

Municipal Regulation of Cannabis



A PRESENTATION BY
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Cannabis Licence Act, 2018

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- The *Cannabis Licence Act, 2018*, S.O. 2018, c. 12, Sched. 2 stipulates that a municipality has no power to licence and regulate cannabis retail stores.
- The first retail stores are anticipated to be operational on April 1, 2019 and will be privately run.

Cannabis Licence Act, 2018

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Restrictions on by-law making authority

Business licensing by-laws

42 (1) The authority to pass a business licensing by-law within the meaning of the *Municipal Act, 2001* or a bylaw **does not include the authority to pass a by-law providing for a system of licences respecting the sale of cannabis**, holders of a licence or authorization issued under this Act **or cannabis retail stores**.

Cannabis Licence Act, 2018

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- By-laws cannot be passed to regulate these cannabis retail stores, including zoning regulations.

42 (2) The authority to pass a by-law under section 34, 38 or 41 of 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 a structure that does not include the sale of cannabis.**

Opting-out by January 22, 2019

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- The one power that lower-tier municipalities have with these retail stores is the one-time opportunity to opt-out of having stores within its boundaries.
- **The opt-out must be established by the passing of a Council resolution on or before January 22, 2019** and the municipality must provide notice to the Registrar of this.
- A municipality may later opt-in but opting in cannot be reversed.

Cannabis Licence Act, 2018

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41 (1) A municipality may, **by resolution** passed **no later than January 22, 2019**, **prohibit cannabis retail stores** from being located in the municipality.

(3) A municipality that has prohibited cannabis retail stores **may, by resolution, lift the prohibition** and permit cannabis retail stores to be located in the municipality.

(4) A resolution passed for the purposes of subsection (3) is final and **may not be reversed**.

(5) A municipality **shall provide to the Registrar**, in the prescribed time and manner, **notice** of every resolution passed under this section.

Regulation 468/18

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Matters Respecting Municipalities Notice of resolution

22. (1) For the purposes of subsection 41 (5) of the Act, a municipality shall provide to the Registrar written notice of a resolution passed under that section **no later than three business days after the resolution is passed.**

(2) Despite subsection (1), notice of a resolution referred to in subsection 41 (1) of the Act **shall not be provided to the Registrar later than January 22, 2019.**

Regulating Production Facilities



- Municipalities may regulate where production facilities are located through zoning by-laws.
- The municipality may do various things through zoning, such as decide that production facilities are only permitted within certain zones, may specify maximum gross floor area and create minimum setbacks from sensitive uses such as residential uses, hospitals and schools.

Regulating Production Facilities

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- A zoning by-law regulating production facilities will be upheld by courts.
- See *Tay (Township) v Fan*, 2018 ONSC 6375

Regulating Production Facilities



- Municipalities should be defining ‘Production Facilities’ in their ZBL and should set out the appropriate zones for such uses.
- Alternatively, a municipality can define the use and not set out a zone, requiring a ZBLA before such a use can occur.

Regulation 468/18

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- https://www.ontario.ca/laws/regulation/r18468?_ga=2.75088338.1349711710.1542316026-342828677.1542316026
- *Regulation was released Wednesday evening.*
- *To be proclaimed today.*

Regulation 468/18

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- 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.

Regulation 468/18

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Cannabis retail store requirements

- The retail space where cannabis is sold must be enclosed by walls separating it from any other commercial establishment or activity and from any outdoor area.

Regulation 468/18



- A retail store may only sell three things:
 1. Cannabis that was purchased by the holder directly from the Ontario Cannabis Retail Corporation;
 2. Cannabis accessories;
 3. Shopping bags

Regulation 468/18

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- A proposed cannabis retail store may not be located closer than 150 metres from a school or a private school as defined in the *Education Act*.
- Under the *Education Act*, “school” means an elementary or secondary school.