cannabis doubles the chances of being involved in a collision
- Co-use of cannabis and alcohol significantly increases the risk of collision
- Impairment from cannabis can last at least 6 hours after use

Pregnancy and Breastfeeding

- THC passes from the mother to the fetus during pregnancy, and it is also passed through breast milk, so may interfere with fetal or infant development
- There is no known safe level of cannabis use in pregnancy and breastfeeding

Methods of Consumption

- When smoked, cannabis can damage the lungs and can also be harmful to people through second hand smoke
- When cannabis is consumed in the form of edibles, the psychoactive effect is delayed, which can lead to toxicity
- Children can be poisoned by cannabis edibles, if not stored properly

Cannabis Retail

On October 17, 2018, the Ontario government passed legislation that will introduce a privatized cannabis retail model. The new *Cannabis License Act, 2018* establishes the Alcohol and Gaming Commission of Ontario (AGCO) as the regulator of cannabis retail stores. The proposed retail model is scheduled to take effect April 1, 2019.

Municipal governments have the option to opt out of hosting retail cannabis outlets. A council resolution must be passed by January 22, 2019 in order to opt out. Councils that opt out of private sales would be able to opt back in at a later date with an unspecified process. The decision for a municipality to opt in is final.

The recently released Ontario Regulation 468/18 made under the *Cannabis License Act, 2018* governs private cannabis retail in Ontario and sets out requirements regarding retail store authorizations and operations. Minimum distances between a retailer and a school has been set at 150 meters and hours of operations are between 9:00 am and 11:00 pm. The Ontario government indicated that municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. Measures to regulate retail hours and identify minimum formal training requirements for retail staff align with recommendations from public health and the Centre for Addiction and Mental Health (CAMH).

The decision to introduce retail outlets into your municipality may be difficult, particularly in the absence of complete understanding of community impacts of allowing stores within a municipality. Municipal councils may want to include considerations from a public health perspective in their deliberations on the issue. Should municipalities choose to opt in, they will have 15 days to comment to AGCO on each store authorization application. It is recommended that municipalities take advantage of the comment period and include these considerations in their comment.

If your municipal council is considering **OPTING IN** to cannabis retail outlets, you may want to consider the following:

The physical availability of a legal substance matters.

Research shows that increased availability and exposure of substances, such as alcohol and tobacco, increases related harms. For example:

- High retail outlet density can contribute to increased consumption and harms.²
- Retail outlet proximity to sensitive use spaces increases normalization among sensitive populations.^{3,4}
- Retail outlet proximity to other substance retail outlets shows increased number of traumas.³
- Longer retail hours significantly increase consumption and related harms.²

Municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. At this time, it is unclear if municipalities will be able to enact more restrictive by-laws controlling other aspects of the physical availability of cannabis, such as minimum distance requirements between cannabis retail outlets and other substance retailers; the number of outlets in a neighbourhood; and proximity to other sensitive use spaces. Municipalities may implement a by-law to further restrict retail hours of operation.

The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.

The bulk of provincial funding for municipalities is conditional on opting in. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs, with municipalities receiving at least \$10,000. A municipality that has not opted out would receive additional funds on a per household basis. Furthermore, if Ontario's portion of the federal excise taxes exceed \$100 million in the first two years, the province will provide 50% of the surplus only to municipalities that have not opted out.^{1,5}

If your municipal council is considering **OPTING OUT** of cannabis retail outlets, you may want to consider the following:

The retail system provides access to regulated and controlled cannabis products.

Opting out may not decrease cannabis use and its impact on the community, rather it may maintain the demand on the illegal market. Some vulnerable groups will not be able to access regulated products (e.g., individuals without a physical address, a credit card or access to transportation). These groups will be pushed to utilize the illegal cannabis market, creating a demand for the illegal market, as well as putting them at risk of unregulated products and the risks associated with these products such as, unknown potency, lacing with other substances, chemicals and mould.

The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.

Municipalities will incur costs associated with cannabis legalization regardless of the presence of retail storefronts in their communities. Municipalities should consider how they will fund the costs and manage the risks associated with cannabis legalization. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs. If opting out of the retail model, communities will receive only \$10,000 to help with associated costs. Furthermore, they will not be able to access additional funding at a later date as communities that have opted out will not receive a portion of surplus excise taxes, should some be available in the first two years of legalization.¹

Opting out will allow municipalities to fully understand the regulations and funding prior to committing to retail outlets.

Opting out now and approving retail outlets at a later date may allow for time to develop business regulations, further clarify municipalities role and responsibilities as information emerges, and to prepare for the edibles market. It is unknown if municipalities will receive funding if they choose to opt out now and decide later to host retail storefronts in their communities.

Enforcement

The *Cannabis Statute Law Amendment Act, 2018* (Bill 36) makes the smoking and vaping of cannabis (medical and non-medical use) subject to the same prohibitions as the smoking and vaping of tobacco products as set out in the *Smoke-Free Ontario Act, 2017* (SFOA). Cannabis edibles are currently unregulated, but it is projected that they will be legalized at a later date.

Grey Bruce Health Unit is responsible for enforcing the *Smoke-Free Ontario Act* in our region. The revised SFOA has incorporated a new restriction making all community recreational facilities owned by the Province, municipalities, charities or non-profit organization smoke and vape-free. Local governments have the authority to further regulate the locations in which cannabis may be consumed through enactment of by-laws. A number of Ontario communities including Markham, Richmond Hill and Shelburne have passed bylaw amendments that ban smoking of cannabis in any public space. The enforcement of these by-laws is up to the municipality.

For more information, please visit www.publichealthgreybruce.on.ca/Your-Health/Alcohol-and-Other-Drugs/Cannabis or contact:

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