



**SUBJECT: Cannabis Legislation and Retail Cannabis Sales**

**TO: Committee of the Whole**

**FROM: City Manager's Office**

Report Number: CM-20-18

Wards Affected: All

File Numbers: 110-02

Date to Committee: December 10, 2018

Date to Council: December 17, 2018

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**Recommendation:**

Direct City Manager's staff to provide an update on the community input results regarding private retail cannabis sales at the December 17, 2018 Council meeting based on the "Get Involved Burlington" consultation and the Mayor's town hall; and

Direct City Manager's staff to work with Region of Halton staff on a region-wide approach to expanding the regulation of smoking in public within the Region; and

Direct the Director of City Building to undertake a zoning study, including public consultation, for the production of recreational cannabis land use.

**Purpose:**

A City that Grows

- Promoting Economic Growth

An Engaging City

- Good Governance

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**Background and Discussion:**

Report CM-20-18 provides an update regarding the province's cannabis legislation and the implications for the City of Burlington.

## **Chronology**

November 2017 - Report CM-11-17 provided an update to Council on Bill 174 which implemented the federal government's cannabis legalization framework in Ontario. Under that provincial legislation, the minimum age for persons to purchase cannabis was set at 19 years of age. Additionally, cannabis would be sold through LCBO-controlled and affiliated Ontario Cannabis Store (OCS). The OCS would have online sales as well as retail stores in select municipalities.

October 5, 2018 - A further update was provided to Council by CIP memo, attached as Appendix A to this report. The memo discussed in greater detail, Bill 36, Ontario *Cannabis Statute Law Amendment Act*. Bill 36 changed the cannabis retail model to permit private retail sales of cannabis in Ontario in addition to the online retail model through the Ontario Cannabis Retail Corporation with its online store OCS.

October 17, 2018 – Recreational cannabis became legal in Canada through federal legislative changes. Sales in Ontario launched through the online OCS.

October 17, 2018 - Bill 36, *Ontario Cannabis Statute Law Amendment Act*, passed and became law. The only change from public consultation on the draft act was the amount to be sold at one time to an individual is limited to 30 grams. Bill 36 also:

- Provides for privately run retail cannabis stores selling cannabis and cannabis products in Ontario. Private retail stores would be able to open on April 1, 2019.
- Exempts retail cannabis stores from municipal business licensing and land use planning which means the province determines location criteria and licensing rules.
- Names the Alcohol and Gaming Commission of Ontario (AGCO) as regulator of Ontario's private retail model. The AGCO will be licensing and enforcing regulations regarding retail cannabis stores.
- Determines the City's only role in retail cannabis is a commenting agency on proposed locations in Burlington.
- Aligns the smoking of recreational cannabis with the *Smoke Free Ontario Act* (SFOA). This means smoking of cannabis is permitted in the same places as smoking cigarettes. The SFOA was amended to add cannabis as previously only tobacco and e-cigarettes were regulated under the Act.
- Permits municipalities to enact by-laws to regulate and further restrict where the smoking of cannabis can take place. The SFOA is enforced by Halton Region's Health Department and includes the smoking of tobacco, vaping and now recreational cannabis. If local municipalities wish to enact by-laws further restricting the smoking of recreational cannabis beyond the SFOA, municipal by-law officers would be responsible for enforcement.

November 14, 2018 - The province released regulations governing the retailing of cannabis in the province. The AGCO is now the regulator of private recreational cannabis retailing in Ontario. The following details regarding the regulations and AGCO licensing information are pertinent to municipalities:

- Municipalities must inform the AGCO of their decision to opt out of having retail cannabis stores by January 22, 2019. Failure to notify of a council decision to opt out by the deadline means they will be considered an opt in municipality.
- Once a municipality “opts in” (or makes no decision to opt out), the municipality cannot subsequently opt out.
- Stores will be able to operate between 9:00 (a.m.) -23:00 (i.e. 11 p.m.).
- Stores will only be able to sell cannabis products, accessories and shopping bags.
- Stores are to be enclosed retail spaces.
- Distance of cannabis retail stores from schools has been set at 150m.
- There is a maximum limit of 75 stores per operator. Retail stores attached to production facilities will also need to apply for a retail license under the regulations. A store is not an automatic right to having a production facility.

The following issues were not addressed in the regulation:

- No density limits have been set in the regulations so there is no limit or cap on the number of stores within a municipality.
- No distance requirements have been set in the regulations that defines how close cannabis retail stores can locate to one another within a municipality.
- There is no distance requirement for retail stores from parks, recreation centres, arenas, libraries, day care centres or addiction treatment facilities.
- Municipalities have no role in determining store locations, licensing, separation distance, or clustering other than commenting on proposed locations once notice of an application for a license is received from the AGCO.

In terms of next steps for retail stores and the AGCO:

- AGCO will begin to take applications for retail licenses on December 17, 2018.
- An online Cannabis Retail Regulation Guide is to be released, but no date has been provided yet for the release of this guide.
- AGCO Public Notice Process – This public notice process enables local residents and local municipalities to submit comments within 15 calendar days on a proposed recreational retail cannabis store location. These submissions and

comments can only be made in relation to “public interest”, which has been defined within the regulations as: issues in relation to promoting public health and safety, protecting youth and restricting youth access to cannabis and preventing illicit activities in relation to cannabis sales.

- The AGCO is responsible for retail licensing and inspections. There is no information on how this will be coordinated with City responsibilities such as fire inspection and building code inspection.

November 20, 2018 - A webinar by the AGCO for Part 1: Cannabis Retail Regulation and License Applications was announced and is to take place on November 27, 2018. City of Burlington staff will be participating in this webinar.

November 20, 2018 – Hon. Vic Fedeli, Minister of Finance sent a letter to Jamie McGarvey, the President of Association of Municipalities of Ontario (AMO) detailing the province’s commitment to provide municipalities with funding to assist in the implementation costs of recreational cannabis legalization. The letter is attached as Appendix F to this report. The province has allocated \$40 million for municipalities to assist with the implementation costs associated with the legalization of recreational cannabis. The amount of \$15 million will be paid to all municipalities on a per household basis in January 2019. The minimum amount that any municipality will receive will be \$5,000. Following the deadline for municipalities to opt-out, the province will make an additional payment of \$15 million. This payment will be distributed as follows:

- For municipalities that have opted-out, only \$5,000 will be paid.
- For municipalities that have not opted-out (i.e. opt in or made no decision to opt out), funding will be distributed on a per household basis to assist with the costs associated with having retail locations in their municipality.
- The remaining \$10 million will be allocated to municipalities that have not opted-out.
- Any funding received will be split 50/50 between upper-tier and lower municipalities. However, the split can be adjusted at each local level and, upper tier municipalities will only receive funding based on the opt-out decisions made by the lower-tier municipality. This impacts Halton Region based on the above splits of funding.

Municipalities must allocate any funding received towards only those costs directly related to the legalization of recreational cannabis such as police, public health, by-law enforcement, court administration, litigation.

November 21, 2018 – Halton Region Council Meeting and Dr. Hamidah Meghani, Commissioner and Medical Officer of Health tabled report MO-26-18 - Update on Cannabis Legislation. This report is attached as Appendix C to this report. One of the

outcomes of the report was a request that Halton Region look at a region-wide approach to the smoking of cannabis in public. It was suggested that a region-wide approach would be easier for both the residents of Halton and for enforcement staff. City of Burlington staff will work with the Region on this approach and report back to Council on this issue.

**Outstanding Issues:**

1. Location of recreational retail cannabis stores.

As has been stated above, local municipalities will have no control over where retail stores can locate. The only regulation from the province is the 150m from schools. Appendix D is a map of the City of Burlington showing the provincial exclusion zones of 150m from schools. Appendix E is a map of the City of Burlington showing further exclusion zones of 150m from schools, parks, community centres, arenas and libraries. Provincial regulations also do not prevent clustering, or a maximum number of retail stores allowed by population or within a local municipality.

2. Smoking enforcement -

The following was received from the Halton Regional Police Service in regards to recreational cannabis in addition to the outcomes of the November 21, 2018 Regional Council Meeting.

“By-Law Enforcement

The HRPS is not willing to take on any additional enforcement roles relating to cannabis at this time, but would be open to future discussion after the period of social adjustment has passed (12 months). Any future discussion would have the following criteria attached:

- be done under the auspice of the *Community Safety and Well Being in Halton* plan and involve all stakeholders including Regional Public Health.
- include a detailed statistical review of public complaints regarding cannabis consumption (including data from 311, all municipalities and HRPS).
- involve some level of public consultation.
- involve a Regional approach to new legislation (i.e. - one consistent by-law throughout the Region - as opposed to different by-laws in each municipality).
- involve legislation that in some manner has a mandatory offender identification component (arrest authority).

Retail Sales of Cannabis

Due to the long-term uncertainty of both the potentially positive and negative impacts on a community from retail cannabis outlets- the HRPS will not be taking an official position at this time with respect to municipalities opting in or out of retail outlets. The HRPS will remain nimble in terms of our overall response to illicit cannabis sales throughout the Region, regardless of the decisions made by each municipality with respect to retail cannabis outlets.”

3. Notice Process – As has been stated above, the AGCO will have a 15-calendar day comment period for members of the public and municipalities to provide comments on potential retail store license locations. We are unsure of the resource requirements that this will place on the City of Burlington, as the number of potential license applications is unknown. However, each potential retail license will require staff to provide comments to the AGCO. This will require additional analysis by staff on workload and response times to understand the ability to complete this work in the 15-calendar day timeline. This only applies should Council “opt in”.
4. Public Consultation – Public consultation was done by Halton Region in 2017 on the basis of the previous model for retail cannabis in Ontario – one government run retail store in a municipality. Appendix C is the Halton Region’s report on cannabis and contains public survey information for residents of the City of Burlington.

The change in retail model for cannabis in Ontario is a different public policy approach. For these reasons, the City will be undertaking public consultation once this report is released. This will be done utilizing “Get Involved Burlington”, to ask Burlington residents their opinion on the opt in/opt out question and more. This data will be available prior to this report going to council on December 17, 2018. In addition, the Mayor will hold a town hall on the evening of December 12<sup>th</sup> where residents can ask questions and provide feedback. While the public consultation results will not be available at the Committee of the Whole Meeting, the results will be available for the December 17<sup>th</sup> Council meeting.

Given what we know at this time in relation to recreational cannabis, the following list may assist Council in it’s decision making on whether to opt in or opt out of retail cannabis in Burlington.

Pro:

- Economic development opportunities – businesses, jobs, additional property and business taxes
- Assist with combating the illegal market and crime associated with the illegal market
- Assist with keeping cannabis out of the hands of youth (Federal Regulatory Framework)
- Protect public health and safety by allowing adults additional (beyond online sales) access to safe, legal cannabis within the City of Burlington
- Individual municipalities will receive \$10,000 to assist with moving to legalized cannabis, and more if they opt in to retail stores
- If Ontario's portion of the federal excise duty on recreational cannabis over the first two years of legalization exceeds \$100 million, the province will provide 50 percent of the surplus only to municipalities that have not opted-out as of January 22, 2019.

Con:

- Retail stores are exempt from municipal business licensing and land use planning. This means municipalities cannot set:
  - density targets
  - additional distance separator requirements for other uses (may include youth-serving facilities such as recreation centers, libraries, parks, child care centres as per Halton Region Report MO-26-18)
  - additional regulations for store locations based on community input
- Potential for clusters of retail stores beyond what the community deems tolerable
- Costs related to legalization of recreational cannabis may exceed the payment provided by the provincial government
- Not assist with combatting the illegal market and crime associated with the illegal market
- Have no access to the sharing in any surplus cannabis revenues over \$100 million – this holds true even if municipalities decide to opt in at a later date.
- Halton Region recently tabled a report on cannabis legislation (MO-26-18, Nov 21, 2018) that states “research related to alcohol and tobacco use has shown that increased availability of a substance results in increased consumption and related health and social harms”.
- Once a municipality opts in, they cannot opt out.

The landscape is continuing to change regarding recreational cannabis and staff will continue to monitor the issue and update council as information becomes available. This will include an update from the November 27, 2018 AGCO webinar and the upcoming City of Burlington consultation.

**Discussion:**

The decision to opt in or opt out of privately run retail cannabis stores in Burlington is a significant one. Staff are not prepared to make a recommendation now, due to the upcoming consultation that will occur in the first two weeks of December 2018.

The following information is to assist members of Council in understanding the parameters and potential impacts of the decision.

1. The provincial government has set the distance criteria as being only from schools. There is no indication that the provincial government, at this time, will look to other vulnerable uses – parks, arenas, community centres, libraries – for additional distance separation criteria. Council should be aware that the decision to opt in or opt out will need to be made based on distance from schools only.
2. Given the school distance criteria is the only distance parameter, it is important that Council consider parks, arenas, community centres, libraries, day care centres, addiction treatment facilities and whether distance separation from retail cannabis stores is appropriate for these uses. Staff will undertake further research on this and report back to Council with recommendations. The information would be used as a Council position when staff comment to the AGCO on any retail cannabis store applications, should Council decide to “opt in”. Second, this information would form the basis of advocacy with the provincial government for any changes arising from the research and report.
3. The issue of smoking in public places was addressed at the November 21, 2018 meeting of Regional Council where regional staff were requested to develop a regional approach to smoking in public. The smoking in public places issues are not entirely related to private retail cannabis – as cannabis is available legally in Ontario through the OCS and citizens may grow, privately, a limited number of cannabis plants. This is to say that cannabis will be in Burlington whether Council opts in or not. Council should direct staff to work with regional staff on a common approach of going beyond the *Smoke Free Ontario Act*.
4. An update on the public consultation through the online “Get Involved Burlington” work and the December 12, 2018 town hall will be provided for Council at its meeting of December 17, 2018.

5. The City's Zoning By-Law will need to be amended to address production of recreational cannabis. Currently the by-law only addresses medical production so a zoning study together with public consultation will need to occur. This study needs to be done and is not related to Council's decision on private retail cannabis.
6. Staff will monitor the impacts of cannabis legalization on the City's operations and report back to Council on the impacts later in 2019. Some of the impacts are dependent on the opt in/opt out decision (example: if Council opts in, the City will need to comment on applications for retail cannabis stores).
7. The revenue considerations, based on what is known as of right now, are small. The contributions from the initial funding are a minimum of \$5,000 per municipality. Future payments will be based on factors such as how many municipalities opt in, how much revenue is generated from private retail cannabis, and whether the revenue goes beyond the \$100 million (where the province increases payments to municipalities). The cost considerations are also not known at this time – this will depend on a number of factors including number of stores in Burlington should Council opt in.
8. For Council's information, the next wave for consideration will be cannabis edibles which are to be legal by October 2019 (smoothie bars, experiences, private clubs, consumption lounges etc.)

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### **Financial Matters:**

The only funding known at this time is the \$5,000 to be provided to all municipalities to assist with issues related to the legalization of recreational cannabis. Please see the letter from the Ministry of Finance attached as Appendix F to this report.

### **Other Resource Impacts**

Unknown at this time.

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### **Connections:**

This report outlines federal and provincial legislation that has an impact on the City of Burlington.

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## **Public Engagement Matters:**

Staff will be using “Get Involved Burlington”. The Mayor will also be hosting a town hall meeting on December 12, 2018 to receive resident input on this issue.

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## **Conclusion:**

Staff have been working diligently to keep up with the changing legislation and regulations related to recreational cannabis. This report details all of the changes that have occurred since the CIP memo went to Council October 5, 2018. Staff recommend that we proceed with the recommendations as outlined in city manager’s office report CM-20-18.

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Respectfully submitted,

Leah Bisutti

Manager of Corporate Policy Initiatives

Tami Kitay

Manager of Development Planning

Lisa Shields

Assistant City Solicitor

Mary Lou Tanner

Deputy City Manager

## **Appendices:** (if none delete section)

- A. Council Information Package (CIP) Memo on Legalization of Cannabis from Oct 5, 2018
- B. Alcohol and Gaming Corporation of Ontario’s (AGCO) Cannabis Retail Regulation Landscape
- C. Halton Region Report MO-26-18 Update on Cannabis Legislation from Nov. 21, 2018
- D. Burlington Map of Retail Cannabis Exclusion Zone – 150m from schools
- E. Burlington Map of Expanded Exclusion Zones – 150m from schools, arenas, libraries, community centres, pools and city parks
- F. Letter from Ministry of Finance

**Notifications:**

City Clerks of Halton Region - Oakville, Milton and Halton Hills

Hon. Karina Gould, MP

Hon. Jane McKenna, MPP

**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.

**Appendix A**



**. . . Memo**

**To: Mayor and members of Council**  
**From: Leah Bisutti, Manager of Corporate Policy Initiatives**  
**Cc: Burlington Leadership Team**  
**Date: October 5, 2018**  
**Re: Legalization of Cannabis Update**

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This is an update regarding the province's cannabis legalization and the implications for the City of Burlington since report CM-11-17 went to Council November 13, 2017.

Bill 36 was introduced to the Provincial Legislature on Sept 29, 2018. It is proposed to become law on October 17, 2018. AMO released a technical briefing on Oct 3, 2018 for municipalities on Bill 36 entitled: Municipal Governments in the Ontario Recreational Cannabis Framework. The briefing is attached to this memo. It presents all the elements of the Bill and provides salient highlights of what needs to be considered by municipalities moving forward.

Important highlights:

- Several City, Board of Education and Local Chamber staff as well as other community members were invited by Jane McKenna, MPP, to attend a Provincial Consultation meeting on the new cannabis retail model on August 24, 11:00-12:00. Stakeholder feedback was sought on license eligibility and allocation/contracting, store operations and role of Municipalities and/or First Nations.
- Halton Regional Police Services hosted a media event at their headquarters September 19, 2018 to answer questions regarding the HRPS enforcement after legalization in October.
- Bill 36 allows municipal governments to opt out of having private retail stores located in their communities. The new council must decide if they want to opt out of retail cannabis locations by Jan 22, 2019. Please see the AMO technical briefing attached on the implications for opting out of retail locations.
- The Alcohol and Gaming Commission of Ontario (AGCO) will be responsible for licensing and regulating private cannabis retail in the province. The first retail stores will be

operational on April 1, 2019. Regulations will determine the minimum distances from schools for these locations.

- The Standing Committee on Social Policy will meet on October 11 and October 12 for public hearings on Bill 36. It is anticipated that AMO will present to the committee and provide comments based on their technical briefing.
- Internal staff team have been meeting to discuss developments as they occur. Staff from Legal, Zoning, By-Law, Human Resources and the CMO are represented.
- City of Burlington staff have been meeting with the Regional Cannabis Legalization Working Group, the Halton Regional Enforcement Working Group and the Halton Municipalities Communications Group regarding the legalization of recreational cannabis.

Things are moving very quickly regarding the legalization of recreational cannabis. However, Bill 36 is now at first reading and there may be changes once it moves out of the committee process. Accordingly, AMO has advised municipalities not to rush to make an opt-out decision as they have until January 22<sup>nd</sup> to do so. They have also advised that it is best to wait until the legislation has passed and there is a more fulsome understanding of its impact on municipalities. In the meantime, staff will continue to monitor the passage of Bill 36 as well as AMO's involvement in advocating on behalf of municipalities and will report back on any new developments.

Key areas staff will be monitoring:

- Issues related to planning and zoning for retail store fronts (currently municipal official plans, zoning approvals and licensing by-laws will not apply)
- Issues related to the enforcement of the Smoke Free Ontario Act
- Request of municipalities to track our costs related to legalization

Regards,

Leah Bisutti

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October 3, 2018

# Briefing: Municipal Governments in the Ontario Recreational Cannabis Framework

## What Ontario Municipal Governments Need to Know About What Has and Has Not Changed

### Introduction

In 14 days, it will be legal in Canada to possess or use cannabis subject to certain limits. The federal government amended the Criminal Code to enable Canadians to buy, sell and consume cannabis and cannabis products. Under federal legislation, Health Canada administers the licensing regime for recreational cannabis growers. These licensed producers serve as the sole source of legal recreational cannabis in Canada. The federal framework includes rules regulating grow operations as well as the advertisement and promotion of cannabis, which is strictly controlled to protect youth.

Under federal legislation, provinces are responsible for establishing wholesale and retail distribution systems. Jurisdiction over rules regarding where individuals can consume cannabis also resides with the provinces. ■

### Ontario's Approach:

The key proposed amendments in Bill 36 are:

- i) to allow private sector retail stores where a municipal government has not opted out of retail sales;
- ii) establish the Alcohol and Gaming Commission of Ontario (ACGO) as the retail store licensing body and
- iii) align cannabis consumption rules with tobacco places of use under the *Smoke Free Ontario Act*.

For a breakdown of changes proposed by the legislation, [click here](#). ■

## Retail Distribution on 17.10.18:

Ontario residents will be able to order cannabis legally from the Ontario Cannabis Retail Corporation (OCRC) starting October 17, 2018. The OCRC will be the only legal distributor for wholesale cannabis to retailers and the on-line retailer to the public. Delivery is conditional on the person ordering and receiving the cannabis product being an Ontario resident and 19 years of age or over. Identification is required. Packages cannot be left unattended in a building or home. ■

## Places of Use:

If Bill 36, as proposed, becomes law on October 17, smoking recreational cannabis will be legal where tobacco consumption is permitted under the *Smoke Free Ontario Act*. It is illegal to smoke tobacco in enclosed workplaces, restaurants, bars and patios, schools, near playgrounds and publicly owned sports facilities and other locations. Municipal governments can also enact stricter by-laws on places to smoke in their communities. This allows municipal governments to reflect community preferences for the safety of residents and to balance public enjoyment of the community. However, in considering stricter requirements, municipal governments should also consider the cost of enacting locally determined rules and how they will be enforced. ■

### **Take Away:**

The proposed rules governing where it is legal to smoke cannabis are changing. Public Health Units enforce the SFOA smoking rules. Municipal governments can pass stricter smoking by-laws but will need to consider cost and enforceability.

## Provincial Licensing of Retail Stores:

The new legislation authorizes the Alcohol and Gaming Commission of Ontario (AGCO) to license and regulate private cannabis retail in the province.

The AGCO will establish processes for Retail Operator Licensing and Retail Store Authorization for retail cannabis stores in communities where municipal governments have not opted out. The AGCO and police will also be responsible for inspections and enforcement of the Act. Municipal official plans, zoning approvals and licensing by-laws will not apply. The AGCO has three licensing functions:

- The AGCO will be responsible for licensing cannabis Retail Store Operators. Licensing will be subject to criminal and financial eligibility checks. The AGCO is aiming to open the application process for store operator licenses in December 2018.
- Once a specific cannabis retail site has been proposed, the AGCO will be responsible for determining and granting Retail Store Authorization.
- The AGCO will also license Cannabis Store Retail Managers employed in senior positions at retail locations.

The AGCO will charge fees to cover the cost of administering of the licensing and retail store authorization processes.

The AGCO will provide municipal governments and the public with a 15-day notification period of a proposed store site to receive public input and hear concerns from the local community. Under the proposed law, the AGCO will consider comments from both the lower and upper tier municipality. The public notification of a proposed cannabis retail site will also be posted on the building and on the AGCO's website.

Further details as to how the public notification process will work are not yet available. In providing comments, the Bill says municipal governments must have regard to the needs and wishes of residents. AMO is seeking clarity on what this means since cannabis retail siting is exempt from typical land use planning processes.

Store locations will need to observe a minimum distance from schools. This distance will be specified in regulation. AMO is seeking clarity on how other local sensitive uses will be considered by the AGCO in its decision-making process.

There is no cap on the number of storefronts, leaving it to market demand to decide locations and the number of stores. However, there is regulatory flexibility in the Act to set concentration limits to ensure one or a few operators do not dominate the retail market.

It is unclear if a cannabis retail store would need to be located within a municipal commercial zone where retail is a permitted use or in any zone where retail is permitted.

AMO had hoped that municipal governments would have greater opportunity to influence store locations to protect other sensitive sites and the density of stores in their communities. This is an ongoing interest of municipal governments and will form part of AMO's continuing work, including engagement on regulatory development.

The first retail stores are to be operational April 1, 2019, after all licenses and authorizations are in place. It is presumed that all store locations will be required to be compliant with the Ontario Building Code and Fire Code. ■

### Take Away:

The AGCO will license operators, approve store sites proposed by licensed operators and license cannabis retail managers to work in retail stores. Where municipal governments have not opted out, a 15-day notice period will allow comments from the public and municipal governments.

Regulations will set minimum distances from schools for retail locations. The government may also pass regulations to control market concentration of a single retail operator or corporation.

At this point it is unknown whether local zoning compliance will be needed for site approval.

AMO will continue to seek opportunities for municipal influence over store locations and density.

### Municipal Opt Out of Cannabis Retail:

Municipal governments (defined in the Act as a local municipality) have a one-time opportunity to opt out of cannabis retail in their communities. There is no time period for a local municipality to opt back in via resolution. If the opt out is reversed by a municipal government, that decision is final.

To opt out, municipal councils must pass a resolution by January 22, 2019 stating they do not wish to host cannabis retail stores in their communities. The resolution must be sent to the AGCO. The AGCO's receipt of this resolution will automatically cancel any outstanding applications for a storefront in the municipality. The AGCO will keep a public list of communities that have opted out of hosting cannabis retail



stores. Operators will not be able to propose a store location or locations in those communities. The Minister of Finance will track municipal governments who opt out as this may impact the distribution of funding to help with costs. ■

with additional fines per day that the offence continues). These fines are levied under the *Provincial Offences Act* (POA). If successfully prosecuted and collected, the fine is paid to the municipal government. ■

### Take Away:

Municipal governments can opt out of hosting recreational cannabis retail storefronts in their communities by January 22, 2019 by sending a resolution to the AGCO. This opt out can be reversed but any decision to opt in is final.

Opting out may affect the portion of cannabis excise tax funds a municipal government is eligible to receive.

### Take Away:

The first legal cannabis retail storefronts will open on April 1, 2019. To be eligible to receive an operator license, current illegal dispensaries must close before October 17. Any stores operating in Ontario without AGCO licenses are illegal and subject to police enforcement and prosecution.

POA fines apply.

## Illegal Storefronts - Dispensaries:

Recreational cannabis is illegal until October 17, 2018. In Ontario, cannabis retailers MUST have AGCO operator licenses, site authorizations and employ authorized staff. They must also display a seal. To be eligible for AGCO authorizations, current illegal cannabis retailers will need to shut down prior to October 17, 2018. They may then apply for a retail operator license unless charged under federal or provincial cannabis legislation that comes into effect October 17. This may impact the closure of current illegal dispensaries without police intervention.

Unauthorized sales of cannabis are subject to significant POA fines (up to \$250,000 for individuals and \$1,000,000 for corporations, with additional fines per day that the offence continues) and police can issue closure orders to prevent unauthorized retail sites from reopening. Landlords can also be charged for permitting their property to be used in contravention of the Act (up to \$250,000 for individuals and \$1,000,000 for corporations,

## Enforcement:

Police will enforce the federal and provincial cannabis legislation. The federal government has provided funds to police forces for training and the Ontario government has worked with Ontario Provincial Police and municipal police forces to increase the number of officers trained in the Standard Field Sobriety Test and as Drug Recognition Experts.

The AGCO will enforce licensing, renewals and adherence to any conditions. This will include inspections of store operations, the financial practices of the operators, ensuring licensed personnel are working in stores as required and discharging their duties appropriately, ensuring rules regarding sales are followed, etc. Contravention of provincial and federal requirements and laws can result in the revocation of operator licenses.

Public Health Units enforce the SFOA currently and deal with places of use for tobacco. Cannabis use enforcement will be added to these duties since the locations will be the same as now, unless municipal governments pass stricter smoking by-laws. Passing and enforcing stricter local smoking by-laws may increase local public health unit budgets for municipal governments.

Bill 36 includes provisions for municipal government councils to request that the Minister authorize in writing for local by-law enforcement officers to enforce the Act. This may be a preferred option longer term for new councils to consider after learning more about the transition impact of legalization.

The federal *Cannabis Act* strictly controls the operations of licensed growers as well as the advertising and promotion of cannabis. Growers must adhere to strict security requirements and seed to sale tracking of their products under the terms of Health Canada registration. Rules and regulations regarding

promotion and advertising also have the effect of banning cannabis promotion through mass advertisement channels because of youth access to these mediums. Section 23 of the federal *Cannabis Act* also pertains to the display of advertisements and could impact municipal governments who display third party ads. Fines and penalties can be levied against an entity for disseminating prohibited cannabis promotions. Where municipal governments own advertising vehicles (such as transit ads or street furniture, etc.) they may wish to consider prohibiting advertising related to this activity. ■

### **Take Away:**

Police forces will enforce road safety and illegal storefronts. The province has provided training to police officers and is working to expand Drug Recognition Expert training. Public Health Units will enforce smoke free Ontario rules.

AGCO will inspect, investigate and enforce rules for registered operators and stores, including financial practices and illegal activities, if any.

Federal cannabis advertising rules are strict. Municipalities should ensure that their policies for transit and other municipal advertising channels are in line with these requirements.

## Municipal Funding:

The transition to legal recreational cannabis will impact local services and municipal government functions including: policing, public health, bylaw enforcement and potentially paramedic services.

To help manage these municipal impacts, the provincial government has confirmed that it will honour its commitment to provide municipal governments with \$40 million of Ontario's portion of the federal excise tax on cannabis with a 50/50 provincial-municipal split if Ontario's revenues exceed \$100 million in the first two years. The commitment is:

- \$40 million over two years to municipal governments.
- At least \$10,000 for each municipal government with \$5,000 distributed to all municipalities as soon as possible. Another \$5,000 will be distributed in 2019.
- For municipal governments allowing stores, additional funding will be distributed on a per household basis. The province will also maintain a contingency fund to support additional and unanticipated costs.

Clearly, the provincial funding provides an incentive to municipal governments to allow private cannabis retail in their communities. There has been a sense that the federal excise tax amount will not cover provincial or municipal costs. Legal recreational cannabis is new to everyone. Some costs may increase such as nuisance calls, while others, such as police enforcement, may decrease. At this point, we do not know the impact. AMO urges municipal governments to track costs for **additional** work relating to the transition to legal recreational cannabis so data is available to protect local finances and services. ■

### **Take Away:**

All municipal governments will receive at least \$10,000 to help transition to legal recreational cannabis in our communities.

Communities that decide to allow retail storefronts will receive \$10,000, plus per household funding, and will be eligible for a share of 50 per cent of the surplus funding if the province's share of federal excise tax exceeds \$100 million in the first two years.

Municipal governments must track additional expenditures related to legalized recreational cannabis.

## Licensed Producers and Medical Cannabis:

Cannabis growing operations are licensed by Health Canada for medical and recreational cannabis products. It is also legal for residents to grow up to four plants per residence for personal use.

Medical cannabis users will continue to access cannabis in the same way as they do now. For some, that means that they order from licensed producers and Canada Post delivers their cannabis. Others grow their own for their personal medical use. Others still designate growers to provide the cannabis they need to manage their medical needs. It is anticipated this will continue, though some current and future patients may elect to get their cannabis from the recreational market if their specific requirements are met. The courts have upheld access to medical cannabis, including through designated growers.

As proposed, Bill 36 will also allow cannabis growers licensed by Health Canada to apply to operate one retail facility at a growing location.



This responds to the desire of cannabis producers to have vertically integrated cannabis operations. AMO understands this may function somewhat like retail operations at Ontario wineries and breweries.

AMO's Board has sought greater control for municipal governments over cannabis growers to ensure community concerns can be acted upon, such as through planning and licensing controls. For municipal governments that may be challenged working with some of these growers, we advise continued engagement and monitoring through the transition period. ■

### **Take Away:**

It is illegal to grow more than four plants per residence.

Medical cannabis users are able to continue accessing cannabis in their currently preferred method(s). In some communities, there may be concerns about conflicts between some growers and their neighbours. The courts have upheld this activity as part of a patient's right to access medicine.

Licensed Producers in Ontario will be able to open one store at one location to retail their products.

### **Next Steps:**

Municipal governments do not need to rush to make an opt-out decision. They have until January 22nd at the latest. Our advice is for new councils (post municipal election) to wait to have a full understanding of the legislative authority (once it is passed), the content of regulations (yet to be tabled) and an understanding of the AGCO's process for dealing with retail store licenses and store authorizations before making a decision to opt out. AMO is preparing to present to the Standing Committee reviewing the legislation on municipal concerns and challenges and seek any amendments deemed necessary. Municipal governments that have suggested amendments are urged to get in touch with AMO ASAP.

AMO is committed to advocating for municipal interests and providing as much assistance to members to facilitate local decision-making. Aspects of this will become more apparent over the coming weeks. AMO encourages municipal officials to bookmark the AMO website to keep up to date, and to reference other information. ■