



Staff Report for Committee of the Whole Meeting

Date of Meeting: December 11, 2018

Report Number: SRCAO.18.24

Department: Office of the Chief Administrative Officer

Division: Strategic Initiatives

Subject: Update on Provincial Cannabis Legislation

Purpose:

The purpose of this report is to provide Council with an update on the Cannabis Law Statute Amendment Act, 2018 and implications for Richmond Hill.

Recommendation(s):

- a) That SRCAO.18.24 be received for information purposes.
- b) That a by-law be enacted to establish a reserve to maintain funds received from the Ontario Cannabis Legalization Implementation Fund (OCLIF).

Contact Person:

Lise Conde, Manager, Policy and Intergovernmental Affairs

Tracey Steele, Director, By-law & Licensing Enforcement

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Meeta Gandhi, Director, Communication Services

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Jeff Baker, Acting Manager, By-law & Licensing Enforcement

Report Approval:

Submitted by: Gwen Manderson, Director of Strategic Initiatives

Approved by: Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

Page 2

Background:

In April 2017, the Federal Government introduced legislation to set out the federal framework for the legalization of recreational cannabis. This legislation provided provinces and territories with the authority to regulate the sale and distribution of recreational cannabis.

In response, the Provincial government of the time introduced Bill 174, The Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017, which established a provincially operated store front and online retail system operated by a subsidiary of the Liquor Control Board of Ontario (LCBO).

On December 11, 2017, Richmond Hill Council considered SRCAO.17.30 entitled “Legalization of Cannabis” and as a result, approved a resolution advising the Attorney General and Minister of Municipal Affairs and Housing that “Richmond Hill is not a willing host of a cannabis retail location in our community.” The resolution further directed that the Town’s Employee Code of Conduct be updated to add cannabis as one of the substances that must not impair an employee at work. This has since been done.

On June 7, 2018, a new Provincial Government was elected that subsequently changed the recreational cannabis retail model for Ontario to one of private retail locations licensed by the Provincial Government.

On June 21, 2018, the Federal Government enacted the legislation introduced in 2017, setting the date for the legalization of cannabis as October 17, 2018.

On October 17, 2018, the Provincial Cannabis Statute Law Amendment Act received royal assent. This legislation regulates the use and sale of cannabis products in Ontario. The sale of cannabis through the online Ontario Cannabis Store began in October 2018, with plans for a regulated private retail sales model to launch on April 1, 2019.

Bill 57, The Restoring Trust, Transparency and Accountability Act, 2018, introduced by the Provincial Government in November 2018, proposes an amendment to the Municipal Act which would allow municipalities to prohibit or regulate the smoking of cannabis, in addition to tobacco, in public places and workplaces.

The Federal and Provincial legislation described in this report deals with recreational cannabis, not medicinal cannabis, which is addressed under separate statute. Nor does it deal with cannabis cultivation beyond the federal permission for up to four plants per dwelling.

Page 3

The Cannabis Law Statute Amendment Act, 2018

The Province's Cannabis Law Statute Amendment Act sets out parameters for the legal use and sale of recreational cannabis in Ontario. Specifically, it:

- Prohibits the smoking or vaping of cannabis in indoor common areas, enclosed public places, and within 20m of, or at school, on school grounds, and all public areas, along with other areas where smoking tobacco is also prohibited.
- Sets out a framework for licensing of cannabis operators, stores and managers, which will be administered by the Alcohol and Gaming Commission of Ontario (AGCO), including an approved training program. AGCO licensing requirements include that applicants must be at least 19 years of age, that there are no reasonable grounds to believe that the applicant “will not be financially responsible in the conduct of the applicant’s cannabis retail business, having regard to their financial history” or that “the applicant will not carry on business in accordance with the law, or with integrity, honesty or in the public interest.” Applicants can also be denied a licence if they are charged or convicted with an offence under the act, but past charges or convictions with a prescribed offence under the Controlled Drugs and Substances Act (Canada) in relation to cannabis would not disqualify an applicant from receiving a licence. Notably, illegal cannabis retailers who were operating after October 17, 2018 are not eligible for Ontario cannabis sales licenses.
- Prohibits municipalities from establishing a licensing program for cannabis business as well as targeted zoning to prohibit cannabis retail on land or in a building or structure where retail would otherwise be permitted. However, O. Reg. 468/18 requires that stores be in stand-alone buildings.
- Allows Municipal Councils to pass a resolution opting-out of retail cannabis locations in their municipality before the deadline of January 22, 2019. Municipalities are able to opt-in by Council resolution and have cannabis retail later, but may not then opt-out again. If Councils do not pass a resolution opting-out before January 22, they are deemed to have opted-in to retail cannabis locations.

On October 18, 2018, Richmond Hill enacted a by-law prohibiting smoking or vaping cannabis in all public places, including Town buildings, trails, parks, sidewalks, and all retail, commercial and business establishments.

Page 4

Retail Cannabis Stores and Municipalities

Cannabis Retail Locations

Municipalities are not permitted to designate cannabis retail as a separate land use from a general retail zoning as a way to limit store locations and are not permitted to set up municipal cannabis licensing requirements.

The AGCO Registrar is required to give notice of an application for a retail store authorization by displaying a notice at the location of the proposed cannabis retail store specified in the application and posting notice to the AGCO website. Such notice

“shall include a request for the municipality, its residents and, if the municipality is a lower-tier municipality, the upper-tier municipality of which it forms a part, to make written submissions to the Registrar, which must be made no later than 15 days after the notice is first given, as to whether the issuance of the retail store authorization is in the public interest, having regard to the needs and wishes of the residents.”

The regulations will establish a minimum distance of 150 metres (approximately 500 feet) between cannabis retail stores and schools, including private schools. A map of such buffer areas for Richmond Hill is included as Appendix A.

Information regarding how the AGCO Registrar will evaluate comments on proposed store locations submitted by municipalities who have agreed to host store locations is not yet available. The basis for municipal comments is to be limited to whether the location is in the public interest, which is understood to mean public health and safety, protecting youth and restricting their access to cannabis, and preventing illegal activities in relation to cannabis.

Where a municipality has opted-out of having retail cannabis stores, the application will be deemed ineligible and no notice is required, this includes applications submitted before the deadline for municipalities to opt-out.

Further information about Ontario’s Cannabis Retail Regulation Landscape can be found in Appendix B, which can also be found online at https://www.agco.ca/sites/default/files/cannabis_landscape_0.pdf.

Municipal Funding for Implementation Costs and Share of Revenue

The Province has announced that it will provide \$40 million over two years to help municipalities with the implementation costs of recreational cannabis legalization

Richmond Hill has received correspondence from the Province, included as Appendix C, which indicates that our first payment allocation from the Ontario Cannabis Legalization Implementation Fund (OCLIF), based on a per household calculation will be \$84,168.

Page 5

A second payment from OCLIF will be provided to municipalities that do not opt-out of private retail cannabis and is expected to be the same amount as the Province has indicated they will calculate it based on the same household count as the initial payment.

Municipalities that opt-out of retail cannabis stores will be eligible for the first payment, but a second payment of no more than \$5,000 only. If a municipality opts-out and then opts in at a later date, they will still only received a second payment of no more than \$5,000. This first and second payment funding can be used for costs to the municipality associated with the legalization of recreational cannabis, such as by-law and policy development, increase response to public inquiries and increased enforcement. Municipalities are required to document how the funding is used.

The Town has already incurred costs associated with the legalization of recreational cannabis. This includes the work of at least 12 staff from various areas of the organization (Strategic Initiatives, Communication Services, By-law and Licensing Enforcement, Fire and Emergency Services, Development Planning, Legal Services and Human Resources) completing activities such as:

- The analysis and development of policies, including reports and issue notes;
- Attendance of Provincial training sessions on the legalization framework;
- Attendance at municipal conferences on the community impact of recreational cannabis (such as AMCTO);
- Attending and preparing for Region of York Inter-Municipal Cannabis Working Group and subcommittee meetings;
- Responding to inquiries from the community and the media.

The outcomes of this effort includes the development of key messages and a documented enforcement process, training for Access Richmond Hill staff on response to inquiries, providing input on regional communication documents, establishing relationships with national media, facilitating the development of the Town's cannabis policies and writing reports to Council (including amendments to the Employee Code of Conduct and the prohibition of smoking or vaping cannabis in certain areas of the Town) and presentations to staff and Council.

Staff propose to carry forward with these activities and that this use of staff and other resources be tracked for the purpose of using the OCLIF funding to offset the costs to Richmond Hill of this additional level of service. This will allow the Town to be proactive in our approach as retail cannabis stores roll out in 2019 by considering emergent issues, including through focused communication efforts.

In order to do this, staff would recommend that a reserve be set up for the OCLIF funding so that funds can be drawn to offset these costs during the year.

The Province has also announced that for any portion of the federal excise duty received by Ontario on recreational cannabis over the first two years of legalization

Page 6

exceeding \$100 million, the province will provide 50 per cent of the surplus only to municipalities that have not opted-out as of January 22, 2019.

Opting Out of Cannabis Retail Locations

The Cannabis Law Statute Amendment Act, 2018 provides for municipalities to opt-out of retail cannabis stores by resolution of Council and notice to the AGCO Registrar by January 22, 2019. This has funding implications, in that these opt-out communities will not be eligible for any share of the federal excise duty revenue to be provided to municipalities by the Province. They will also not receive the full second payment funding from OCLIF as discussed above.

A summary of the financial implications for opting-out of retail cannabis stores is below.

Funding	If Richmond Hill hosts retail cannabis	If Richmond Hill opts-out of retail cannabis
OCLIF Payment No. 1	\$84,168	\$84,168
OCLIF Payment No. 2	Anticipated to be \$84,168	No more than \$5,000
Share of federal excise duty	50% of revenue above \$100 million to be shared among all opt-in municipalities in Ontario	Richmond Hill would not be eligible for this revenue if Council opts-out of retail cannabis
Totals	\$168,336 plus an unknown amount of additional tax revenue from the Province	\$89,168

Should Council wish to opt-out, the following motion is provided for Council's consideration:

That Richmond Hill opt-out of cannabis retail stores within its municipal boundaries in accordance with the Cannabis Law Statute Amendment Act, 2018, which allows municipalities to do so before January 22, 2019;

That the Clerk provide notice of this decision of Richmond Hill Council to the Alcohol and Gaming Commission of Ontario (AGCO) Registrar as required by the Act;

That a by-law be enacted to establish a reserve to maintain funds received from the Ontario Cannabis Legalization Implementation Fund (OCLIF).

Page 7

Financial/Staffing/Other Implications:

The Province has outlined funding arrangements with municipalities with respect to the implementation of recreational retail cannabis in Ontario. Any Provincial revenue over \$100 million from federal excise tax from cannabis over the first two years of retail cannabis sales will be shared on a 50/50 basis with municipal governments that do not opt-out of (prohibit) retail sales. In addition, initial funding of \$84,168 from the Ontario Cannabis Legalization Implementation Fund (OCLIF) will be provided to Richmond Hill, with a second payment, anticipated to be the same amount, only if Council does not opt-out of retail cannabis locations. If Council does opt out, the second payment would be for no more than \$5,000. This report recommends that a reserve be established to maintain this funding while it being drawn on to support activities related to recreational cannabis implementation.

Relationship to the Strategic Plan:

Monitoring the federal and provincial legislation regarding the legalization of cannabis directly relates to Strategic Plan Goal One – Stronger Connections. By understanding, reviewing and commenting on Federal and Provincial legislation the Town is able to advocate on behalf of its residents. It ensures the Town is in a position to respond to any changes that may take place as a result of this policy decision.

Conclusion:

The retail landscape for cannabis in Ontario will change significantly as of April 1, 2019 as a result of the Cannabis Law Statute Amendment Act, 2018. Considerations and implications for municipalities include AGCO requirements for licensing retail stores, as well as education and enforcement of cannabis regulations, the opportunity to opt-out from retail altogether and anticipated financial support from the Province.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A: Map – Town of Richmond Hill Cannabis Retail Proximity to Schools
- Appendix B: Ontario's Cannabis Retail Regulation Landscape
- Appendix C: Correspondence from the Province on the Ontario Cannabis Legalization Implementation Fund (OCLIF)

Page 8

Report Approval Details

Document Title:	Update on the Cannabis Statute Law Amendment Act 2018 11.29.18.docx
Attachments:	<ul style="list-style-type: none">- Appendix A Town of Richmond Hill Cannabis Retail Proximity to Schools.pdf- Appendix B Ontario's Cannabis Retail Regulation Landscape.pdf- Appendix C Correspondence from the Province on OCLIF.pdf
Final Approval Date:	Nov 30, 2018

This report and all of its attachments were approved and signed as outlined below:

Gwen Manderson - Nov 30, 2018 - 7:15 AM

Neil Garbe - Nov 30, 2018 - 2:26 PM