

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.

This submission seeks to inform the Government of Alberta of the rural municipal perspective on several cannabis-related issues specific to the proposed Alberta Cannabis Framework released in October 2017. The AAMDC acknowledges that the Framework is a high-level document that is aimed towards clarifying how the legalization of cannabis will affect the public more generally, and not specific about impacts on municipalities, but the AAMDC would appreciate if the Government of Alberta considers the AAMDC's perspectives on these issues while working with the Government of Canada and other stakeholders to develop Alberta's approach to cannabis legalization.

1. Drug Impaired Driving

1.1 Law enforcement personnel throughout the province must be adequately trained and resourced to enforce drug-impaired driving.

Drug-impaired driving may place significant strain on the capacity of Alberta's enforcement officers, related both to training and equipment acquisition. Municipalities may be disproportionately responsible for the costs associated with training enforcement officers and equipment acquisition specifically in response to recreation cannabis legalization.

The Government of Canada announced provinces and territories will be able to access up to \$81 million over the next five years for law enforcement training and capacity building to support new laws related to drug-impaired driving. The AAMDC appreciates the Government of Canada's efforts to aid provinces and territories during this transition period to train and build capacity for law enforcement officers. The AAMDC recommends that the Government of Alberta use their share of federal funding for capacity building among all enforcement officers to ensure that as many local police forces and RCMP detachments as possible have, at least, basic training in how to detect and determine cannabis-impaired driving. It is also critical that peace officers have similar training and clear roles and responsibilities related to their ability to do the same.

Further, it is not clear the full suite of mechanisms law enforcement officers will utilize for properly determining impairment (e.g. strictly behavioral, an instrument to test saliva, blood testing). It will be imperative for the Government of Alberta to continue to use their share of the federal funding for building capacity once new mechanisms and equipment for accurately testing and determining drug-impairment as it becomes available. This will ensure that rural municipalities have the capacity and tools to enforce drug-impaired driving without unfairly burdening the cost of federal legislation implications.

2. Production

2.1 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 measures 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. Municipalities must be able to collect adequate revenues from such facilities to account for their likely increased service delivery costs, infrastructure 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 and do not receive farm tax status 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.

2.2 The federal government must involve municipalities throughout the production facility review and approval process.

The AAMDC encourages the Government of Alberta to continue to advocate for rural municipalities in their collaboration with the Government of Canada about the federal government regulating licensed growers, producers, and processors. Regulation from the federal government must take into consideration and foster positive relationships between production facilities located on municipal lands and municipal governments. Rural municipalities will likely have the largest impacts on land use planning, service allocation, infrastructure strain, and economic development and because of this, there is need for municipal governments to acquire information regarding aspects of production from the Government of Canada as soon as possible to prepare applicable zoning changes.

The AAMDC is concerned that the ongoing narrative of cannabis production being strictly within the federal domain, as suggested on page 3 of the Alberta Cannabis Framework, 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.

2.3 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.

3. Public Health and Public Education

3.1 The Alberta Cannabis Secretariat is in the best position to oversee and coordinate public education once the legalization of cannabis is implemented.

The AAMDC appreciates the work that the Alberta Cannabis Secretariat has done to collaborate with the Government of Canada, elicit the perspectives of Albertans, and produce the proposed Alberta Cannabis Framework. Given the extensive expertise on the many areas of cannabis legalization, the AAMDC believes that the Cannabis Secretariat is in the best position to take on administering the cannabis public education campaign by connecting federal, provincial and municipal government efforts. Currently, the responsibilities of the respective levels of government regarding public education are not clear.

The Secretariat could oversee and lead provincial and municipal education efforts across the province in order to consolidate research and information and streamline these efforts to maximize the reach of campaign efforts. Given the short timelines on the implementation of cannabis legalization and the capacity realities of small municipalities, some municipalities may not have the expertise or ability to research or produce education materials to educate and inform their residents. All residents, regardless of their residence in urban, rural or remote areas should have reasonable access to accurate information in order to educate and inform themselves and make safe and healthy decisions for themselves and their families.

It will be important for the Secretariat to collaborate with municipalities in order to develop educational materials that work in different contexts throughout the province to address local variations that exist with zoning and consumption.

4. Taxation

4.1 The Government of Canada and Government of Alberta must consider the impacts to municipal governments from the implementation of recreational cannabis legalization when deciding how to distribute revenue between all levels of government.

The AAMDC appreciates that one of the goals of legalizing recreational cannabis use is to reduce the illicit market in Canada, and one component of that is to keep regulatory costs and taxes low enough to compete with the illicit market. The Government of Canada proposed that the excise tax could be split between the federal government and provincial and territorial governments, but did not mention municipal governments. As the Government of Canada has not yet decided how the revenue from the proposed excise tax will be distributed, the AAMDC encourages the Government of Alberta to advocate on behalf of municipalities to consider the increased costs and capacity associated with cannabis legalization. Municipalities will be faced with costs associated with planning, law enforcement training and acquiring equipment for testing drug-impaired driving, and training municipal staff on issues related to public consumption, home grow, and other challenges that will impact municipalities. Similarly, production facilities may require levels of municipal resources that cannot be funded solely through property taxation. If this is the case, it is critical that any federal excise tax be shared with municipalities hosting production facilities to account for their local impacts to municipalities.

5. Retail Model

5.1 The Government of Alberta must choose a retail model that is flexible enough to meet its policy priorities in urban, rural and isolated areas of the province.

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

1. Keeping cannabis out of the hands of children;
2. Protecting public health;
3. Promoting safety on roads, in workplaces and in public spaces; and
4. Limiting 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 either a government owned and operated or a licensed and regulated private sale retail model. The AAMDC believes that whatever model is chosen must be flexible enough to support similar levels of access for urban, rural, and remote municipalities. Some retail systems may support the policy priorities well in urban areas, but less so in rural and remote areas. For example, a strictly private model may result in rural areas with a limited customer base, and thus may increase the likelihood of lower potential for profitability and lower levels of service in these areas. 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, tobacco, and pharmaceuticals 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).

Though the AAMDC recognizes the potential health risks associated with co-location and that there is a strong opposition from Albertans, the AAMDC recommends that accommodations can be made under unique circumstances involving rural and remote areas that may not otherwise be able to sustain a stand-alone cannabis retail store. In previous meetings with the Alberta Cannabis Secretariat at the Municipal Round Table, the Secretariat generally considered that accommodations for rural and remote locations should be allowed in unique circumstances. In some circumstances, a co-located retail store may be a viable accommodation. Locating a cannabis retail store in a community should be based not only on economics, but should also consider the potential health implications of poor access to legalized cannabis.

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 and areas. If co-location is allowed in rural or remote areas, regulations must control how cannabis is marketed and sold, and ensure education materials are available in 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 and remote areas, resulting in low or limited levels of access. 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.

The AAMDC recognizes that the issue of co-location would be mitigated by allowing online sales, thus reducing the need for a physical location where Albertans can purchase cannabis. Therefore, the AAMDC strongly encourages the Government of Alberta to implement online sales as soon as possible in order to service all Albertans, regardless of their residence in urban, rural, or remote areas.

The AAMDC appreciates the Framework’s acknowledgment that allowing adults to grow up to four plants indoors for personal use may reduce the need for consumers in more remote and rural areas to purchase cannabis from the illicit market because they are not near a retail location.

Despite this allowance, some adults may not have an appropriate physical space in their homes, may not have the discretionary time to grow plants or may not have the expertise in order to grow viable plants that are usable for recreational cannabis consumption. Individuals who have children may not want to grow plants indoors in the immediate vicinity of their children or may not have space away from their children indoors in order to grow cannabis plants. Given these very subjective circumstances in which adults would be able to grow viable plants for recreational cannabis use, it will be imperative for the retail model to provide reasonable access to urban, rural and remote communities. Where the model may not be able to provide reasonable access, it will be critical for online sales of recreational cannabis to be implemented as soon as possible to fulfil the policy priorities of the Alberta Cannabis Framework.

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 remote 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.

5.2 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.

6. Retail Location and Rules

6.1 Municipalities must be empowered to customize zoning requirements to meet local needs.

It is critical that any provincially-mandated base requirements for set-backs be flexible enough to meet the needs of all municipalities, both small and large, and urban, rural, and remote. In smaller municipalities with smaller concentrated commercial areas, strict zoning requirements implemented by the provincial government, without the municipalities ability to create an exemption, may make it impossible for a municipality to allow for a retail location to exist. The ability for municipalities to make exemptions and customize zoning requirement in order to satisfy reasonable access to cannabis allows municipalities to exercise local autonomy and ensure that their residents are adequately serviced.

7. Public Consumption

7.1 Cannabis lounges, cannabis cafes, or other designated public space for the consumption of cannabis should be implemented as soon as possible to facilitate safe public consumption.

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. The Framework suggests that Albertans will be allowed to consume cannabis in their homes and in some public spaces where smoking tobacco is allowed, with restrictions on areas frequented by children (e.g. schools). Through the consultation for the Framework, Albertans identified support for having cannabis lounges or cafes as well. The Framework identifies that the Government of Alberta will not implement cannabis cafes or lounges initially, and will be revisited once the federal government makes decisions about edible cannabis products. The AAMDC supports the implementation of cannabis lounges, cannabis cafes or other designated public space for the safe consumption of cannabis to be implemented as soon as possible. While the Framework identifies that recreational cannabis will be allowed to be consumed in some public spaces where smoking tobacco is allowed, it will be imperative for municipalities to be able to customize buffer zones around certain physical locations (e.g. schools, community centres, liquor stores), in order to serve the unique needs of communities.

8. Workplace Safety

8.1 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 are employers of a diverse range of employees from individuals in working in office settings to individuals operating snow removal equipment. Because of this, municipalities require detailed and specific workplace safety regulations that pertain to jobs with varying degrees of risk levels. Similar to issues outlined in 3.1 of this submission, municipalities may not have the capacity to research and produce workplace safety regulations and practices specific to recreational cannabis intoxication. Without the in-house expertise and capacity to research, identify and utilize accurate information regarding cannabis intoxication in the workplace, municipalities will be under strain to implement clear and effective policies before legalization in July 2018.

The AAMDC recommends that the Government of Canada work with provincial and territorial governments to develop human resource best practices and guidelines pertaining to cannabis intoxication in the workplace, especially to address employees that may be operating heavy equipment in dangerous situations. The AAMDC recognizes a need for guidance and support from the federal government to address workplace safety in a way that balances safety with employee rights and freedoms, and addresses the line between cannabis for recreational use and medical use, that in some cases may be unclear.