



## **BRIEFING NOTE TO THE OKIB Chief and Council**

**DATE:** June 17, 2019

**DEPARTMENT:** Administration

**SUBMITTED BY:** Michael Fotheringham, Manager of Policy and Strategic Initiatives

**TOPIC:** Cannabis Bylaw

**PURPOSE:** To bring structure around the selling of cannabis on reserve.

**RELEVANT DOCUMENTS ATTACHED:** Draft Cannabis Bylaw (with minor changes from previous Council meeting); Draft Cannabis Bylaw (short version, requiring all establishments to come to Council for authorization); Draft Business License Bylaw

**BACKGROUND:** There are 7 plus dispensaries either in operation or in planning stages across OKIB reserves. There are currently no rules around where those operations can be located.

None of these establishments have provincial licenses which are required under current law. If those establishments had applied for provincial licenses under the Federal Cannabis Act, OKIB would have been notified and asked for authorization. This did not happen in any of these cases.

**PREVIOUS CHIEF & COUNCIL PRESENTATIONS AND DECISIONS:** Cannabis Bylaw Briefing Notes Jan, Feb, March May and June 2019; Moratorium via BCR May 27th

**CURRENT STATUS:** While First Nations have been faced with the Federal Cannabis Act of 2018 and subsequent regulations from each Province, various people have set up operations on reserve putting Council and Administration in a spot where Council may be putting itself in legal jeopardy by approving non-licensed cannabis dispensaries. At the same time, Council will find it difficult to pass bylaws that will require it to enforce provincial licensing requirements as prescribed by the federal law. Bylaw enforcement (which is still yet to be resourced) would have the difficult tasks of enforcing and possibly shutting down dispensaries should any of the bylaws get passed by Council.

**ANALYSIS AND ADVICE:** There are three options for Council.

1. Pass the draft Cannabis bylaw which mirrors the Tk'emlups Cannabis Bylaw of July 2018 very closely. It is vague on the need for provincial licenses but does require applicable permits from OKIB administration. It does set out minimum distances from children and youth establishments, require safety precautions, limit marketing to youth, and set parameters around business hours. This bylaw is quite prescriptive and would eliminate some dispensaries who would not want to abide by some of the provisions. Or;
2. Pass the short Cannabis bylaw version is simply a replacement of the moratorium and would require all existing establishments to get authorization from Council to remain open. This option would provide time for the community to deal with lengthier bylaw provisions but would put Council in the middle of difficult administrative decisions. Or;
3. Pass the draft Business licensing bylaw. This is the one that legal counsel recommends and would require all establishments get provincial licenses (for dispensaries) and federal permits (for production facilities). This bylaw would require Ministerial approval as it relies on section 83 provisions of the Indian Act. The fee schedule in this draft can be set to whatever we choose.

**UPDATE:** Donovan and Company have sent their letter to the Province requesting that the Province exempt First Nations from current licensing regime.

**OTHER FACTORS (if applicable):**

**LINK TO STRATEGIC PLAN:**

**HR IMPLICATIONS:** A Bylaw Enforcement Officer would be needed to inspect the premises of dispensaries and ensure the permits issued line up with the realities found at the establishments. Currently there is no budget for this position. Until there is one, passing a Bylaw would be problematic.

**FINANCIAL IMPLICATIONS:** A fee could be charged for the issuing of all licenses which could help offset the costs of enforcement.

**RECOMMENDATION:** The safe legal route is to pass the Business Licensing Bylaw. This has consequences however, in that all existing dispensaries would not be authorized and would need to go through the costly endeavor of obtaining provincial licenses. This would also lead to possible tension between CP holders and bylaw enforcement.

The more politically feasible option may be to pass our own Cannabis Bylaw that stays silent on provincial licensing requirements. There would still be many signage, set-back, marketing and security requirements that would need to be well communicated and enforced by Bylaw. Not an easy task.

**PROPOSED MOTION:** Send the three options before the community for input with Legal present for support.

**NEXT STEPS:** Community engagement July 31<sup>st</sup>.

**APPROVALS:**

BCR Attached: Yes

Presentation Attached: Yes

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Program Administrator

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Committee Chair

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Executive Director

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Finance Controller

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Human Resources