

February 14, 2018

To: Members
Executive Committee

Re: Cannabis Legalization - Municipal Preparedness Plan

RECOMMENDATION

1. That Council approve the issuance of the Saskatchewan Liquor and Gaming Authority's (SLGA) (six) cannabis retail store permits to private retail operators in Regina.
2. That the Administration develop options for municipal regulation of cannabis in relation to business licensing, zoning and community standards within the City of Regina (City).
3. That, in the event that the Government of Saskatchewan does not introduce regulations that prohibit smoking cannabis in indoor public places, Administration will report to Council with proposed amendments to *The Smoking Bylaw*, Bylaw 2017-20, regarding the smoking of cannabis in indoor public places.
4. That the Mayor, on behalf of City Council, write to the Premier of Saskatchewan to formally request that the revenue from cannabis be provided to the City to recoup all costs incurred.
5. That this report be forwarded to the February 26, 2018 City Council meeting for approval.

CONCLUSION

Municipalities are central partners in the federal government's efforts to fulfill its commitment to legalize and regulate cannabis across Canada. With the legalization of cannabis expected to occur in the summer of 2018, municipalities are moving forward with creating and adjusting bylaws, zoning and business practices.

Within Saskatchewan, municipalities are awaiting the release of a provincial regulatory framework. At a minimum, municipalities can anticipate changes to the legislation, regulation and business processes to align with provincial decisions.

The intent of this report is to provide information in terms of potential scenarios, outcomes, bylaws, policies and procedures that may have to be considered for amendment to facilitate the legalization of recreational cannabis.

BACKGROUND

Implementing the cannabis framework will require process and/or capacity changes in several

municipal departments, notably development services, bylaw services, community services, fire and protective services, police services and human resources.

In a general sense, provinces and municipalities have most of the tools and processes required to comply with cannabis legalization through existing building code, tobacco, and liquor controls that can be modified to address the majority of concerns, particularly once the added impaired driving enforcement tools are provided by the federal government.

Recreational Cannabis:

Federal Government:

On April 13, 2017, the federal government tabled two bills to realize its commitment to legalize and regulate cannabis in Canada:

1. Bill C-45, the *Cannabis Act*, which addresses the regulation, sale and cultivation of recreational cannabis.

This legislation seeks to legalize fresh or dried cannabis, cannabis oil, plants and seeds for cultivation, for purchase from provincially regulated retailers or directly from federally licensed producers. Cannabis edibles will be addressed through regulations after the *Cannabis Act* comes into force due to the unique health and regulatory challenges associated with this form of cannabis.

In tabling this Bill, the federal government emphasized that it aims to restrict youth access to cannabis, reduce illegal activities associated with cannabis production, enhance public awareness about health risks, and provide a framework for provinces with respect to cannabis distribution. The legislation permits household cultivation up to four 100cm plants for personal consumption, but does not specify how this will be regulated and enforced inside a home.

The federal government will be overseeing product and production safety and standards, while the provincial government will regulate the distribution and sale of cannabis. While the federal government is setting a minimum age of 18 years old and possession limits of 30 grams per person, the provincial government can increase the age limits, lower personal possession limits and also limit where cannabis can be consumed, such as in public spaces or in vehicles.

At the time of writing, Bill C-45 has been through the Second reading in the Senate. While the legislation does not specify dates, the Government of Canada has stated that it intends to bring the Act into force in the summer of 2018.

2. Bill C-46, *An Act to amend the Criminal Code*, focuses on strengthening impaired driving

measures.

New provisions would authorize law enforcement to demand an oral fluid sample if they suspect a driver has drugs in their body. The sample readings would inform a decision on whether there are grounds to believe an offence has been committed, and to therefore demand a drug evaluation or blood sample.

Enforcing new impaired driving rules will have significant implications for municipalities and their police forces. The combination of new and emerging drug recognition testing methods, the authority to demand oral fluid samples if impairment is suspected, and the introduction of mandatory roadside alcohol screening after lawful stops will require extensive investments in both equipment and training.

In late 2017, Bill C-46 was referred to the Standing Senate Committee on Legal and Constitutional Affairs for consideration and discussion. Upon Royal Assent, the new changes will be in effect, meaning police will be able to immediately lay charges.

Provincial Government:

At the end of November 2017, the Saskatchewan Government introduced *The Miscellaneous Vehicle and Driving Statutes (Cannabis Legislation) Amendment Act, 2017*, to prepare for the impacts of Bill C-46. In this regard, Saskatchewan will have a zero tolerance approach for drug impaired driving.

Once Bill C-46 is in place, police will have the authority to use federally approved roadside drug screening devices for impaired driving, if they have reasonable grounds to suspect a driver is impaired by a drug. These devices will test saliva for the presence of THC (the impairing component of cannabis). If a driver tests positive, or fails a standardized test, police can demand a blood sample. Saliva testing is not currently available in Saskatchewan; however, the new provincial legislation is preparing for the eventuality that testing will be available.

On December 5, 2017, the Government of Saskatchewan announced legislative proposals to give landlords the right to prohibit the possession, use and sale of cannabis in rental units; this extends to the growing and possession of cannabis plants.

On January 8, 2018, the Government of Saskatchewan announced that the Saskatchewan Liquor and Gaming Authority (SLGA) will issue approximately 60 cannabis retail permits to private operators (across the province), of which Regina will receive six. Both retailing and wholesaling of cannabis will be conducted by the private sector and regulated by SLGA. Cannabis retailers will be required to establish a stand-alone storefront operation, with the option to also operate an online store. Stores will be limited to selling cannabis, cannabis accessories and ancillary items. Stores must also have the ability to track and report cannabis inventory to help ensure customers only have access to safe, legal product from regulated wholesalers.

SLGA has requested that municipalities who choose to prohibit the establishment of cannabis retail stores, provide a Council resolution or Bylaw before February 28, 2018. If SLGA does not hear back from municipalities by February 28, 2018, consent will be assumed and SLGA will proceed with the cannabis retail selection process. This report seeks Council approval to accept the cannabis retail stores.

Specific details regarding application criteria, permit licensing fees, application timelines and other associated details will be finalized over the coming weeks. The Province continues to work on other details regarding the impending legalization of cannabis, including the minimum age for cannabis consumption, which will be announced later this spring.

Provincial announcements to date:

1. Wholesaling and retailing of cannabis will be conducted by the private sector and regulated by SLGA;
2. The Province will initially issue approximately 60 retail cannabis permits in up to 40 eligible municipalities and First Nation communities with populations of at least 2,500;
3. Regina has been identified as one of the 40 communities that, based on population, is eligible for six cannabis retail outlets;
4. Cannabis retail stores will be stand-alone businesses, selling only cannabis, cannabis accessories and ancillary items; and,
5. Landlords have discretion over growing and consumption in their rental properties.

Decisions yet to be announced:

1. Minimum age of consumption;
2. Details on the application process for retail permits, including criteria, permit licensing fees and timelines;
3. Provincial regulations around growing cannabis for personal use; and,
4. Regulations around consumption in public spaces.

DISCUSSION

There are a number of issues that may be of relevance to the City of Regina, including:

1. Permits and inspections:
 - Business licensing
2. Zoning:
 - Sales, consumption and distribution areas
 - Separation distances
 - Production and processing areas
3. Public health and safety:

- Policing, fire and emergency response
 - Consumption
4. Employment and Workplace Safety:
- Managing employee safety and workplace issues
5. Revenue:
- Cost of implementation and ongoing resources
 - Equitable distribution of revenue

Zoning and Land Use:

Zoning bylaws exist to ensure the health, safety and general welfare of residents to facilitate the orderly and beneficial development of a city. The *Regina Zoning Bylaw No. 9250* (Zoning Bylaw) controls land uses within the city of Regina by establishing land use zones (generally residential, commercial, industrial, institutional and public service zones, with variations in many zones), and determining uses that are generally compatible with each other in each of the land use zones. The land uses are classified as either permitted uses (subject to approval of a development permit) and discretionary uses (which require the approval of City Council prior to receipt of any required permit(s)).

As noted above, recently the SLGA announced that it will issue six cannabis retail permits to private operators in Regina. The Zoning Bylaw currently does not contain regulations related to the retail sale of cannabis. New definitions will need to be added to the Zoning Bylaw to define cannabis and cannabis retail stores.

The Zoning Bylaw identifies a Liquor Store as a specific land use. Since the SLGA is regulating the retailing of cannabis, it is proposed that a new land use Cannabis Retail Store be identified as a land use in the same zones as Liquor Stores. Liquor Stores are permitted in the Major Arterial Commercial (MAC) - Designated Shopping Centre (DSC), Downtown (D), and Industrial Tuxedo Park Zones (IT); and Discretionary Uses (requiring City Council approval) in the Local Commercial (LC1 and LC2), Main Street (MS), Highway Commercial (HC) and Major Arterial Commercial Zones (MAC3). The Administration will further assess the implications of this option and follow up with a report through the Regina Planning Commission (RPC) on recommended amendments to the Zoning Bylaw.

In addition, municipalities can require additional location requirements such as separation distances from specific land uses. For example, the Zoning Bylaw contains an established separation distance of 182.88m (600 feet) to separate adult entertainment land uses, which could also be used to separate Cannabis Retail Stores from schools, day care centres, recreational facilities, public parks, religious institutions, and another cannabis retail store.

Bylaw Enforcement - Public Consumption:

The Smoking Bylaw, Bylaw 2017-20, currently provides a broad definition of “smoking” and “vaping” that allows for the regulation of use of substances other than tobacco, including cannabis. The Bylaw prohibits smoking and vaping of substances in outdoor public places. *The Tobacco Control Act*, enforced by the Saskatchewan Health Authority, prohibits smoking tobacco in indoor public places.

The Government of Saskatchewan has yet to make an announcement around the public consumption of cannabis. As indoor smoking restrictions only apply to the use of tobacco under *The Tobacco Control Act*, there may be a gap that would allow cannabis to be smoked in indoor public places where tobacco is prohibited.

To reduce exposure to second-hand smoke, the Canadian Cancer Society has lobbied the Government of Saskatchewan to prohibit smoking cannabis in indoor public places, similar to the provisions found in *The Tobacco Control Act*. However, if the Province does not introduce regulations that prohibit smoking cannabis in indoor public places, it may fall to the municipalities to amend smoking bylaws to close this gap.

Similar to the current *Smoking Bylaw* and *The Tobacco Control Act*, the main focus of enforcement of cannabis would be voluntary compliance through education, awareness and signage. This has been the primary enforcement strategy in the majority of jurisdictions with smoking bylaws and tobacco legislation, and has proven to be successful. Many provinces have already introduced, or plan to introduce legislation that will restrict public consumption of cannabis in public spaces.

Regina Police Service (RPS):

With the anticipated introduction of the legalization of cannabis legislation, the RPS has been working proactively to forecast increased costs for the service. There are still many questions and concerns that remain unanswered from a legislative standpoint and, as such, the information is a best estimate. Legislative regulations by both federal and provincial governments are yet to be finalized.

The RPS will work closely with its partners at the City of Regina, Health Canada, Education, and SLGA to coordinate our efforts in relation to the legalization of cannabis. The RPS will not have the resources to deal with all the implications of the legalization of cannabis.

The RPS anticipates increased expenditures in the areas of education, equipment, training, and enforcement. The biggest initial challenge and arguably the greatest public safety concern is drug-impaired driving. Additional equipment will be required to aid in the detection of drug impaired drivers. Once approved by the federal government, roadside drug screening devices will need to be purchased, for which costs are anticipated to be \$25,000 in 2018 and \$50,000 annually from 2019 and beyond. In addition, there will be costs associated with the training of

officers on these new devices. It is estimated the cost of a single roadside saliva test will be approximately \$25. Federal legislation allows for blood tests which will come with associated costs as well.

Increased training costs for police officers also need to be factored in. More officers will need to be trained as Drug Recognition Experts (DRE) and in Standard Field Sobriety Testing (SFST). Currently the DRE training has a component that can only be completed outside of the country and, as such, bears significant costs.

Drug impaired driving costs will be also be incurred long after the roadside interactions. It is anticipated that extremely high court costs in the first several years will be incurred as this new legislation is tested through the courts. For RPS, current court overtime costs are already an extreme budget pressure.

RPS is already seeing illegal cannabis dispensaries appearing in the city of Regina, and this will not stop once legislation is changed. There will be six authorized retail permits issued in Regina. RPS will have a role to play ensuring compliance with legislation. In addition, the black market and illegal storefront operations will require additional investigative responses. Other jurisdictions have found that organized crime still plays a big role in the illegal drug trade after the legalization of cannabis.

Proactive education efforts will need to be increased especially in relation to cannabis usage and young people. It is likely that the RPS school resource officers will be key in delivering new and increased messaging.

RPS expects that Health Canada and SLGA will play a role in the inspection and compliance of licenced dispensaries. RPS already faces hurdles with accessing information from Health Canada in relation to authorized permit holders and authorized growers of cannabis.

A further concern for the RPS is the unknown impact the impending legislation will have on the number of calls for service. After the legalization of cannabis in Colorado, the Denver Police Service noted their cannabis related crime accounts for only .42 per cent of their overall calls for service after the legalization of cannabis in Colorado. RPS indicated the majority of their cannabis-related calls are in relation to robberies and thefts, as well as complaints about the usage of cannabis in public places.

In response to cannabis legalization in Colorado, the Denver Police Service created a Marijuana Enforcement Unit that started with seven officers and has doubled to 14 with continued expansion planned. Currently, the RPS does not have resources to dedicate officers solely to cannabis-related crime.

Many police agencies across the country are trying to determine the costs of the legalization of cannabis. Edmonton Police Service has estimated it will cost between \$5 and \$7 million in the

first year. That cost equates to approximately 1.6 per cent to 2.2 per cent of Edmonton's operating budget. Those costs include drug impaired driving, increased court costs and organized crime investigations.

In line with Edmonton's forecasting, York Regional Police have estimated their costs to be 2 per cent of their net annual operating budget. York Police anticipate increased costs in relation to drug impaired driving, injured persons, motor vehicle collisions, criminal code investigations, stop-checks, Information Technology (IT) and Information Management Support, fleet and equipment, analytic support, youth education and prevention and an illicit-market Disruption Team. York anticipates their costs just in relation to training and equipment to be over \$3.6 million in 2018.

There are still many unknowns in relation to the hard costs of cannabis legalization. However following the model that other police agencies are forecasting, RPS anticipates additional expenses in the first year to be between 1.6 per cent and 2.2 per cent of our net operating budget. This estimate of costs would be between \$1.2 and \$1.8 million annually. In other jurisdictions where cannabis legalization has occurred, costs have actually increased in subsequent years.

Regina Fire and Protective Services (RFPS):

In terms of cannabis legislation and the RFPS, their interest and responsibility relates to Fire Code compliance, enforcement and public safety, focusing on store front dispensaries, commercial and residential grow operations (grow ops) and potentially, nuisance (odour) complaints.

The proposed legislation allows for individuals to cultivate up to four legal cannabis plants per residence anywhere on their property. Provinces or municipalities may choose to place further restrictions on personal cultivation. In relation to the cannabis plant itself, the plant produces a naturally pungent odour that may vary, depending on the variety and stages of growth. Evidence suggests there are no known respiratory health effects from the odour of cannabis plants, however, the odour may be considered a nuisance to some.

Complaints may arise from this odour, though it is unlikely that four plants would generate an odour strong enough to be detected by neighbouring properties. Because smell is subjective, a measureable standard cannot be developed. Nuisance odour complaints can be investigated under the existing regulations of the Community Standards Bylaw. The Zoning Bylaw also contains provisions relating to land uses which create an offensive odour, where warranted enforcement action can be taken to address offences under these provisions.

Fire safety and code compliance for licensed dispensaries falls under the occupancy category E (mercantile), which includes shops, stores and markets. The National Building Code and Fire Code of Canada addresses the requirements for the provision of fire and life safety, which the Fire Marshal's office will inspect and enforce as necessary. Occupancies of this classification

pose a minimal risk to the public with respect to fire safety.

Fire safety and code compliance for licensed commercial entities that produce, harvest, store and ship cannabis fall under the category F-3, low hazard industrial. The National Building Code and Fire Codes address the requirements for the provision of fire and life safety, which the Fire Marshal's office will inspect and enforce as necessary.

As with any industrial process, cannabis production comes with an assortment of hazards. In general, the hazards break down into those associated with growing, which could include:

Egress: With space at a premium, and plants being moved often according to their grow cycles, keeping egress paths and exit doors clear can be a challenge. A detailed Fire Safety Plan must be developed, practised with employees and sent to RFPS for review and approval.

Lights: Grow ops have numerous lights, many of which remain on 24 hours per day. If lamps are located too close to combustible materials or wired incorrectly, fires can occur.

Plastic dividers/combustible interior finishes: Grow ops need many separate rooms to segregate plants by growing and light cycles. Interior finish and separate spaces must adhere to current codes and standards for flame spread ratings.

High Electrical Loads: Numerous high-powered lights, air conditioning, fans, and other systems mean commercial grow ops use a significant amount of electrical energy. Commercial grow ops must be compliant with the National Electrical Code. Overloaded circuits and wiring can spark fires.

Fumigation: Molds, mildews and fungus can destroy a crop and result in significant financial losses. Some fumigation measures such as sulfur dioxide, which can be toxic to employees and first responders has been used in other locations throughout North America.

Illegal locks/barriers: The valuable commodity inside has prompted some grow op owners in locations throughout North America to tighten security by placing bars on doors and windows, using non-compliant locks, and even guard dogs, all of which can hinder egress and ingress in a fire or other emergency. The National Building and Fire Code must be strictly enforced to ensure impeded egress situations are designed accordingly.

With respect to small grow ops in residential occupancies, as outlined in upcoming federal legislation, a public education initiative that will highlight the safe handling of electrical equipment will be initiated. With any new activity, and in this case, the growing of plants, there comes an increased risk of inadequate or non-listed lighting. Through public messaging, RFPS wants to ensure that residents use approved lighting systems that maintain a safe distance to combustible materials.

Human Resources:

For employers, cannabis legalization requires a consideration of numerous factors including: safety, duty to accommodate, drug testing, performance management, corrective discipline, work performance and benefit plans.

The City has current workplace policies and procedures to reflect the changes in *The Cannabis Act*. These changes include/reflect the recognition that cannabis will no longer be considered an illegal substance and “cannabis use” will no longer be characterized as an illegal activity (certain conditions apply). Therefore, the emphasis for City of Regina employees revolves around the concept of being fit for work/duty regardless of the circumstance (sleep deprivation, mental health, diabetes etc).

In preparation for the legalization of cannabis, workplace safety is paramount for the City. There is no current consensus on the safe limits for consuming cannabis as the effects may vary widely depending on the THC content, frequency of use, dose and other factors. Accordingly, accommodating medical cannabis use and managing recreational cannabis use must be balanced with the broader duty under provincial occupational health and safety legislation as well as the applicable human rights legislation, to provide for a safe workplace.

Saskatchewan employers are required to accommodate the disabilities of employees up until the point of undue hardship. This may include accommodating an employee’s use of prescribed cannabis, as well as substance abuse dependencies.

The City has implemented a process for identifying impairment based on reasonable suspicion. It is the City’s position that testing should only confirm what is already known. Therefore, impairment is not determined solely based on a drug test but based on an employees’ fitness for work.

The City’s current definition of impairment also addresses both medical cannabis and the conditions of its use, from a workplace perspective. The City’s Drug and Alcohol Policy establishes what impairment is and provides the details on how the policy applies to medical cannabis. The goal to enforce the application of the policy in a uniform manner that pertains to all prescribed medications, including medical cannabis.

Considering the legalization of cannabis in the summer of 2018, the City will be conducting facilitated education sessions for all employees regarding the impact of the legalization of cannabis in the workplace. As the legislation regarding cannabis and medical cannabis evolves, the City will continue to update its policies and procedures accordingly.

Tax Revenue:

FCM’s Big City Mayors’ Caucus (BCMC), as supported by the City of Regina, has been

lobbying the federal and provincial governments to receive one-third of the revenue generated by cannabis. While it is impossible to determine actual excise tax revenues until the cannabis framework is in place, the costs borne by municipalities will remain.

Municipalities were pleased with the recent federal government announcement that would see 75 per cent of tax revenues from legal cannabis sales going to provincial governments. The City of Regina has joined other municipalities in calling for one-third of the overall tax revenue to be provided to cities to pay for start-up and annual costs incurred.

RECOMMENDATION IMPLICATIONS

Financial Implications

Although precise dollar values cannot be calculated at this point in time, RPS, based on the experience of other jurisdictions, has provided approximate costs contained in the report under the “Regina Police Service” section.

Until such time as the cannabis framework is announced and implemented, no final costs can be calculated from other City departments, such as Fire and Protective Services, Human Resources, etc.

In terms of business licences for cannabis retailers, if the City of Regina should introduce a business licence, the costs would be minimal as at this point in time, there are only six retail locations approved for Regina. The cost for processing a business licence would be approximately \$350 per licence, for a total of \$2,100 annually. The cost is primarily staff time and includes materials and supplies. Under *The Cities Act* municipalities are prohibited from generating revenue for licensing a business.

Environmental Implications

None with respect to this report.

Policy and/or Strategic Implications

The Government of Canada has publicly stated that recreational cannabis will be legalized by the summer of 2018. Implementing the cannabis framework will require process and/or capacity changes in several municipal departments, including building services, community services, fire and protective services, police services and human resources. As such, the City of Regina will be ready to facilitate and regulate recreational cannabis by creating and adjusting bylaws, zoning and business practices.

In addition, municipalities should continue to lobby the Government of Saskatchewan for an equal share (one-third) of the tax revenue collected from cannabis.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

The City of Regina is carefully monitoring the legalization of cannabis. Decisions from the federal and provincial governments will impact municipalities. The timing of the Provincial Government regulatory framework limits the City's ability to ask residents and businesses for feedback. The City will finalize its communications plans once the Province's regulatory framework is released.

Attached as Appendix A is a "Cannabis Legalization Key Information" summary chart that highlights federal, provincial and municipal responsibilities and updates.

DELEGATED AUTHORITY

The recommendations contained in this report require City Council approval.

Respectfully submitted,



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Respectfully submitted,



Chris Holden
City Manager