

**Community Services Report to
Intergovernmental Affairs Committee
2019 February 14**

**ISC: UNRESTRICTED
IGA2019-0199**

Cannabis Regulations Response and Update on Cannabis Legalization

EXECUTIVE SUMMARY

On 2018 October 17, Bill C-45, *The Cannabis Act*, came into force legalizing non-medical cannabis in Canada. Non-medical cannabis is now legal in limited forms, including dried flower and low-concentration oils. On 2018 December 22, Health Canada released proposed regulations for cannabis extracts, edibles and topicals and invited feedback from Canadians until 2019 February 20. The federal government has committed to legalizing further forms of cannabis including extracts, edibles and topicals by 2019 October 17. This report provides Administration's analysis of the anticipated municipal impact of the proposed federal regulations as well as an overview of cannabis legalization in Calgary since 2018 October 17.

ADMINISTRATION RECOMMENDATION:

That the Intergovernmental Affairs Committee request that the Mayor submit a response on behalf of The City of Calgary to Health Canada on the proposed federal regulations, as outlined in this report.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2017 July 24, Council approved The City's response to provincial engagement on cannabis legalization contained in Report IGA2017-0586. The response included: support for a privatized framework for retail cannabis sales, contingent upon the sharing of tax revenues with municipalities; advocacy for timely decisions by the provincial government to facilitate City processes; and advocacy for funding to support Calgary Police Service's role in legalization. A summary of The City's advocacy positions and comparisons to the proposed federal and provincial legislation is provided in Attachment 1.

BACKGROUND

In 2016, in anticipation of pending legalization, Administration established a working team of subject matter experts (SMEs) from across the organization, including representatives from Intergovernmental & Corporate Strategy, Law, Calgary Growth Strategies, Calgary Neighbourhoods, Calgary Community Standards, Calgary Transit, Human Resources, the Calgary Fire Department and the Calgary Police Service. This group identified issues of concern and potential impacts of legalizing cannabis to The City of Calgary, which formed the basis of The City's participation in both federal and provincial cannabis legalization engagement and the development of municipal advocacy positions. (Attachment 1)

On 2017 April 13, the Government of Canada introduced Bill C-45, *The Cannabis Act*, which came into force on 2018 October 17 to legalize and regulate certain forms of non-medical cannabis including: flower, low THC concentration oils, and seeds.

On 2017 November 10, the Government of Canada proposed an excise duty framework for cannabis products not to exceed \$1.00 per gram, or 10 per cent of the producer's sale price of that product, whichever is higher. It was also announced that provinces would receive a minimum of 75 per cent of the federal excise tax revenue and that the Goods and Services Tax (GST) would also be applied to retail cannabis sales.

On 2018 March 22, as part of the 2018-19 provincial budget, the Government of Alberta announced a 10 per cent tax on retail cannabis sales in Alberta to take effect upon legalization.

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This tax was in addition to the 10 per cent federal excise tax, and was to be collected by the federal government and redistributed to the Government of Alberta.

On 2018 October 15, the Government of Alberta announced a Municipal Cannabis Transition Program (MCTP) to provide funding grants to municipalities to offset costs related to cannabis legalization. Under the MCTP, The City of Calgary is eligible to receive \$3.84M over two years. The City of Calgary submitted its application for MCTP funding on 2019 February 1. Over the timeframe covered by the MCTP, The City of Calgary is expected to spend \$10.44M in responding to cannabis legalization. A summary of the MCTP grant and the municipal costs is included in Attachment 2.

On 2018 November 22, the Alberta Gaming, Liquor and Cannabis Commission (AGLC) suspended the issuance of any further licences for cannabis retail stores due to a shortage of cannabis products.

On 2018, December 22 Health Canada released proposed regulations for cannabis extracts, edibles and topicals and invited feedback from Canadians until 2019 February 20.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Health Canada Feedback

The regulations for cannabis extracts, edibles, and topical products proposed by Health Canada focus primarily on packaging and labelling requirements and on ensuring that products will not be appealing to youth. An overview of the regulations being proposed is included in Attachment 3.

The bulk of the proposed regulations remain outside of the municipal purview, however, there are some opportunities to make the process more business-friendly and to ensure that municipal concerns are addressed:

- Ensuring that federal licensing is as straightforward as possible and that one operator/facility can obtain multiple licences. A straightforward licensing process would enable a single facility to provide a variety of services including the growing, production and processing of cannabis and would help to encourage entrepreneurial investment in the cannabis sector.
- Clarifying and streamlining the requirement that applicants notify municipalities of their application. Existing regulations require applicants to both apply for municipal Development and Building Permits as well as notify the municipality in writing of the intent to apply with the federal government to become a licensed producer. Incorporating the written notification into a municipal Development Permit application would reduce redundancy and confusion with applications.
- Clarifying the applicability of landfill setback requirements. The proposed regulations distinguish between edible cannabis products and food, as defined by the federal government. This distinction may have implications for provincial regulations, including the required setback for edible cannabis processing facilities from such uses as landfills and hazardous waste facilities. Health Canada should work with their provincial and municipal counterparts to ensure that concerns, such as setbacks for processing facilities, are carefully considered in the context of regulating edible cannabis products.
- Supporting the regulation requiring ventilation systems to remove odours. Proposed federal regulations include a requirement for ventilation filtration systems to prevent the

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escape of odours. This proposed regulation supplements existing municipal requirements and provides for federal oversight.

- Ensuring that equipment used in the production and refining of cannabis products is safe. Some methods of cannabis extraction, including Butane Hash Oil and Supercritical Carbon Dioxide extraction, present safety concerns such as flammable compounds or extreme pressures. The federal government should include sufficient regulatory safeguards to ensure that cannabis extraction facilities do not pose a safety risk.
- Supporting the identification of cannabis products through THC marking symbols on individually packaged edibles and products. The proposed federal regulation includes a stipulation that all products containing THC, including edibles and vape cartridges, display a standardized cannabis symbol. Identification of individual products with THC symbols will facilitate identification by municipal enforcement and aid in the application of federal, provincial and municipal laws.

In addition to the proposed regulations, Administration views the call for input as an opportunity to re-emphasize The City's advocacy position on funding related to the municipal regulation and enforcement of cannabis legalization. As far back as 2016 November, The City established an advocacy position that:

"... the federal government create a tax revenue proposal that includes funding being allocated to municipalities."

The federal government agreed to share an increased portion of the federal excise tax with provinces in order to offset municipal costs associated with legalization. However the funding announced by the provincial government under the MCTP is insufficient to cover these costs. As a result, Administration continues to advocate to both the federal and provincial governments for a funding model that acknowledges associated costs to the municipality. Municipal funding is critical in realizing the stated goals of the federal and provincial governments, which include the protection of public health, protecting youth and keeping profits out of the hands of the illicit market.

Municipal Cannabis Update

At the time of writing, there are 75 licensed stores operating in Alberta, with 24 located in Calgary. A summary of the number of stores by municipality and province is included in Attachment 4.

Administration continues to work with the AGLC and business owners in order to address the current suspension on licences. At the time of writing, 159 applications have received a released Development Permit from The City for a cannabis retail store. Currently only 24 of these businesses have obtained a provincial licence. Administration continues to investigate options for those businesses that have met the municipal requirements but are unable to open until the AGLC lifts its suspension. Administration will return to Council in the coming months with a plan to address the potential for Development Permits to lapse due to the inability to commence the use as a result of the AGLC's suspension.

At the time of writing, there are two federally licensed cannabis production facilities in Calgary and released development permit applications for an additional six facilities.

Administration continues to monitor the impact of cannabis bylaws on people experiencing vulnerability and is scheduled to return to Council later in 2019 with reports monitoring the impact on both the vulnerable population as well as festivals and events in Calgary.

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Stakeholder Engagement, Research and Communication

The municipal working group on cannabis legalization representing affected business units from across the Corporation has met in order to provide input from all affected areas. As the cannabis file continues to evolve, affected business units within The City meet on a regular basis to consider and respond to issues as they arise.

Strategic Alignment

The proposed federal and provincial legislation generally aligns with The City's previously established advocacy positions, with some exceptions, as outlined in Attachment 1.

The recommendations in this report align with Council Directive W1:

Council and Administration need to speak in a collective voice that improves communication with Calgarians to help them understand: the services The City delivers; how their taxes are invested; that their municipal government functions to serve Calgarians; and that their municipal government is well-run and efficient.

Social, Environmental, Economic (External)

Legalizing, regulating and restricting access to cannabis has social, environmental and economic implications. Administration's advocacy positions and proposed approach to municipal regulations will continue to consider the breadth of implications to City operations and Calgarians.

Financial Capacity

Current and Future Operating Budget:

The current proposal by the Government of Canada does not include a share of tax revenue for municipalities. The City continues to advocate for the sharing of revenues from the taxation of recreational cannabis with municipalities. Responsibilities delegated to municipalities from the provincial and federal legislative changes have resulted in the need for additional resources. The funding provided through the MCTP offered by the Government of Alberta is insufficient to offset the costs incurred by the municipality as a result of legalization. For the last several months, Administration has been tracking the financial impact on the affected business units. A summary of the costs to the municipality and funding offered in the MCTP is provided in Attachment 2.

Current and Future Capital Budget:

There are no capital costs associated with this report.

Risk Assessment

A downloading of responsibility from the federal and provincial governments, coupled with a lack of sufficient funding, will impact The City's ability to adequately resource and fund municipal priorities. To address this risk Administration is proposing continued advocacy to both the provincial and federal governments for a funding model which is sufficient to offset the costs to The City.

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REASON(S) FOR RECOMMENDATION(S):

Health Canada is seeking feedback on draft regulations intended to address public health and public safety risks posed by edible cannabis, cannabis extracts and cannabis topicals. The City has the opportunity to provide feedback until 2019 February 20. A submission from the Office of the Mayor would address both the proposed federal regulations and the impact of the current funding arrangement.

ATTACHMENT(S)

1. Attachment 1 – The City of Calgary’s Advocacy Position – Comparison to proposed Federal and Provincial Legislation
2. Attachment 2 – Municipal Costs and MCTP Eligible Funding
3. Attachment 3 – Proposed Federal Regulations
4. Attachment 4 – Number of Provincially Licensed Cannabis Retail Stores