



CANN-ABIS OR CAN'T-ABIS: 6 Considerations for Municipalities under the Cannabis Act

On October 17, 2018, the *Cannabis Act* (the “Act”) will come into force, creating a regulatory framework for production, distribution, sale, cultivation, and possession of cannabis with a broad objective of: a) keeping Cannabis away from youth; b) bringing the black market under check; and c) minimizing harm.

The Act also defines which aspects of regulation and enforcement will fall under federal, provincial and territorial jurisdiction. By extension, some aspects will fall under the general powers of municipalities. However, before you start passing bylaws to regulate cannabis, here are 6 items of consideration.

1. Understand the views of your constituency

The legalization of Cannabis has supporters and detractors and it is important that Councillors be mindful of the views of all their constituents. Public engagement, such as public forums, email or oral submissions to council, and open door office hours is a useful tool for learning where your constituents stand on this issue.

Councillors should also try to keep an open mind when Cannabis issues are being discussed. Any suggestion of bias or pre-determination could lead to potential challenges to any municipal bylaw passed.

2. Understand Cannabis generally

“Cannabis” is a broad term used to describe products derived from the leaves, flowers, and resins of the Cannabis sativa and Cannabis indica plants, or hybrids of the two. These products exist in various forms and are used for a variety of purposes, including medical, non-medical, and industrial.

Understanding the growth process, forms of the product, methods of consumption, effects of consumption, and methods of detecting impairment can be helpful in directing meaningful and productive dialogue in your communities and help inform decisions around local regulation.

3. Understand how Cannabis will be Regulated

Cannabis will be jointly regulated by federal, provincial and territorial governments. The federal government will regulate and enforce rules and standards applicable to the Cannabis industry as a whole, such as criminal matters, and advertising standards.

Provinces and Territories will be responsible for licencing and overseeing the distribution and sale process pursuant to the federally-imposed conditions.

It is important for municipalities to understand their own role in regulation and what bylaws they can and cannot pass.

4. Understand Federal and Provincial legislation

The Act contains too many provisions to review here. However, it is important to ensure that Councillors understand the Act, what is or is not regulated, and how such regulations will be enforced, for example: medical vs recreational usage; criminal status, distribution, possession, and growth restrictions.

Many activities fall within exclusive provincial jurisdiction. In Saskatchewan, such activities are regulated by *The Cannabis Control (Saskatchewan) Act*. For example, the sale of Cannabis will be handled by private sellers, but this will be regulated by the provincial government.

5. Understand Municipal Authority

Municipalities have a general power to pass bylaws regulating a broad spectrum of activities. Before implementing a local cannabis strategy, municipalities should talk to their legal counsel to understand the full extent of their jurisdiction under enabling legislation.

Some areas where municipalities may want to explore their ability to regulate cannabis include: land use management; zoning bylaws (such as permit requirements or spatial restrictions on facilities); business regulations, permits, and licensing; building codes; nuisance and odours; and restrictions on usage in public areas.

6. Cannabis in the workplace

Municipalities should put their mind to how they, as an employer, will institute workplace cannabis policies and consider whether current policies accurately capture matters such as:

- Workplace expectations to ensure they include reference to cannabis and cannabis related products;
- The consequences of cannabis impairment at work, ie, how impairment can be reasonably determined and whether employee may be subject to discipline;
- The ability of employees to self-disclose use and/or dependency, and how that will be treated;
- The intersection of medical conditions and accommodation policies with respect to the use of medicinal cannabis; and
- How accommodation policies ought to reflect dependency or addiction to cannabis.

This is a brief summary of the considerations under the Cannabis Act and should not be construed as legal advice.

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