



**SUBJECT: Cannabis legislation and implications for the City of Burlington**

**TO: Committee of the Whole**

**FROM: City Manager's Office**

Report Number: CM-11-17

Wards Affected: All

File Numbers: 110-02

Date to Committee: October 30, 2017

Date to Council: November 13, 2017

---

**Recommendation:**

Receive and file city manager's office report CM-11-17 regarding cannabis legislation and implications for the City of Burlington.

**Purpose:**

To provide background and information with respect to Federal legislation and Provincial directions regarding the legalization of cannabis for recreational use.

An Engaging City

- Good Governance

---

**Background and Discussion:**

**The Federal Task Force on Cannabis Legalization and Regulation**

The Federal Task Force on Cannabis Legalization and Regulation was established on June 30, 2016 with a mandate to consult and provide advice on the design of a new legislative and regulatory framework for legal access to cannabis, consistent with the Liberal Government's commitment to "legalize, strictly regulate and restrict access" to cannabis. The Task Force engaged with provincial, territorial and municipal governments, experts, patients, advocates, indigenous governments and representative organizations, employers and industry. In December 2016, the Task Force published its

report “A Framework for the Legalization and Regulation of Cannabis in Canada” which made 80 recommendations for the Federal government’s consideration organized under five themes.

The five themes were:

- Minimizing harms of use
- Establishing a safe and responsible supply chain (production, distribution and retail)
- Enforcing public safety and protection
- Accessing cannabis for medical purposes
- Implementation of a regulatory framework for cannabis

The Task Force recommended that the wholesale distribution of cannabis be regulated by provinces and territories and that the retail sales be regulated by the provinces and territories in close collaboration with municipalities.

### **Bill C-45**

Bill C-45, an Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts (the “*Cannabis Act*”) was introduced by the federal government on April 13, 2017 and reflects many of the recommendations made in the Task Force’s report. The Bill received second reading on June 8, 2017 and has been referred to the Standing Committee on Health. The government intends to have Bill C-45 proclaimed no later than July 2018.

The *Cannabis Act* intends to provide legal access to cannabis and to control and regulate its production, distribution and sale. The stated objectives of the *Cannabis Act* are to prevent young persons from accessing cannabis, to protect public health and safety by establishing strict product safety and product quality requirements and to deter criminal activity by imposing serious criminal penalties for those operating outside of the legal framework. The *Cannabis Act* is intended to reduce the burden on the criminal justice system in relation to cannabis. Until the Cannabis Act becomes law, the production, distribution and sale of cannabis remains illegal. However, the regulatory framework which allows access to medical cannabis continues.

Some key features of the *Cannabis Act* are as follows:

- Establishes a licensing regime for the importation, exportation, production, testing, packaging, labeling, sending, delivery, transportation, sale, possession and disposal of cannabis;

- Decriminalizes the possession of fewer than 30 grams of cannabis or its equivalent;
- Prohibits persons under the age of 18 years from possessing or distributing more than 5 grams of cannabis;
- Prohibits the unlawful sale or distribution of cannabis to persons under 18 years of age;
- Establishes a national cannabis tracking system.

Provincial and Territorial governments will be tasked with licensing and overseeing the distribution and sale of cannabis, subject to minimum conditions set by the federal government. For example, the provinces will be able to set the minimum age requirement for the purchase and possession of cannabis (subject to the 18 years of age minimum set by the federal government) and can determine what regulatory model will determine the sale of cannabis in the provinces and territories.

### **Government of Ontario's response**

As a result of the proposed legalization of cannabis federally, the Ontario government established a Legalization of Cannabis Secretariat tasked with coordinating legal, policy and program development across the government. The Secretariat has been active in meeting with various interest groups to with the goal of developing policies that align with the federal objectives in Bill C-45. Public consultation by way of an on-line survey was conducted earlier this year.

On September 8, 2017, the Provincial government announced that legal sales of marijuana will be distributed through standalone cannabis outlets, operated by the LCBO, once the federal legislation passes on July 1, 2018. These standalone cannabis outlets will be physically separate from existing provincially-owned liquor stores. The proposed legislative framework suggests that:

- only those persons who are 19 years of age or older may purchases or possess marijuana
- all consumption will be limited to private homes. Smoking marijuana will be illegal in any public space, including parks, workplaces, and motorized vehicles.
- edibles and other forms of cannabis will remain illegal

The announcement provides definitive clarity that existing and anticipated “dispensaries” are not and will not be permitted.

Medical marijuana will continue to be available through federally licensed producers online or over the phone and delivered by secure mail.

The Province anticipates that by July 1, 2018, up to 40 LCBO cannabis outlets will be in place across the Province, expanding to 80 by 2019, and 150 by 2020. The proposed legislation is expected some time this Fall.

### **Association of Municipalities of Ontario (AMO)**

In August 2016, the Association of Municipalities of Ontario (AMO) issued a Backgrounder providing an overview of the municipal impacts of the anticipated legislative changes around the recreational use of marijuana. The AMO Task Force, which includes representatives of both upper and lower tier municipalities, has identified five areas of particular municipal interest:

- **Public Safety:** AMO noted that additional local law enforcement resources and training may be necessary.
- **Public Health:** There is a need for the development of a public education awareness campaign about the risks of marijuana use and new tools and training for public health and municipal staff.
- **Planning and Zoning:** The implications and the need for zoning regulation will be somewhat dependent on the provincial regulatory approach to sales and distribution, however consumption venues will also need to be regulated as to location, size etc.
- **Licensing:** AMO noted that depending on the legal framework, municipalities may want to establish licensing regimes with respect to dispensaries, retail shops and social consumption venues. AMO supports licensing by local municipalities as the level of government closest and best able to respond to community interests.
- **Local Economic Benefits:** There may be some benefit realized in farming communities, particularly in areas experiencing decline in the agriculture sector

### **Federation of Canadian Municipalities**

The Federation of Canadian Municipalities (FCM) made submissions to the Federal Task Force prior to the introduction of Bill C-45. In their submission, FCM put forward four principles that “should inform the development of the legalization framework in the context of its likely impact on municipalities”:

- meaningful and ongoing consultation and communication with municipalities

- Respect for municipal authority to make and enforce bylaws related to production and distribution of marijuana
- Coordinated implementation and enforcement across all orders of government.
- Fair distribution of new revenue generation streams – a revenue sharing model that recognizes the additional costs to municipalities of enforcement

FCM is continuing in its messaging to the federal and provincial levels of government with respect to the need to engage municipalities in the discussions regarding regulation, and in particular advocating for financially sustainable operational and enforcement.

### **Strategy/process**

A staff team including Planning and Building and Legal staff assessed the potential implications for municipalities and the City of Burlington in particular. Municipalities in Ontario have legislated authority under the *Municipal Act, 2001* and the *Planning Act* to license and zone activities and uses. In June of 2014 Council adopted report PB-45-14 and amendment to Zoning Bylaw 202.344, which had the effect of adding a new definition to the bylaw for Medical Marijuana Production Facility, to define locations where such facilities are permitted and to add regulations specific to that use. There are currently no definitions for dispensaries or venues for the consumption of cannabis in the City's zoning by-law, as the use of cannabis, other than for medicinal purposes, in accordance with federal regulations is currently prohibited.

In Halton, public health is the mandate of the Region. The Region Health and Social Services Committee received an information report from the Acting Medical Officer of Health at its meeting of October 3, 2017. Halton's Department of Public Health has advised that they will support municipalities as they consider impacts and options once the Federal legislation becomes law.

One of the outstanding questions is where the retail outlets will be located. As a Crown Corporation, the new corporation will be exempt from municipal zoning. The Province has indicated that they will work with municipalities in the selection of future locations. Staff will review the City's zoning bylaw to identify possible amendments which might include definition of retail cannabis outlets and locational criteria. Amendments will only be brought forward, if necessary, once the Provincial legislation is approved and would be undertaken with full public consultation. This is consistent with the approach the City took with respect to Medical Marijuana Production Facilities.

As the Provincial legislation is tabled and ultimately enacted there is likely to be considerable public interest in the location of these outlets. City staff anticipates an increase in complaint calls and enforcement issues which will have resource implications. Once more information becomes available, Communications staff will be working on a communication strategy and will be preparing key messages to answer enquiries from residents and businesses.

With respect to anticipated revenue, the Federal and Provincial governments have not announced the model of distribution of the taxation revenue from the sales of recreational cannabis other than to say their key priority areas will be public health and research. Staff will report further on this as more information becomes available.

---

### **Financial Matters:**

Not applicable

### **Total Financial Impact**

Unknown at this time.

### **Source of Funding**

Not applicable

### **Other Resource Impacts**

Unknown at this time.

---

### **Public Engagement Matters:**

A public engagement strategy will be part of any future amendments to the zoning bylaw. In addition, staff will be developing a communications strategy to convey key information as it becomes available.

---

### **Conclusion:**

There is no consistent approach amongst municipalities in dealing with this interim period between the tabling of the federal legislation and final passage. Staff will continue to monitor the direction emerging from the Province and report back to Council with a recommended approach once the provincial regulatory framework is known.

Respectfully submitted,

Jody A. Wellings

Policy Advisor

Ext. 7686

Lisa Shields

Assistant City Solicitor

Ext. 7615

Tami Kitay

Manager of Planning Development

Ext 7638

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.