

TOWN OF LAKESHORE
COMMUNITY AND DEVELOPMENT SERVICES
DEVELOPMENT SERVICES DIVISION

TO: Mayor and Members of Council
FROM: Kim Darroch, Manager of Development Services
Ian Search, Planner Level 1
DATE: November 19, 2019
SUBJECT: Cannabis Retail Stores

RECOMMENDATION:

It is recommended that:

1. Council receive this staff report for information.

BACKGROUND:

In 2018, the provincial government announced that municipalities could “opt out” of allowing privately licensed cannabis retail stores within their communities and retain the ability to “opt in” at a later date. Under the *Cannabis Licence Act, 2018*, a decision by a municipality to allow cannabis retail stores is final and may not be subsequently reversed.

On December 11, 2018 Council delegated authority to the Town Clerk to inform the Alcohol and Gaming Commission of Ontario (AGCO) Registrar and the Province of Ontario that the Town of Lakeshore wished to “opt out” of enabling cannabis retail stores. The decision was made on the basis of a “wait and watch approach” to give staff the opportunity to engage Lakeshore residents, local businesses, and other host municipalities on this topic.

On July 16th, 2019 Council adopted a proposed public engagement strategy consisting of various initiatives that have since been executed by staff:

- 1) Online Survey / Digital Engagement: An on-line survey was published on Place Speak and advertised in local newspapers and through other media releases.
- 2) Public Information Session: Town staff hosted a public information session, providing background information on provincial legislation and regulations respecting Private Recreational Cannabis Retail Stores, and opportunity for public input and comment. Written comments were submitted during the public information session.

- 3) External Agency Review: Staff solicited input from municipalities hosting cannabis retail stores and external agencies on the subject matter.
- 4) Municipal Cannabis Policy Statement: A draft Municipal Cannabis Policy Statement was developed by staff and reviewed by the Windsor-Essex County Health Unit to provide necessary input for future cannabis retail site applications if permitted in Lakeshore.

The purpose of the policy is to:

- Set out locally sensitive uses (in addition to schools under the Ontario Education Act) with respect to the location of retail cannabis stores that the municipality would want considered by the AGCO;
- Provide municipal staff a framework on which to base written submissions to AGCO during the 15 day comment window. This window affords staff and residents the opportunity to explain how a proposed cannabis retail site is not in the public interest; and
- Assist individuals and businesses who are planning to make an application to the AGCO to operate a store, to understand the where the Town's sensitive land uses are, in relation to retail zones, understanding, however, that all licensing is the sole responsibility of the AGCO.

The results from each public engagement initiative are summarized below. A copy of the Municipal Cannabis Policy Statement and results from the survey on Place Speak have been provided as attachments to this report (See Appendix 1 and 2).

If Council decides to "opt in" to legal cannabis sales, it is recommended that Council engage the public regarding the draft Municipal Cannabis Policy Statement via a second public information session.

COMMENTS:

Online Survey / Digital Engagement

Town staff advertised an online survey and poll to solicit views from the public. On August 23, 2019 the topic went live on the digital engagement tool Place Speak. The poll simply asked respondents if they wanted the sale of recreational cannabis in Lakeshore. 142 people who reside in Lakeshore have responded to this poll as of December 4, 2019. Among them, 85 answered yes, 55 answered no, and two indicated that they were undecided (See Appendix 2).

The online survey asked respondents several questions and provided them with the opportunity to elaborate on their answers via written response. Some of the survey questions included:

- Do you want the private retail sale of cannabis in Lakeshore? Why or why not?
- How likely are you to buy retail cannabis at a private store?
- Do you have any concerns with the retail sales of cannabis in Lakeshore?

The results from the survey featured on Place Speak, including the written responses.

Public Information Session

On November 4th, 2019 town staff hosted a Public Information Session at the Atlas Tube Centre. The purpose was to present information to the public on the cannabis sales licensing process, including retail store authorization, and provide an opportunity for the public to provide their comments and concerns directly to staff.

Twenty people attended the open house. Staff noticed that about half of those who attended were in opposition to the idea of permitting retail cannabis stores in the Town. They raised concerns that the stores will reduce property values, increase crime and increase accessibility to a harmful product. The other half who attended the open house were in favour of council opting in. Those individuals described the benefits of cannabis use to staff and raised the importance of personal liberty on these matters.

External Municipality and Agency Review

Although there are no local examples in Essex County to draw from, the City of Windsor Police *“would like to remind the public that, although recreational cannabis is legal across Canada, the City of Windsor does not yet have a legal brick-and-mortar cannabis store in operation. Pot can only be legally purchased at a licenced retail store, or online at the Ontario Cannabis Store website.”* The City of Windsor has however raided several illegal pot dispensaries.

Eleven municipalities hosting recreational cannabis retail stores in Ontario were asked if their By-law Departments had received any issues or complaints from residents regarding these stores. None of the municipalities could identify a single complaint directly related to the cannabis retail stores in their communities. While the City of Oshawa did receive a complaint with respect to parking and fire route access at a cannabis retail store property, the store itself is located in a commercial plaza, so the by-law complaints could not be attributed to the store specifically.

Staff at the City of Kingston note that they have not received complaints about the stores themselves, but have received complaints about residents growing cannabis in their yards and smoking cannabis in areas where smoking is prohibited.

The City of Windsor

The Windsor Essex-County Health Unit (WECHU) recommends municipalities opt-out of permitting private recreational cannabis stores given the current regulatory model which limits land use control at the local level. WECHU states that without restrictions on density, clustering of cannabis retailers may result in increased access, consumption, and increased risk for chronic disease, mental illness, and injury. Moreover, cannabis smoke

contains many of the same carcinogens, toxins, and irritants found in tobacco smoke with the added psychoactive properties of cannabinoids like THC. The Health Unit is recommending that cannabis-related businesses be no less than 500 metres from any school, library, park, recreational centre or youth serving facility, addiction, mental health facility, hospital, place of worship, alcohol, tobacco or any other cannabis-related business.

Essex-Windsor Emergency Medical Services (EMS) received 623 cannabis –related paramedic calls in 2018. 171 of those calls were received after recreational cannabis was legalized on October 17, 2018. This means Essex-Windsor EMS saw a 30% increase in cannabis related calls post legalization for 2018. Whether or not the presence of private recreational cannabis retail stores in Essex-Windsor will contribute to the rise in cannabis-related paramedic calls has yet to be determined.

Cannabis Policy Statement

As a mechanism to provide input on proposed store licenses, municipalities can develop a Municipal Cannabis Policy Statement which will offer feedback to AGCO on all cannabis retail site applications. A draft Cannabis Policy Statement was developed using a template provided by the Association of Municipalities Ontario (AMO). Policy statements were reviewed from municipalities that have already made the decision to permit private recreational cannabis retail stores. WECHU recommended revisions to the draft policy after it was sent to them for review, favouring larger setbacks of at least 500 metres from sensitive land uses.

In addition to the 150 metre separation distance from schools imposed by AGCO, the draft policy statement requests that the Registrar for the AGCO respect additional separation distances from community centres, daycares, parks and libraries. These land uses, and their recommended separation distances, were included in the draft policy to discourage AGCO from approving recreational cannabis stores next to sensitive land uses designed to serve vulnerable populations such as youth.

An interactive map was created to accompany the draft policy and will be featured on the town website (See Appendix 1, Schedule A of the draft Municipal Cannabis Policy Statement). It illustrates the recommended buffers from sensitive land uses in the draft policy, in relation to where a cannabis retail store could be developed.

Staff believe it imperative to include these land uses in the policy statement as the Town will not have the authority to pass a by-law that has the effect of distinguishing between a use of land, a building or a structure that includes the sale of cannabis and a use of land, a building or a structure that does not include the sale of cannabis. Cannabis retail stores would fall as a use under retail zoning and be permitted wherever retail stores are permitted in Lakeshore.

Update on the Lottery System

On December 13, 2018, the Government of Ontario announced that a temporary cap of 25 Retail Store Authorizations would be imposed while cannabis supply stabilizes. On July 3, 2019 the Government announced that an additional 50 cannabis retail stores will be permitted across Ontario. The first set of stores were meant to open on April 1, but several operators missed that deadline. The latest lottery means the number of pot shops allowed in Ontario will rise to 75. They will be allowed to open in any municipality regardless of population, if the community did not opt out of having cannabis stores. Eight stores will be located on First Nations reserves and are being approved through a separate process.

Recent reports in the media have indicated that the lottery system maybe eliminated. In speaking with the AGCO, they acknowledged that there have been comments made about scraping the lottery in the media, but nothing has been confirmed to date to the AGCO. Any announcements on further lotteries, have not yet been confirmed.

Options to Consider

1. If Council decides to continue to “opt out” of legal cannabis retail sales, no direction to staff is required; or,
2. If Council decides to “opt in” to legal cannabis sales, direct staff to do undertake the following:
 - a. engage public comments regarding the attached Municipal Cannabis Policy Statement;
 - b. bring forward a by-law to delegate to the Town Clerk and/or the Director of Community and Developments Services, the authority to provide municipal comments on Cannabis Retail Store Authorization requests to the AGCO, in accordance with the Municipal Cannabis Policy Statement;
 - c. bring forward a by-law to adopt the Municipal Cannabis Policy Statement; and
 - d. the Town Clerk inform the Alcohol and Gaming Commission of Ontario (AGCO) Registrar and the Province of Ontario that the Town of Lakeshore wishes to “opt in” of enabling cannabis retail stores.

OTHERS CONSULTED:

Windsor Essex County Health Unit (WECHU)
Association of Municipalities of Ontario (AMO)

Essex-Windsor Emergency Medical Services (EMS)
Host Municipalities (Police, By-law Departments, Planning Departments)
Public (Town of Lakeshore)
Alcohol and Gaming Commission of Ontario (AGCO)
Health Canada

FINANCIAL IMPACTS:

Staff will monitor any updates on any further funding announcements for municipalities that would now like to opt in, after opting out initially, through the Ontario Cannabis Legalization Implementation Fund (OCLIF) and will monitor any further announcements on the possibility of further retail store authorizations by the AGCO, as available funding has been allocated to municipalities, in accordance with the following:

- *“The Minister of Finance, in August of 2018, provided municipalities with an update on the OCLIF which was announced in 2018 as a \$40 million initiative over two years to help municipalities with the implementation costs of recreational cannabis legalization. In early 2019, the government provided municipalities with \$30 million in OCLIF funding, and \$10 million was set aside to address costs from unforeseen circumstances related to the legalization of recreational cannabis, for which priority would be given to municipalities that did not opt-out of hosting cannabis retail stores (See Appendix 3).*
- *If Ontario’s portion of the federal excise duty on recreational cannabis over the first two years of legalization exceeds \$100 million, the province will provide 50 per cent of the surplus only to municipalities that did not opt-out of hosting private retail stores as of January 22, 2019.*
- *Municipalities must use their OCLIF funding to address the implementation costs that directly relate to the legalization of recreational cannabis.*
- *Lower-tier and upper-tier municipalities received a 50/50 split of the allocations made on a per household basis. Decisions to adjust the split in allocation and transfer funding can be made at the local level as needed. In the second and third payments, upper-tier municipalities received funding in relation to opt-out decisions made by the lower-tier municipality. If a lower tier municipality opted-out, the upper tier municipality did not receive funding on a per household basis in relation to that municipality.”*

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Appendix(s)

'1' – Draft Municipal Cannabis Policy Statement

'2' – Place Speak Survey

'3' - Ontario Cannabis Legalization Implementation Fund — OCLIF Allocation Table