

Alberta Cannabis Secretariat

AAMDC SUBMISSION

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Partners in Advocacy & Business

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The Alberta Association of Municipal Districts and Counties (AAMDC) advocates on behalf of Alberta's rural municipalities. AAMDC members have several common traits: large land masses, relatively small populations, and a lack of a traditional "population center." AAMDC members provide municipal governance to approximately 85% of Alberta's land mass, and therefore have unique concerns and perspectives related to the legalization of recreational cannabis when compared to urban municipalities.

The below submission seeks to inform the Government of Alberta of the rural municipal perspective on several cannabis-related issues related to the broad themes of production, retail sales, enforcement and workplace safety. The AAMDC is aware that some issues raised may not fall under provincial jurisdiction, but rural municipalities would be appreciative if the Government of Alberta considers the AAMDC's perspectives on these issues when working with the Government of Canada.

1. Production

1.1 Cannabis production facilities must be assessed at a rate that reflects their municipal planning, land use, and service delivery impacts

It is currently unclear what land use classification commercial cannabis production facilities will fall under. Although the facilities will be producing an agricultural crop, most facilities will be much more industrial in nature than traditional farm operations, and may more intensely consume municipal services such as water.

In addition, due to the existing illegal market for cannabis, which is expected to continue to some extent for an unknown duration following the legalization process, commercial cannabis production facilities may have a higher requirement for policing and other emergency response when compared to traditional agriculture operations.

The AAMDC appreciates the position of some cannabis producers and other stakeholders that for the industry to flourish, production should be treated as agriculture, rather than an industrial activity. However, the AAMDC believes that cannabis facilities will have more local service delivery and infrastructure impacts than most traditional farming operations, and should be assessed to reflect this. The intent is not for municipalities to unfairly profit from the presence of cannabis production facilities, but rather to gather adequate revenues from such facilities to account for their likely service delivery costs and land use impacts.

One option that should be considered by the Government of Alberta is the model currently applied to medical marijuana production facilities in British Columbia, in which such facilities are excluded from the province's agricultural assessment class due in part to their highly regulated and secure nature. Instead, medical marijuana facilities are placed into the assessment class which they best fit as per British Columbia's *Assessment Act*. The AAMDC believes that the Government of Alberta should pursue a similar approach.

1.2 The Government of Canada must involve municipalities throughout the production facility review and approval process

The AAMDC is concerned that the ongoing narrative of cannabis production being strictly within the federal domain may result in municipalities being denied an adequate opportunity to have a say in whether and where cannabis production facilities are located within their boundaries. Municipalities strive to effectively plan their land use in order to facilitate efficient service delivery, economic growth, environmental sustainability, and regional development. If federally-approved cannabis production facilities are not required to abide by municipal land use plans,

the municipality will be unnecessarily burdened and the relationship between the producer and the municipality may be immediately strained.

It is imperative that the Government of Canada's approval process require applicants and federal decision-makers to not only review municipal planning documents, but to actively and meaningfully engage with municipalities throughout the process to address any questions or concerns they may have about a production facility being located within their boundaries. A lack of information often leads to misperceptions and assumptions, which will likely be the case if municipalities perceive their land use planning powers are being ignored. Sharing information and fostering a collaborative process is critical to ensuring the success of cannabis production in rural Alberta, and to the formation of strong relationships between producers and municipalities.

1.3 Municipalities must be allowed reasonable access to cannabis production facilities for the purposes of assessment, bylaw enforcement, safety code inspections, and emergency response

Municipalities are concerned that due to the federal approval and regulation of cannabis production facilities, municipal officials may be unable to enter facilities for necessary municipal purposes such as assessment, bylaw enforcement, safety code inspections, and emergency response.

The AAMDC understands that due to the likely continuance of an illicit cannabis market after legalization, high security standards will be a hallmark of legal production facilities, and producers may resist allowing access to those not directly linked to their federal approval requirements. However, to be a productive member of their local community, producers must allow for municipal officials to access the facility for legitimate reasons. It is unclear to the extent that this may be an issue, but several Alberta municipalities have raised this concern in the past related to medical marijuana facilities.

2. Retail Sales and Accessibility

2.1 The Government of Alberta must design a retail system with adequate flexibility to meet its policy priorities in both urban and rural areas of the province

The Government of Alberta's approach to cannabis legalization is to be based on the following four policy priorities:

1. Keep cannabis out of the hands of children and youth
2. Protect public health
3. Promote safety on roads, in workplaces and in public spaces
4. Limit the illegal cannabis market

While the retail system chosen will likely have an impact on how well these priorities are met, it may particularly impact priorities one and four, as combining accessibility for those with the ability to legally consume cannabis with restrictions for those not yet of legal age will be a critical component to the retail system, and to reducing the influence of illicit markets.

The AAMDC understands that the Government of Alberta is considering all retail options, including a privatized system, a public system, a hybrid system, standalone retailers, co-location with retailers of other products, leveraging existing retail systems such as liquor stores or pharmacies, or creating a completely new retail system. In other words, the possibilities and combinations are widespread.

The AAMDC believes that some retail systems may support the policy priorities well in urban areas, but less so in rural areas. For example, a strictly private supply chain may result in rural areas with a limited consumer base lacking retail access due to the lower potential for profitability in these areas (a similar challenge can be seen when examining a reliance on the private sector to provide broadband internet access to rural areas: those areas with low population density and low profitability are least likely to be served). This may result in the legalization process being less effective in curbing the illicit market in rural areas, which by extension may increase the availability to rural children and youth in comparison to those in urban areas, which would be well-served by private retailers.

One solution to this challenge may be co-location, in which cannabis is sold by existing retailers of other products. The AAMDC lacks the technical knowledge to analyze the potential positive and negative impacts of co-location with various products. However, the final report of the federal Task Force on Cannabis Legalization and Regulation strongly cautions against co-locating cannabis with stores selling alcohol, explaining that they “heard strong support for prohibiting the co-location of cannabis sales with either alcohol or tobacco,” that “in all of the U.S. states that have legalized cannabis, there is a ban on the co-location of sales of cannabis and alcohol, and that “co-location of sales might signify to some that co-use of cannabis and alcohol or tobacco is condoned or encouraged” (page 34).

Interestingly, despite the panel’s strong opposition to co-location with alcohol and tobacco, they acknowledge the same challenge identified above in which rural communities may lack the customer base to support standalone retail locations, stating that

[they] acknowledge the challenges of smaller and remote communities that may not have the flexibility to accommodate dedicated, separate retail locations. Should separate retail locations not be feasible everywhere, safeguards to mitigate potential harms should be put in place to discourage co-use and mitigate other concerns that have been raised (page 34-35).

Any retail system that relies on a strictly standalone model must account for the challenges that this may cause in meeting the policy priorities in rural areas. If co-location is allowed in rural areas, regulations must control how cannabis is marketed and sold within existing facilities to reduce the likelihood of co-use.

Relying on the market to meet retail demand while establishing strict regulations around the types of locations that can sell cannabis has the potential to have adverse impacts in rural areas. Conversely, allowing too much leniency in where cannabis can be sold may similarly compromise achieving the priorities by making ease of access too great and by creating a public perception that co-use is encouraged, which may lead to adverse public health impacts.

While the AAMDC is not in a position to definitively recommend a specific retail system design, it is critical that the Government of Alberta consider the diverse impacts that any model will have on urban, rural, and isolated communities, as well as Indigenous communities. The AAMDC would be pleased to provide further insight to the Government of Alberta on potential benefits and challenges that would be aligned with various retail models in relation to achieving the policy priorities in rural Alberta.

2.2 Depending on the retail model selected, some municipalities may struggle to consult with residents and businesses and develop meaningful and effective bylaws related to retail facilities in time for implementation in 2018

As Alberta’s Cannabis Framework will likely be finalized after late fall 2017, municipalities will have a very short timeline to develop local bylaws to enforce requirements related to retail and public consumption locations. As the legalization of cannabis is a particularly “hot-button” issue

for the public (as evidenced by the large response to the Government of Alberta's survey on the topic), municipal residents will have high expectations as to how they are engaged by their municipality related to retail and public use regulations.

In order to help municipalities mitigate the risks of this tight timeline, the Government of Alberta should work with the Government of Canada to develop best practices, templates or other resources that municipalities can access in advance of the finalization of the Framework in order to be well-prepared for various potential retail and public use allowances. While large municipalities like Edmonton and Calgary have already dedicated significant resources to examining various bylaw options, it is likely that smaller municipalities will be overwhelmed with these requirements when the Framework is complete.

3. Community Impacts

3.1 Regulations related to public consumption and retail locations may impact rural communities differently than urban communities

Under the *Cannabis Act*, provinces/territories are responsible for regulating where cannabis products can legally be used and whether different types of products (edibles, etc.) can be used in different areas. A popular suggestion to this point among stakeholders is to allow for dedicated consumption spaces such as cafes, which will restrict public consumption without prohibiting it completely. Like concerns expressed in s. 3.1 of this submission, such an approach may be effective in urban areas with high population densities, but cannabis cafes may be economically infeasible in rural areas with small consumer bases. If this is the case, consumers in rural areas may unfairly lack public consumption spaces and have no choice but to consume in their homes, which may have unfavorable impacts on children, both in terms of public health and in terms of access to cannabis.

Potential solutions are as follows:

- Allow for consumption on-site at retail locations. This could allow for economies of scale to better support standalone retail locations in rural areas. For example, one retailer that allows both purchase and consumption may be more likely to operate on a financially sustainable basis than two retailers, one offering only retail sales and the other offering only consumption. One question that this approach raises is the extent to which this would be effective in a co-location environment. For example, consumption of alcohol is not allowed on the premises of a liquor store (though it is in bars and pubs) so would consumption of cannabis be allowed in a liquor store?
- Take a similar public consumption approach to that in place for tobacco. Currently, tobacco can generally be consumed outside in public areas unless expressly prohibited (such as near entrances of public buildings, etc.). A similar approach to cannabis may simplify ease of public use, but on the other hand will normalize its use, which may have adverse impacts on the perceptions of children, as well as potential public health impacts for those who do not consume.

Overall, the degree to which public consumption is regulated could have significant community impacts that may differ between urban and rural communities. The AAMDC urges the Government of Alberta to consider these diverse impacts when developing a regulatory framework around where cannabis can be consumed.

4. Enforcement

4.1 Those responsible for enforcing cannabis-impaired driving and other offences must be properly trained and resourced

Municipalities across Canada are concerned about the lack of clarity around how cannabis-impaired driving will be measured and enforced, and the potential training and/or equipment costs that municipal law enforcement agencies may have to incur to properly determine impairment.

All levels of government are likely to incur new costs in association with the legalization of cannabis, which will hopefully be at least partially offset by associated taxation revenues. However, municipalities are concerned that they may be expected to disproportionately shoulder the costs of enforcement due to training and equipment needed for front-line adaptation to new impaired driving regulations. It is critical that the Government of Canada provide both financial and capacity-building support to provincial and municipal law enforcement agencies to ensure consistent enforcement across the country and to mitigate any unfair financial burdens.

5. Workplace Safety

5.1 Municipalities will require guidance and support as to how to address cannabis intoxication for a diverse range of employees which carry different risk levels associated with intoxication

Municipalities of all types employ a diverse range of employees, from those that work strictly in an office environment to those that service and operate heavy equipment in dangerous situations. For some municipalities, addressing potential cannabis intoxication in the workplace is a daunting issue that may strain their internal human resources capacities, particularly as the line between cannabis for recreational use and medical use may, in some cases, be unclear.

The Government of Canada should work with provincial and territorial governments to develop human resources best practices and guidelines for municipalities and other workplaces to safely and fairly address the impacts of recreational cannabis consumption in workplaces in a way that balances workplace safety with employee rights and freedoms.