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Corporation of the Township of Black River - Matheson
429 Park Lane
P.O. Box 601
Matheson, Ontario
P0K 1N0

RESOLUTION

DATE: January 7, 2019

NO: 2019 - _____

MOVED BY:

Councillor Dubien	Councillor Gibson	Councillor Cumming
Councillor De Marchi	Councillor Charlebois	Councillor Riach

SECONDED BY:

Councillor Dubien	Councillor Gibson	Councillor Cumming
Councillor De Marchi	Councillor Charlebois	Councillor Riach

THAT Council agrees to permit cannabis retail stores located within the Township of Black River-Matheson.

CARRIED DEFEATED

MAYOR'S SIGNATURE

Recorded Vote-TO BE COMPLETED BY CLERK ONLY

	YEAS	NAYS
Councillor Dubien		
Councillor Gibson		
Councillor Cumming		
Councillor De Marchi		
Councillor Charlebois		
Councillor Riach		
Mayor Laderoute		

X

Cassandra Child
Clerk



**Township of
Black River – Matheson**
January 7, 2019

**Report BUILDING-03-2019
of the Chief Building Official
For Consideration by Council**

OBJECTIVE: To inform Council of the new legislation regarding cannabis retail stores and how this new legislation will affect our municipality.

RECOMMENDATIONS:

1. THAT:
 - a. Council opts-in and allows cannabis retail stores in the municipality.
 - b. Council opts-out and does not allow cannabis retail stores in the municipality.

Respectfully submitted:

Approved:

A handwritten signature in black ink, appearing to read "Curtis Nicholson", written over a horizontal line.

Curtis Nicholson MLEO(C), C.P.S.O.
Chief Building Official/Municipal
Law Enforcement Officer

A handwritten signature in blue ink, appearing to read "John Regan", written over a horizontal line.

John Regan EcD(F), CEcD
Chief Administrative Officer

Council

Report: BUILDING 03-2019

Date of Meeting: January 7, 2017

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BACKGROUND:

On October 17, 2018, Ontario's provincial legislature passed the Cannabis Statute Law Amendment Act. This Act set out the legal structure for private cannabis retail in Ontario and gives the Alcohol and Gaming Commission of Ontario (AGCO) the authority to license, regulate and enforce the sale of recreational cannabis through privately run stores in Ontario.

Also, on October 17, 2018, the federal government lifted criminal prohibitions on cannabis use. In Ontario, people are able to now grow, possess and use cannabis. People can now smoke or vape cannabis anywhere they can currently smoke tobacco.

DISCUSSION:

The Ontario Cannabis retail Corporation (Ontario Cannabis Store (OCS)) will have the monopoly over cannabis distribution. The OCS has online retail available throughout Ontario as of October 17, 2018. Regulated private retail stores will start on April 11, 2019.

The Association of Municipalities Ontario (AMO) has recommended to the province that in order for legalization to be a success, this must benefit all municipalities. These recommendations include, all municipal costs dealing with the legalization be fully funded, that training/resource supports/ authorities must be provided, a portion of the marijuana tax revenues should be dedicated towards municipal needs, i.e. community development.

The municipality's role as it relates to the legalization of cannabis includes;

- Allowing or not allowing retail stores
- Enforcement of such stores (by-law)
- Storefronts, nuisance complaints, personal growing
- Places of use (possible role for municipal licensing)
- Workplace safety as an employer
- Role in promoting economic development as the market broadens

On March 9, 2018, the Minister of Finance announced that there is \$40 million in funding for municipalities over 2 years to help with the implementation costs. The first payment to all municipalities will be done as soon as possible this year (2018) with each municipality receiving \$5,000.00. A second payment would be distributed following the January 22, 2019 deadline.

January 22, 2019 is the deadline in which municipalities must make a decision to either allow (opt-in) retail stores in the municipality or not allow (opt-out) retail stores. Should the municipality opt-in, they would receive funding on a per household basis. This funding would support the initial cost related to having retail storefronts. Any municipality who opts-out would only receive a second payment of \$5,000.00 each. The province is

considering setting aside a certain portion of the municipal funding for unforeseen circumstances and priority would be given to those municipalities that have decided to allow retail sales. If Ontario's portion of the federal excise duty on recreational cannabis over the first two years of legalization exceeds \$100 million, the province would provide 50% of the surplus only to those municipalities that have opted-in.

After January 22, 2018, once a municipality has opted-in, they will be unable to opt-out.

Municipal Responsibilities, Concerns and Challenges

There are many municipal programs that are directly impacted by the provincial legislative framework governing the sale and use of cannabis. These include;

- Business Licensing (Bill 36 exempts retail stores from municipal licensing)
- Building inspection
- By-law Enforcement
- Parks
- Property Standards
- Zoning (Bill 36 exempts retail stores from land use planning, not able to designate cannabis as a separate land use)

Municipalities are also concerned about;

- Siting of cannabis retail stores
- Enforcement of restrictions on use in prohibited locations
- Lack of provincial regulation of home cultivation
- Complaints about home cultivation, public use and intoxication, and odour
- Funding, training and lack of resources

These are outstanding concerns all municipalities have and there is still no clear-cut direction on how to address these concerns and issues.

Municipalities shall provide to the Registrar (ACGO), a written notice of a resolution no later than three business days after the resolution was passed and prior to January 22, 2019, if they wish to prohibit cannabis retail stores from being located in the municipality. However, a municipality that has prohibited cannabis retail stores may, by resolution, lift the prohibition and permit cannabis retail stores. But once a resolution to opt-back in is passed, the resolution cannot be reversed. With the term of the new Council beginning December 1, 2018, this does not give much time to make a decision. If council fails to pass a resolution to opt-out, this will mean the AGCO will allow stores in the municipality.

Retail store authorization will only be provided by the ACGO. Under the Act and regulations, they have strict regulations which must be followed. When a retail store has been authorized by the ACGO, the Municipality has 15 days to respond to the notice of retail authorization.

It is expected that by October of 2019, the regulation of edible products will be enacted which means a whole new set of regulations to contend with. But for the time being, edibles are still illegal.

The authority to pass a business licensing by-law under the Municipal Act does not include the authority to pass a by-law providing for a system of licenses respecting the sale of cannabis, holders of a license or authorization issued under the Cannabis License Act or cannabis retail stores.

The authority to pass a by-law under the Planning Act does not include the authority to pass a by-law that has the effect of distinguishing between a use of land, a building or a structure that includes the sale of cannabis and a use of land, a building or structure that does not include the sale of cannabis.

Enforcement Challenges

There are many challenges that the municipality will face when it comes to enforcement as this is new and municipalities have no previous experience in this matter.

By-law enforcement will be called upon to address concerns from the public relating to public use, home grow and odour complaints. Municipalities will have to rely on each other to determine what works and what doesn't. Municipalities have limited tools to enforce cannabis consumption in public places, home cultivation and public intoxication. Further changes to legislation are required to help with enforcement and prosecution.

By-law officers do not have the necessary training or tools as police officers for enforcing certain aspects of the Cannabis Control Act. The Minister may designate a person to exercise the powers of a police officer for the purpose of enforcement. However, this person(s) will require training and funding for this training is still yet to be determined. Clarity is still needed to determine the responsibilities for enforcement between by-law officers, police, tobacco enforcement and special constables.

The municipality may pass by-laws to further restrict the location where cannabis can be used. This authority is granted under the Municipal Act under Section (10)(2)(6) Health, Safety and Well-being of others

Alcohol and Gaming Commission of Ontario

The Alcohol and Gaming Commission is a regulatory agency which reports to the Ministry of the Attorney General. They are the Registrar of alcohol, gaming, racing and now cannabis and are integrated with the Ontario Provincial Police bureau. Their mandate is to regulate the alcohol, cannabis and horse racing in accordance with the principals of honesty and integrity and in the public interest.

The AGCO shall be responsible for the regulating and licensing of retail cannabis stores. The AGCO will issue Cannabis Retail Operators Licenses, Cannabis Retail Manager Licenses and Cannabis Retail Store Authorizations.

Council

A retail operators license enables the holder to apply for one or more authorizations. The AGCO will conduct an investigation into the applicant and their business and undertake appropriate due diligence including good character assessments.

A retail manager license enables the holder to perform certain management functions at an authorized store. The AGCO will conduct an investigation into the applicant.

A retail store authorization enables the holder to purchase cannabis product and open an authorized store where municipalities have opted-in. Packaged cannabis can only be purchased from the Ontario Cannabis Store which is federally licensed and must follow federal and provincial laws. A 15-day public notice process is triggered upon receipt of an application for authorization. The AGCO undertakes an on-site inspection prior to opening to ensure all rules and regulations are followed.

A public notice process is required for an application for a cannabis retail store authorization. A 15-calendar day public notice process provides an opportunity for local resident and municipal input related to public interest for store locations. Written submissions to the AGCO will be accepted on the AGCO's online licensing portal and anonymous submissions will not be accepted.

Regulations (Ontario Regulation 468/18 of the Cannabis License Act)

A retail store authorization may not be issued if;

- a) The retail store where cannabis would be sold,
 - Would not be enclosed by walls separating it from any other commercial establishment or activity and from any outdoor area,
 - Could be entered from or passed through in order to access any other commercial establishment or activity, other than a common area of an enclosed shopping mall or
 - The premises at which the cannabis is to be sold in the store would be received or stored would be accessible to any other commercial establishment or activity or to the public.

Only the following matters are matters of public interest;

- Protecting public health and safety,
- Protecting youth and restricting their access to cannabis,
- Preventing illicit activities in relation to cannabis.

A proposed cannabis retail store may not be located less than 150 metres from a school or a private school. 150 metres shall be measured from the property line on which the school is located. The attached maps (in black) will indicate where a cannabis retail store is not permitted. A cannabis retail store must be a stand-alone store and have their own

dedicated entrance and exit. A cannabis store cannot be accessible from another commercial activity. These stores are not permitted to anything but recreational cannabis.

A condition of a retail store authorization is that the holder display the authorization (attached) in a conspicuous place in the retail cannabis store. A cannabis retail store is authorized to be open to the public between 9:00 a.m. and 11:00 p.m. on any day. A municipality by by-law may pose further restrictions on hours of operation. The holder of a retail store authorization shall prominently display the cannabis retail seal. It shall be displayed in a conspicuous place that is visible from the exterior of the public entrance to the cannabis store.

HIGHLIGHTS:

NIL

WORK PLAN:

Nil

COMMUNICATION PLAN:

Any information with regards to cannabis retail stores within the municipality will be conveyed to the public through the municipal website, the municipality's facebook page and through the use of the municipal bulletin.

The Registrar shall publish on the Commission's website a list of the municipalities in which cannabis retail stores may not be located along with the dates of the relevant resolutions.

BUDGET/LEGAL IMPLICATIONS:

Since the by-law department does not have the necessary training or tools for enforcing certain aspects of the Cannabis Control Act, it will be necessary to budget for any training courses that become available as well as budgeting for the possibility of hiring another by-law officer.

INTERDEPARTMENTAL IMPACTS:

The by-law department is going to face an increased work load in order to address concerns from the public relating to public use, home grow operations and odour complaints. The by-law officer may also be designated to perform and exercise the powers of a police officer for the purpose of enforcement thus adding to the already heavy work load. A second by-law officer will be required to provide relief and to ensure that the public receives the level of services they deserve.

LINKS TO STRATEGIC PLANS:

Based on the Community Economic Development Strategic Plan, in year 3 the municipality is to undertake the development of a business case for the development of industrial/employment land. Although no new land is being developed, there is an opportunity to provide support for a new retail business within the community. In year 5, the municipality is to create a marketing and branding plan used in all economic development and investment attraction outreach. By Council opting-in to allow cannabis retail stores within the municipality, this will show that the municipality is open to any and all forms of economic development.

RECOMMENDATION:

That Council permits the operation of cannabis retail stores in the municipality.

REQUIRED AND RECEIVED COMMENTS FROM: Yes or Not applicable	
CAO	Yes
Clerk	No
Finance	No
Building Control & MLEO Department	Yes
Public Works & Environmental Department	N/A
Parks, Recreation & Facilities Department	N/A
Community Development and Tourism	N/A
Planning Department	N/A
Economic Development Department	Yes
Fire Department	N/A
Other:	N/A





