

LIDSTONE & COMPANY

BARRISTERS AND SOLICITORS

MEMORANDUM

TO: Clients
FROM: Ian Moore and Sara Dubinsky
DATE: February 5, 2018
RE: Retail Licencing for Non-Medical Cannabis Update

This memo summarizes the Province of British Columbia's newly-released *BC Cannabis Private Retail Licencing Guide: Applications and Operations* (the "Guide").¹ The Guide provides details regarding the Province's intentions for the licencing and operation of non-medical cannabis ("NMC") retail stores.

I. OVERVIEW

- The Government intends to establish a public/private model of NMC retail stores.
- Wholesale distribution of NMC will be managed solely through the Liquor Distribution Branch ("LDB"), which will also run public retail stores.
- The Liquor Control and Licencing Branch ("LCLB") will be responsible for licencing and enforcement.
- NMC retail stores—both public and private—will be subject to a similar set of rules as liquor stores are now.
- Local governments will have significant control over the NMC retail environment.
- The rules governing rural retail stores are still under consideration and may ultimately be different than those for urban areas.

II. LICENCING OF RETAIL STORES

A. Application Requirements

Individuals and businesses wishing to operate an NMC retail store in British Columbia will need to obtain a licence from the Province. Licence applicants will need to:

¹ See https://news.gov.bc.ca/files/Cannabis_Private_Retail_Licensing_Guide.pdf.

- provide information about the proposed location (i.e. PID, proof of ownership or a lease that does not expire for at least 12 months from the date of licence approval, floor plan);
- provide a background check of police/criminal records; and
- obtain the support of their local government.

Applicants with criminal records will not necessarily be prevented from obtaining a licence—the currency and relevance of the record will be assessed. Similarly, those currently operating illegal dispensaries will not be prohibited from receiving a licence nor will they be given preferential treatment in the application process. In short, all applicants will be subject to the same requirements and evaluation criteria.

B. Local Government Influence on Licencing

Local governments will have significant control over the NMC retail environment:

- **local government support is a mandatory prerequisite to issuance of a Provincial licence** to any applicant, including for public retail stores. Local governments will indicate their support (or lack thereof) by means of council/board resolution sent to LCLB after mandatory consultation with residents in the vicinity of a proposed store about community impacts.
- **local governments will be able to regulate the location of retail stores, including their distance from schools and other stores, through zoning; and**
- **local governments will be able to regulate the number of retail stores in their boundaries, including prohibiting them altogether.**

Notably, the Province will not be implementing its own regulations regarding the location of NMC stores or the number of stores allowed in each community.

C. Application Process Timeline

While applications will be accepted when the Government launches its application portal in spring 2018, applications will only be assessed once legislation is passed.² Further information regarding how applicants can obtain local government support will be provided in the near future.

² Additional information about the application process and portal will be found here: <https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/cannabis-regulation>.

Finally, the Province will not be considering licencing consumption lounges or any other types of licencing (such as online sales, delivery services, or offsite sales at festivals and events) at this time.

III. REGULATING OPERATIONS

A. General Operations Rules

Licensed NMC retail stores will only be able to operate as self-contained businesses and will not be able to combine with existing liquor and/or tobacco stores. Minors will not be allowed to enter NMC retail stores (rural stores may be exempt from these requirements). Unless additional regulations are implemented by a local government, stores will be allowed to be open from 9am to 11pm. Similarly, while the Province is considering security requirements for retail stores, local governments are free to implement their own additional security requirements. Consumption will not be allowed in stores.

B. What Can be Sold?

Licensed NMC stores will be able to sell federally-compliant and LDB-sourced dried cannabis, cannabis oils, and seeds. Cannabis accessories (e.g. pipes, bongs, vaporizers) will also be allowed, while edibles will not; however, the federal government has stated they will be regulating edibles within 12 months of legalization.

C. Compliance

The Province will be establishing a compliance program with education, inspection, and enforcement components. As part of this program, NMC retail employees will be required to attend a mandatory training and every store will be inspected at least once annually, in addition to inspections that occur as a result of complaints received by LCLB. Non-compliant stores will be issued Contravention Notices and non-compliance may lead to monetary penalties, licence suspension, and/or licence cancellation.

IV. RURAL AREAS

The Province is considering implementing distinct rules for NMC stores in rural areas. In particular, they are considering allowing NMC to be sold within existing businesses (e.g. as in the case of liquor) and applying many of the operational requirements of the rural agency store model to the sale of NMC. The Province may also allow accompanied minors to enter retail stores selling NMC in rural areas.

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MEMORANDUM

TO: Clients
FROM: Sara Dubinsky
DATE: February 6, 2018
RE: Local Government To Do List to Prepare for Cannabis Sales

The Province has just released its proposed scheme for retail cannabis sales in British Columbia. This memo sets out the most pertinent provisions and our recommendations for local governments to prepare for legalization.

- 1. Local government support is a mandatory prerequisite to issuance of a Provincial retail licence**
- 2. The Province will not be regulating the location of cannabis retail stores or the number of stores allowed in each community**
- 3. Local governments may regulate the number of retail stores within their boundaries, and may prohibit them altogether**
- 4. Local governments may regulate the location of retail stores, including their distance from schools and other stores**
- 5. Local governments may impose security requirements and additional restrictions on hours of operations - retail stores can otherwise operate between 9 am to 11 pm**

The Province is providing for significant local government control over retail cannabis outlets. **Local governments should begin to consider and consult with respect to the following:**

- Banning retail sales altogether
- Capping the number of retail outlets
- Regulating permissible locations (by zones and/or proximity to certain uses)
- Refusing to support licence applications submitted by existing unlawful retail stores
- Imposition of security requirements and restrictions on hours of operation
- Requiring proof of Provincial licence issuance and successful completion of the Provincial employee training program as prerequisites to business licence issuance
- Adopting procedures for public consultation on licence applications
- Creating a new category of business licence fees
- Regulating public consumption