



ONTARIO EAST MUNICIPAL CONFERENCE

Navigating the Cannabis Industry in Your Community

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Agenda

1. What are the basics of the cannabis regulatory regime?
2. What products are legal now, and what products will be legal come October?
3. What licensing requirements are relevant for cannabis production and cannabis retail (and what rights do municipalities have)?
4. What timelines are relevant to cannabis industry participants?
5. When the phone call comes in, what kinds of questions should municipalities ask?
6. What have other municipalities done?

CANNABIS REGULATORY REGIME BASICS

Federal Jurisdiction Over Cannabis

- Licensing of production for all cannabis, and sale of medical cannabis
- Promotions and advertising, including packaging, labelling and display
- Industry-wide regulations on quantities, potency and ingredients
- Registration and tracking of cannabis from seed to sale
- Criminal penalties (relating to improper possession, distribution or sale)
- Law enforcement at the border

Provincial Jurisdiction Over Cannabis

- Authority to licence and oversee:
 - Wholesale and retail distribution of recreational cannabis;
 - Workplace safety;
 - Transportation
 - Places of consumption
- Discretion to set more restrictive limits (than in the federal *Cannabis Act*), such as for:
 - Minimum consumption age
 - Possession and home cultivation amount
- Criminal penalties (in Ontario, under the *Cannabis Control Act, 2017*)

Recreational Cannabis Retail Models by Province/Territory

Province	Model	Physical Retail	Online Retail	Wholesale Distribution
Alberta	HYBRID	Private only	Government only	Government only
British Columbia	HYBRID	Government and Private	Government only	Government only
Manitoba	PRIVATE	Private only	Private only	Private only
Newfoundland & Labrador	HYBRID	Private only	Government only	Private only
New Brunswick	PUBLIC	Government only	Government only	Government only
Northwest Territories	PUBLIC	Government only	Government only	Government only
Nova Scotia	PUBLIC	Government only	Government only	Government only
Nunavut	PUBLIC	Government and private	Government only	Government only
Ontario	HYBRID	Private only	Government only	Government only
Prince Edward Island	PUBLIC	Government only	Government only	Government only
Québec	PUBLIC	Government only	Government only	Government only
Saskatchewan	PRIVATE	Private only	Private only	Private only
Yukon	HYBRID	Government and Private	Government only	Government only

Municipal Jurisdiction Over Cannabis

- **Generally**
 - Building code compliance
 - Local enforcement and policing (Cannabis Control Act, 2017, Smoke Free Ontario Act, etc)
- **Production Facilities:**
 - Building code compliance
 - Zoning (density, location)
- **Retail Stores:**
 - Building code compliance
 - Zoning powers restricted
 - Business licensing powers restricted

PERMITTED FORMS OF CANNABIS

Current legal forms of cannabis

- As of October 17, 2018, subject to provincial or territorial restrictions, adults who are 18 years of age or older are legally able to:
 - possess up to 30 grams of legal cannabis (dried or equivalent in non-dried form) in public
 - share up to 30 grams of legal cannabis with other adults
 - buy dried or fresh cannabis and cannabis oil from a provincially-licensed retailer
 - grow, from licensed seed or seedlings, up to 4 cannabis plants per residence for personal use
 - make cannabis products, such as food and drinks, at home as long as organic solvents are not used to create concentrated products
- In Ontario, adults must be 19 years of age to be able to engage in the above activities

Future permitted forms of cannabis

- As of October 17, 2019, Cannabis Act will be amended to permit:
 1. Edible cannabis
 2. Cannabis extracts (inc. existing permitted oils)
 3. Cannabis topicals
- Provinces can choose to restrict what's available for recreational sale

FEDERAL PRODUCTION FACILITY LICENSING

Federal Licensing for Cannabis Production Facilities

- Cannabis production facilities are licensed by Health Canada in accordance with the federal *Cannabis Act* and regulations
- Licence Types:
 - Cultivation (including licenses for micro-cultivation, standard cultivation or nursery)
 - Processing (including licenses for micro- or standard processing)
 - Sale for medical purposes
 - Analytical testing
 - Research
 - Cannabis Drug Licences (for pharmaceutical drugs derived from or containing cannabis)
 - Industrial Hemp Licences (minimal cannabinoid content)
 - Import / export (after obtaining one of the above licences)

Municipal Involvement in Cannabis Production Facilities

- First, the applicant will need to ensure they can construct their facility at the desired location
- Second, will need to obtain applicable municipal permissions (e.g., site plan approval or building permits)
- In respect of cannabis production facilities, municipalities may pass zoning by-laws (examples):
 - Permitting production facilities in some zones and not others
 - Imposing setbacks from sensitive uses or zones
 - Setting certain standards for loading, storage and parking on site
- Municipalities have taken different approaches to zoning permissions:
 - Define cannabis production facility or similar, but not permit anywhere specific
 - Define cannabis production facility or similar and regulate
 - Rely on existing categories of uses

Municipal Involvement in Cannabis Production Facilities

- Before the Cannabis Act (i.e., under the ACMPR), many municipalities created zoning by-laws permitting medical production facilities
- Municipalities have sought to amend existing by-laws to modify old definition of “Medical Marihuana Production Facility” to more general “Cannabis Production and Processing Facility”
- Example: Cornwall, April 15 2019, Proposed Modifications to Zoning By-law No. 751, 1969:
 - “Cannabis Production and Processing Facility” means lands, buildings or structures used for producing, processing, testing, destroying, packaging and/or shipping of cannabis authorized by an issued license or registration by the Federal Minister of Health.
 - “A Cannabis Production and Processing Facility must be **entirely conducted indoors**, with no outside storage, within a Federally licensed building” (emphasis added)

Municipal Involvement in Cannabis Production Facilities

- Municipalities may also regulate cannabis production facilities through the site plan control process under s. 41 of the *Planning Act*
 - Site plan control governs what goes where on a site
 - Site Plan Agreement with the municipality, registered on title
 - Must consider federal regulations about required security, including requirements for physical barriers to prevent unauthorized access

PROVINCIAL RETAIL STORE LICENSING

Provincial Licensing for Cannabis Retail Stores

- Legislation - *Cannabis Licence Act, 2018* (and *O. Reg 468/18*) and the *AGCO's Registrar's Standards* together govern licensing and store operations requirements
- Ontario Model – Physical Stores (Private), Online (Government), Distribution (Government)
- Regulator – Alcohol and Gaming Commission of Ontario (AGCO)
- Required Licences - Retail Operator Licence, Retail Store Authorization, Cannabis Retail Manager Licence
- Operator eligibility requirements

Provincial Licensing for Cannabis Retail Stores

- Once market fully opens (expected in 2020), licensed retail operators permitted to hold up to 75 retail store authorizations
- Until market fully opens, maximum of 75 province-wide (inc. 12 in East Region)
- Permitted Products:
 - Cannabis (procured from the Ontario Cannabis Store)
 - Cannabis accessories
 - Shopping bags
- Subject to approved “public interest” objection, no cap on number of stores in a municipality

Retail Store Requirements

- Legislation and the AGCO's *Registrar's Standards for Cannabis Retail Stores* establish operating requirements in the following areas:
 - store premises, equipment and facilities, including surveillance and security
 - the prevention of unlawful activities
 - advertising and promotional activities
 - training related to the responsible use and sale of cannabis
 - the protection of assets
 - record-keeping and measures to maintain confidentiality and security of records
 - compliance with the federal cannabis tracking system.

Retail Store Requirements

- Minimum separation of 150 metres from any private or public school
- Store must be enclosed by walls (no doors) separating it from any other commercial activity, but can be located inside a mall provided it will have its own shipping/receiving
- Regulations sets authorized open hours: 9 a.m. to 11 p.m. any day.
- In-person sales only
- All store employees must undergo mandatory training
- Cannabis or accessories cannot be visible from outside
- Security requirements (cameras and access)
- Minors not permitted into Stores at all
- “Reasonable measures” to ensure patrons not purchasing for Minors
- Signage must comply with federal promotion requirements

Municipal Involvement in Cannabis Retail Stores

- Municipal rights limited in connection with cannabis retail stores:
 - Cannot restrict with zoning powers
 - Cannot restrict with business licensing powers
- Can make “public interest” objection to AGCO for a specific store location
 - Protecting public health and safety;
 - Protecting youth and restricting their access to cannabis; and
 - Preventing illicit activities in relation to cannabis
- Can enforce applicable statutes (*Building Code, Cannabis Control Act, etc*)
- Can pass by-laws to further restrict permitted places of smoking/vaping

Municipal Involvement in Cannabis Consumption

- Municipalities have passed rules regulating public smoking and vaping
- Example: Kingston By-Law Number 2018-173:
 - “No Person shall Smoke or Vaporize in any Designated Public Place, whether or not a “No Smoking” sign or a “No Vaping” sign is posted.”
 - “Designated Public Places” include: Parks, outdoor community meeting areas, municipal buildings and central transit shelters, enclosed workplaces, enclosed public spaces
- Example: Peterborough, By-Law Number 18-114:
 - No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within a nine (9) metre radius surrounding any entrance, exit, or air intake of any building owned by: (a) The City (b) The Peterborough Utilities Group; (c) The Peterborough Utilities Commission; (d) The Peterborough Public Library Board; or (e) The Corporation of the County of Peterborough located within the City.
 - No person shall smoke or hold a lighted Tobacco Product or use an Electronic Cigarette, e-substance, or Vapour Product within the Riverview Park and Zoo except in an area designated to allow smoking.

Municipal Opt-Out from Cannabis Retail Stores

- Municipalities had a right to opt-out of having any cannabis stores prior to Jan 22, 2019

Adjala-Tosorontio, Township of
Amaranth, Township of
Baldwin, Township of

Beckwith

Blandford-Blenheim, Township of
Bluewater, Municipality of
Brantford, City of
Brudenell, Lyndoch and Raglan, Township of
Caledon, Town of

Casselman

Centre Wellington, Township of
Chapleau, Township of
Chapple, Township of
Clearview, Township of
Conmee, Township of
Dorion, Township of
East Gwillimbury, Town of

East Hawkesbury

East Zorra-Tavistock, Township of
Emo, Township of
Erin, Town of

Frontenac Islands

Georgian Bluffs, Township of
Georgina, Town of
Grimsby, Town of
Harris, Township of

Ingersoll

James, Township of
Jocelyn, Township of
Killarney, Municipality of
King, Township of
Lake of the Woods, Township of
Lakeshore, Town of

Lanark Highlands

LaSalle, Town of
Mapleton, Township of
Markham, City of
Markstay-Warren, Municipality of

Marmora

Matachewan, Township of
McDougall, Township of
McGarry, Township of

McKellar, Township of
Melancthon, Township of
Milton, Town of
Mississauga, City of
Mono, Town of
Muskoka Lakes, Township of
Newmarket, Town of
Niagara-on-the-Lake, Town of
North Huron, Township of
Northern Bruce Peninsula, Municipality of
Norwich, Township of
Oakville, Town of
Oro-Medonte, Township of
Papineau-Cameron, Township of
Pelham, Town of
Pickering, City of
Pickle Lake, Township of
Plympton-Wyoming, Town of
Point Edward, Village of
Powassan, Municipality of
Richmond Hill, Town of
Sables-Spanish Rivers, Township of
Severn, Township of

Southgate, Township of
Southwold, Township of
St. Clair, Township of

Tay

Tecumseh, Town of
Temagami, Municipality of

Tyendinaga

Vaughan, City of
Wainfleet, Township of
Wasaga Beach, Town of
West Lincoln, Township of
Whitby, Town of

Financial support for participating municipalities

- Municipalities that did not opt-out prior to Jan 22, 2019 have received limited funding from the Ontario Cannabis Legalization Implementation Fund (OCLIF) for costs related to cannabis legalization, such as increased enforcement, increased first-responder services, etc.
- Ontario has committed to providing municipalities with 50% of any amounts over \$100 million received on Ontario's portion of federal excise duties on cannabis sales

PROCESS AND TIMELINES FOR PRODUCTION FACILITIES AND RETAIL STORES

Process and timelines for Cannabis Production Facilities

- Health Canada application processing times have been long and highly variable
- May 8, 2019 process change meant to improve efficiency
- New applicants for cultivation and processing licences required to complete facility construction *prior* to submitting Application
- Identifying facility location likely to be first step, maybe second

Process and timelines for Cannabis Retail Stores

- Round 1 was 2.5 to 6 months for all required licenses and store opening
- Round 2 likely to be similar – first of 42 new stores expected to open in October
- Open market timelines unpredictable

QUESTIONS TO CONSIDER WHEN THE CALL COMES IN

When the call comes in

- Cannabis is here to stay – eventually stigma will be no worse than alcohol, likely less
- But, still early days – the industry is professionalizing
- Diligence and risk assessment can mitigate problems down the road.
- Key considerations when deciding whether to welcome cannabis production facilities:
 - What benefits will the business bring to the community?
 - How will the new business impact existing residents and businesses?
 - Are the operators reputable and likely to comply with applicable laws?
 - Is the business likely to be successful?

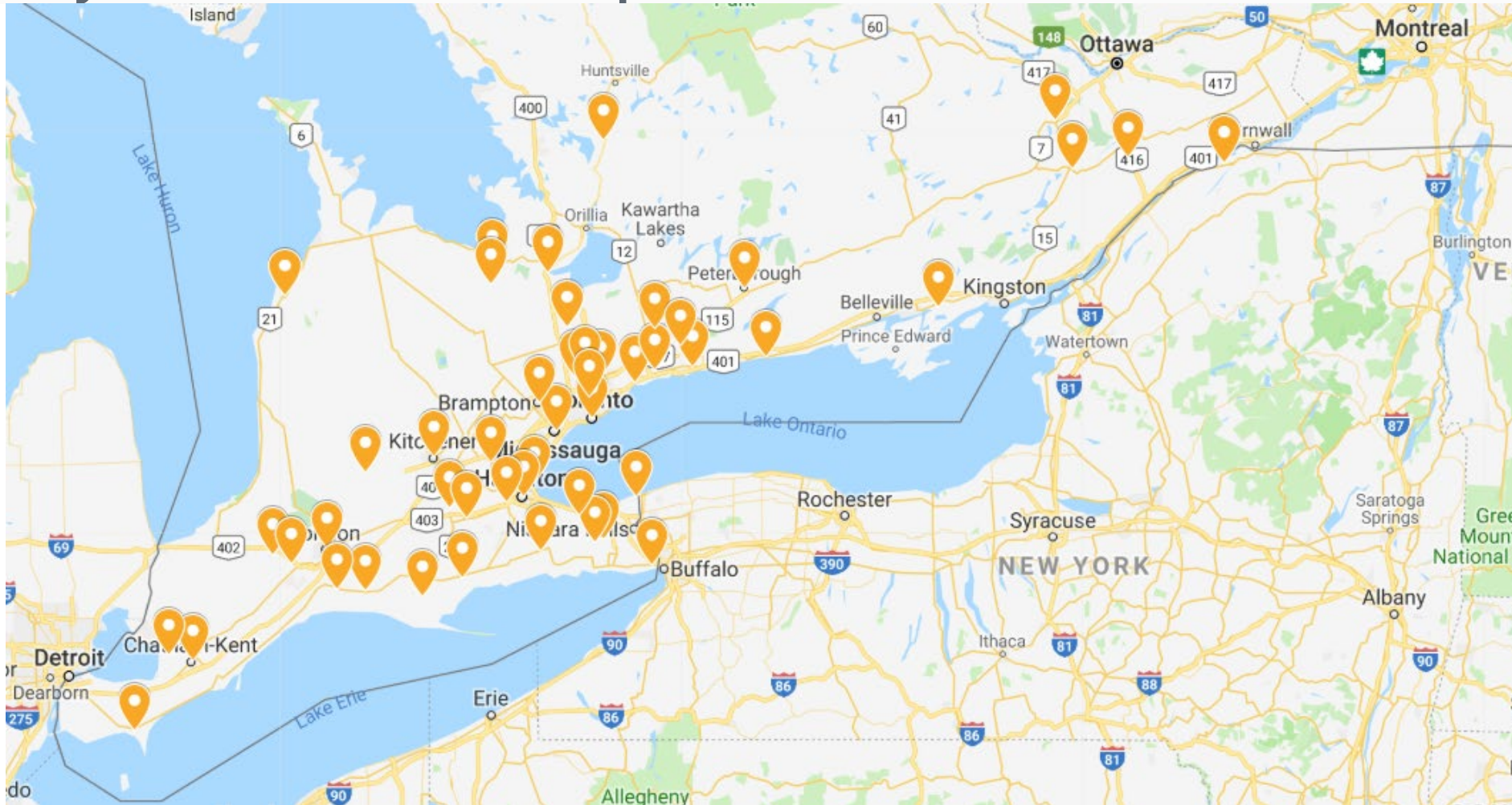
When the call comes in

- Examples of questions to consider:
 - Is the company well capitalized? Is it in good financial standing with its lenders and investors?
 - Is there public disclosure available that can be reviewed?
 - Are the founders credible? Do they have a business education and/or a history of involvement in successful businesses – whether in the cannabis industry, or otherwise?
 - What is the status of regulatory relationships, if any? Are the principals already security-cleared by Health Canada or another regulator?
 - Have they spoken to other municipalities? Consider connecting with them for their assessment.
 - What are their plans for trying to hire within the community?

Cannabis in your community

- The production and processing of cannabis is comparable to many agri-food production facilities, with added levels of regulation
- Like agri-food facilities, cannabis production and processing facilities require technologically advanced buildings and a skilled workforce
- Cannabis has created an estimated 5,700 jobs in Ontario (Statistics Canada Labour Force Survey, November 2018)
- The cannabis industry – both federally licensed production (or testing, etc) and provincially-licensed retail - represents an economic development and job creation opportunity for municipalities

Federally licensed cannabis production in Ontario

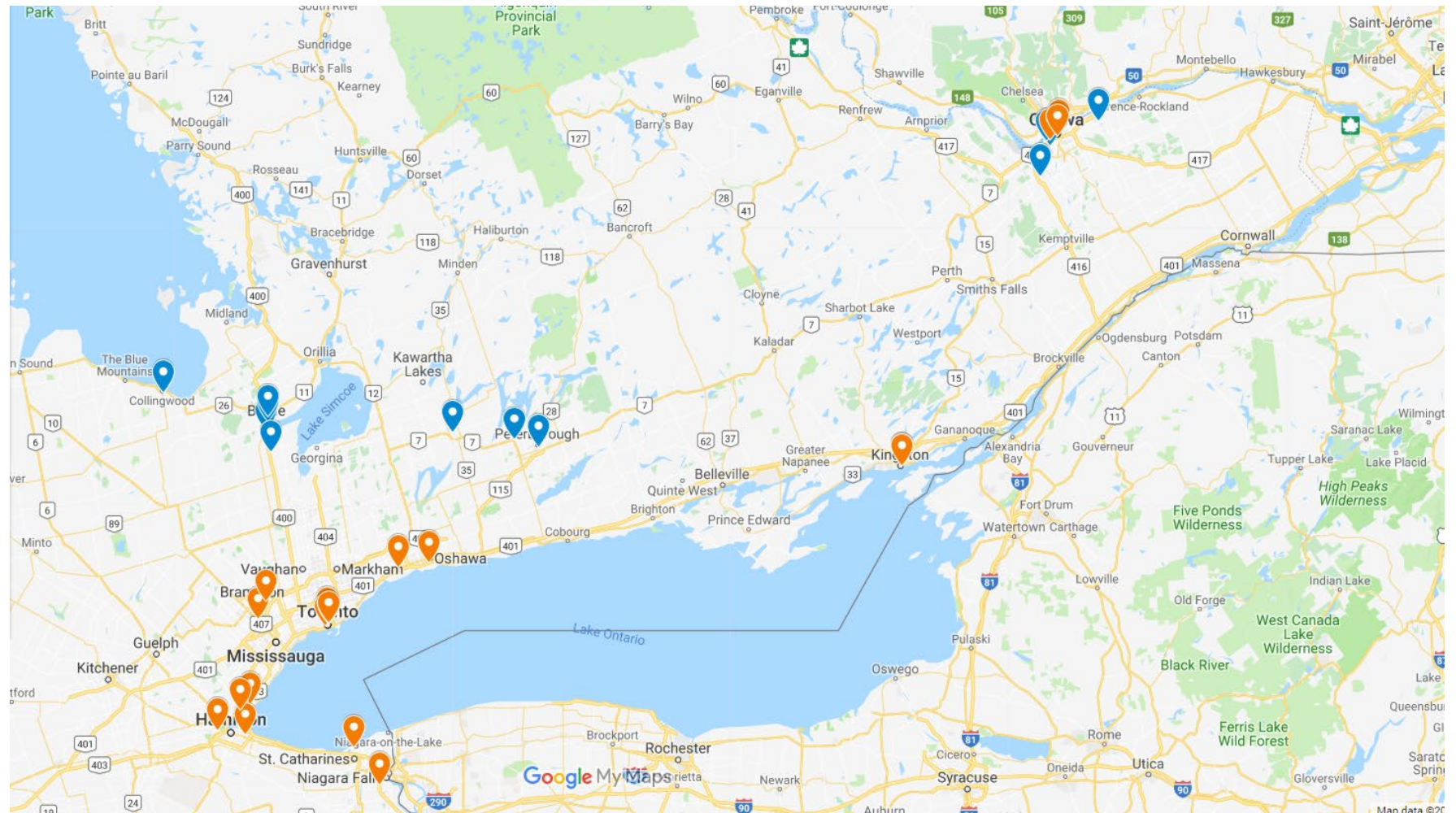


Provincially licensed cannabis retail in Ontario

Legend

Lottery Round 1 (issued)

Lottery Round 2 (pending)



Speakers:



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