

<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES MEETING ON DECEMBER 10, 2018</b>
<b>FROM:</b>	<b>ROSANNA WILCOX DIRECTOR, COMMUNITY &amp; ECONOMIC INNOVATION</b>
<b>SUBJECT:</b>	<b>MUNICIPAL IMPLEMENTATION OF LEGALIZED CANNABIS – CANNABIS LICENCE ACT, 2018</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Director of Community and Economic Innovation, with concurrence of the City Manager, the following actions be taken with respect to the municipal implementation of legalized cannabis:

- a) the report dated December 10, 2018 and entitled “Municipal Implementation of Legalized Cannabis – Cannabis Statute Law Amendment Act” BE RECEIVED;
- b) the Civic Administration BE ADVISED as to how the Municipal Council wishes to proceed with respect to the location of retail cannabis stores in London; and,
- c) the Civic Administration BE DIRECTED to continue to work with the federal and provincial governments to identify current or future potential challenges relating to policing, by-law enforcement, and community services requirements associated with the legalization of recreational cannabis;

it being noted that the Province of Ontario has established a deadline of January 22, 2019 for Municipal Council to pass a resolution, if it so chooses, to prohibit cannabis retail stores from being located in the municipality.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- Planning and Environment Committee – December 4, 2017 – Planning for Non-therapeutic Cannabis Retail Stores

<b>BACKGROUND</b>
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The following is a summary of the timeline and milestones related to the legalization of cannabis:

- April 13, 2017 – the federal *Cannabis Act* is introduced
- Summer 2017 – Ontario leads province-wide consultations on how the government should approach the legalization of cannabis
- November 1, 2017 – the province introduces the *Cannabis, Smoke-Free Ontario, and Road Safety Statute Law Amendment Act, 2017*
- December 11, 2017 – federal government announces it will allocate up to 75% of expected tax revenue from cannabis to the provinces and territories, it being noted that the transfer of funds would be directed to cover local implementation and enforcement costs borne by local governments and provinces
- December 12, 2017 – Ontario legislature passes the *Cannabis, Smoke-Free Ontario, and Road Safety Statute Law Amendment Act, 2017*
- December 12, 2017 – London City Council enacts by-law to create a new Council Policy - [Siting of Cannabis Retail Stores in London](#)

- August 13, 2018 - Province of Ontario commits to sharing \$40 million over two years with municipal governments, and 50% of all excise tax revenue generated over \$100 million
- September 27, 2018 – Ontario introduces legislation to move forward with private cannabis retail stores
- October 17, 2018 – Ontario passes Bill 36 – *Cannabis Statute Law Amendment Act*
- October 17, 2018 – Cannabis is legalized across Canada
- October 2018 - Province of Ontario amended the *Smoke-Free Ontario Act, 2017 (SFOA, 2017)* to align the regulation covering the smoking of cannabis with that of tobacco
- November 20, 2018 - Province of Ontario releases plan for distribution of funds to municipalities: \$15 million in early January; \$15 million after January 22, 2019 deadline for municipalities to prohibit retail stores; \$10 million set aside to address unforeseen circumstances
- April 1, 2019 – Ontario private retail model to be established by this date, allowing for sale of cannabis through retail stores

## DISCUSSION

### What is the *Cannabis Licence Act, 2018*?

Ontario's provincial legislature passed the *Cannabis Licence Act* on October 17, 2018. This *Act* sets out the legal structure for private cannabis retail in Ontario and gives the Alcohol and Gaming Commission of Ontario (AGCO) the authority to license, regulate and enforce the sale of recreational cannabis through privately run stores in Ontario.

### Can Ontario municipalities prohibit cannabis retail stores?

**Ontario municipalities have a one-time option to opt out of having cannabis retail stores in their communities.** Municipalities have until January 22, 2019 to inform the AGCO if they wish to opt out. Municipalities that choose to opt out can opt back in at any time – but once they are in, they may no longer opt out.

Once this decision has been made, written notification must be provided to the AGCO no later than 3 business days after the resolution has been passed by Municipal Council, but not later than January 22, 2018. This notification may be sent by the Mayor, Chief Administrative Officer or Municipal Clerk.

**If an Ontario municipality opts out then no cannabis retail stores will be located in the community. If no written notification is received, municipalities will be considered ready and willing by default to have retail stores in their community.**

### What is the AGCO responsible for?

The AGCO will act as the sole licensing agency on behalf of the Government of Ontario. It is focused on the safe, responsible and lawful sale of recreational cannabis and is responsible for:

- Licensing eligible retail store operations and managers
- Authorizing stores
- Regulating the sale of cannabis at private retail stores

### Where can cannabis retail stores be located?

A cannabis retail store cannot be located near a school, as defined in the *Education Act*. The provincial cannabis retail regulations include a 150-meter buffer area for cannabis

stores to keep them separated from schools. No buffers from any other use has been specified by the regulations.

The AGCO licenses and authorizes retail operator licenses, however, applicants are encouraged to check with local municipalities to ensure locations comply with local zoning requirements.

#### How will the community be notified of a proposed cannabis store site?

Notification of applications for Retail Store Authorizations will be made available to the public once a completed application has been received. Applicants are required to physically post a notice indicating that an application for a private retail cannabis store has been submitted for the location. This information will also be posted on the AGCO website.

The municipality, along with its residents, will have an opportunity to provide written submissions to the AGCO on matters of public interest, as set out in the regulations, before a proposed cannabis location is authorized. Written submissions must be made no later than 15 days after the notice has been posted.

In the regulation, public interest is defined as public health and safety; protecting youth and restricting access to cannabis; and, preventing illicit activities in relation to cannabis.

#### Can municipalities enact business licensing and other by-laws regarding the sale of cannabis?

**The *Cannabis Licence Act, 2018* provides that municipalities are not authorized to enact a business licensing by-law respecting the sale of cannabis.** Additionally, municipalities will be prohibited from passing a zoning by-law, an interim control by-law or a site plan control by-law that has the effect of distinguishing between uses of land.

#### How will the smoking of recreational cannabis be enforced?

The *Smoke-Free Ontario Act (SFOA), 2017* regulates the smoking or holding of lighted cannabis in defined places and enclosed workspaces. The responsibility for enforcing regulations contained within the *SFOA, 2017* will be shared by officers from local police services and Tobacco Enforcement Officers from Public Health Units. **Municipalities have the option to pass by-laws to further regulate the smoking or holding of lighted cannabis, if they so choose.**

#### How will illegal retail stores be addressed?

With respect to retail stores selling cannabis that are not “authorized cannabis retailers” (i.e. the Ontario Cannabis Retail Corporation, or the holder of a retail store authorization), section 21 of the *Cannabis Control Act, 2017* provides for designation of other person or class of persons (including by-law officers) to exercise the powers of a police officer to enforce that *Act*. City By-law Enforcement Administration is in discussions with the Ministry of the Attorney General and London Police Service in relation to this matter.

With respect to an “authorized cannabis retailer” and enforcement of the Cannabis Licence Act, 2018, the AGCO Registrar may designate persons employed by the AGCO as inspectors or investigators. Police officers are deemed to be investigators.

#### What are the financial considerations for municipalities?

The 2018 Operating Budget Mid-Year Monitoring Report (Corporate Services Committee, [September 25, 2018](#)) identified cannabis legalization as an emerging issue requiring additional services from the City and associated entities, including police, fire, by-law and public health enforcement. Preliminary cost estimates under the initial public model were in the range of \$3.7 million annually (estimated yearly costs by 2020). Civic Administration is working with community partners to better identify costs as legislation and other details are released by the Province under the private retail model. Civic Administration will monitor the costs associated with the roll-out of legalized cannabis and address pressures in future budget submissions as required. Current mitigation measures include:

- Coordination to understand and anticipate the municipal implications of cannabis legalization and sharing information through a staff-led Cannabis Working Group;
- Communication through FCM, AMO, other provincial organizations, and direct advocacy to ensure federal and provincial governments offset costs.

The province has released some details surrounding funding for municipalities relating to cannabis legalization. The \$40 million fund announced for municipalities in Ontario will be targeted to addressing initial costs relating to the hosting of retail storefronts. Based on the information the province has announced to date, funding will be distributed based on the following considerations:

- The province is setting aside \$10 million as a contingency for “unforeseen circumstances” related to cannabis legalization. No additional detail for what might constitute an “unforeseen circumstance” is currently available, but this funding would be prioritized for communities that choose to allow cannabis retail storefronts.
- An initial payment to municipalities (\$15 million of the \$40 million fund) was allocated on November 26, 2018. This allocation will be distributed on a per-household basis, adjusted so that no municipality receives less than \$5,000. London’s allocated share is \$450,991.
- After January 22, 2019, communities that prohibit cannabis retail stores will receive an additional payment of \$5,000 total. Communities that allow retail storefronts will receive additional funding on a per-household basis, using the remaining \$15 million from the \$40 million fund.
- Communities that allow retail storefronts will also be eligible for a share of 50% of any revenue collected by Ontario over \$100 million in the first two years following legalization.

The province has indicated an expectation that municipalities will report how this funding is used, and that funds will be allocated to costs directly related to cannabis legalization. Specific examples provided by the province include increased enforcement (including police, public health, by-law, court administration); paramedic and fire services; and policy development.

**It should be noted that the majority of costs relating to cannabis legalization, including the vast majority of police, by-law enforcement, and public health costs will still be incurred regardless of whether a community chooses to allow retail storefronts or not. However, the amount of funding a community receives is dependent on whether they choose to allow cannabis retail stores.**

In addition, by choosing to prohibit retail sales initially with the potential to opt-in at a later date, municipalities are at risk of losing any per-household funding, increasing unfunded costs resulting from cannabis legalization.

<b>NEXT STEPS</b>
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Following Council’s direction as to how it wishes to proceed with respect to the location of retail cannabis stores in London, written notification will be provided to the AGCO no later than 3 business days after the resolution has passed by Municipal Council, but not later than January 22, 2019.

Civic Administration will continue to work with the Province of Ontario, Government of Canada, and our municipal associations to identify current or future potential challenges relating to policing, by-law enforcement, and community services requirements associated with the legalization of recreational cannabis.

Regular updates will continue to be provided to Municipal Council related to the legalization of cannabis.

<b>CONCLUSION</b>
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The required Council decision on whether to prohibit cannabis retail stores will impact the funding available to address additional costs that the municipality will face as a result of the legalization of recreational cannabis. It should be noted that regardless of Council’s decision, the smoking and lighting of recreational cannabis, as well as the online sale of recreational cannabis will still occur in the community. In future, Council may wish to consider additional restrictions on the use of cannabis in municipal and/or public spaces.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<b>ADAM THOMPSON MANAGER, GOVERNMENT AND EXTERNAL RELATIONS</b>	<b>ROSANNA WILCOX DIRECTOR, COMMUNITY &amp; ECONOMIC INNOVATION</b>
<b>CONCURRED BY:</b>	
<b>MARTIN HAYWARD CITY MANAGER</b>	

- c. Senior Management Team
- Operations Management Team