



Staff Report

Report No.: BLD-01-2019

Meeting Date: January 9, 2019

Submitted by: Arnie Marsman, Director of Building Services / Chief Building Official

Subject: Privately Operated Cannabis Retail Stores – Opt In or Opt Out

Recommendation:

THAT privately operated cannabis retail stores be permitted within Middlesex Centre.

Purpose:

To advise council of the ramifications of opting in or out of permitting the retail of recreational cannabis in Middlesex Centre and to obtain direction from council in order to advise the province of Middlesex Centre's position in this regard.

Background:

Cannabis Legislation

The Cannabis Act (Bill C-45) became law on June 21, 2018 in Canada and legalized the sale, possession and consumption of recreational cannabis in Canada as of October 17, 2018. Under the Act, responsibility for implementing the new law and regulating actual sales and usage is shared between the federal and provincial governments. On October 17, 2018 the Province enacted the Cannabis Statute Law Amendment Act (Bill 36) regulating the sale and use of cannabis and vapour products in Ontario. On November 14, 2018, the Cannabis Licence Act, 2018, and Ontario Regulation 468/18 were proclaimed law.

In enacting Bill 36, the Province determined that the retail sale of cannabis in Ontario would be done through private sector retail stores, similar to the model adopted in Alberta, Saskatchewan and Manitoba. The legislation provides that local municipalities have a one-time opportunity to prohibit retail cannabis stores within their municipality by passing a resolution to opt out by January 22, 2019. A decision to opt in is final. A decision to opt out can be reversed but it will have cost consequences.

The Province has established the Ontario Cannabis Legalization Implementation Fund to distribute \$40 million over two years to help municipalities with the implementation costs

of recreational cannabis legalization. A decision to opt out will impact the level of funding a municipality will receive, and the decision made will impact the level of funding available to Middlesex County.

Role of the Alcohol and Gaming Commission of Ontario (AGCO)

The AGCO is responsible for licencing all retail operators and all store managers, and performing required background checks in this regard. The AGCO has sole responsibility for approving retail store locations. The AGCO is an independent provincial regulator that currently licences, regulates and ensures compliance in the alcohol, gaming and horse racing industries in Ontario, making it an experienced regulator of controlled substances.

The AGCO licencing process is as follows:

1. Retail operator licence – will be issued after the AGCO has conducted its due diligence (investigation and background checks) into the business or individual operator. A licenced retail operator can operate up to 75 stores in the Province of Ontario.
2. Cannabis retail manager licence – every individual with management responsibilities in a cannabis retail store must obtain a retail manager licence and will be subject to background checks in this regard.
3. Retail store authorization – licenced retail operators may apply for authorization to operate a retail store at a specific location. Retail stores cannot sell any product other than cannabis and cannabis use accessories as defined in the Federal Cannabis Act, including papers, vaping and other apparatus for smoking cannabis. Prior to issuing a retail store authorization, the AGCO will ensure that the proposed location is not within 150 metres of the property line of a public or private school.
4. Establish training requirements and conduct training for all operators, managers and staff of a retail cannabis store.
5. Conduct a pre-inspection of all retail cannabis stores.
6. Conduct an ongoing compliance and audit process.

A retail operator licence and a retail manager licence will be valid for two years and renewed every two years or four years. Retail operators or managers who are found to

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have contravened their licence will be subject to monetary penalties, a suspension of their licence, refusal to issue a licence or revocation of a licence. The AGCO has advised that it will have a complete retail regulatory guide available on its website shortly.

The Province of Ontario has determined that the Ontario Cannabis Store will be the only licensed wholesaler of recreational cannabis. The Ontario Cannabis Store began selling product online on October 17, 2018 and will sell all recreational cannabis to retail store locations.

Municipal Role

Provincial legislation and regulations make it clear that there is no municipal role in regulating cannabis retail stores. Local municipalities have until January 22, 2019 to decide if retail cannabis stores will be allowed within the municipality. If no decision is made by January 22, 2019 then municipalities are deemed to have opted in and retail cannabis stores will be allowed by default. Municipalities cannot designate cannabis retail as a separate land use from retail or commercial generally, but municipal zoning and land use by-laws will apply.

A public notice will be posted on the AGCO website of the proposed location and a placard must be displayed at the proposed location for a 15-day period. Municipalities and concerned residents are expected to check the website to be informed of cannabis retail store applications within the municipality. The Province advises that “AGCO plans to work closely with municipalities who choose to have cannabis retail stores operate in their local communities.” During the 15-day notice period, local residents as well as the Municipality and the County can make written submissions to the AGCO with respect to the application. Anonymous submissions will not be accepted. The AGCO is advising that written submissions should be directed to issues concerning protecting public health and safety; protecting youth and restricting their access to cannabis; or preventing illicit activities in relation to cannabis.

Municipalities will not be asked to comment on matters related to the zoning by-law, such as parking requirements, and will not be allowed to establish separate requirements for retail cannabis stores. Based on information available, the types of comments that the AGCO would consider would be things such as proximity to a community centre, tutoring facility or other place where youth gather; information about an operator or manager who has been involved in the operation of an illegal dispensary; or other information about



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public health and safety. The AGCO advises that the “Registrar will consider concerns raised through this process when making its final decision to grant an authorization for that location.”

The Province has recently confirmed that in considering applications for cannabis retail stores:

- The provincial licencing process will not remove the requirement to comply with the zoning by-law and other municipal planning documents. Cannabis stores are to be treated the same as any other retail business use.
- The Building Code applies to cannabis retail store locations and Fire Code compliance is also mandatory.

The Cannabis Control Act, 2017, allows police officers and other persons designated by the Attorney General to enforce the Act. Enforcement powers under the Act include seizure authority; the ability to close premises suspected of being used for the illegal sale or distribution of cannabis; and to remove people from such premises. The Province is encouraging “innovative enforcement action against illegal storefront cannabis operations” by municipal bylaw enforcement officials in partnership with local police.

Municipal Funding (General)

The Province has confirmed that it will provide \$40 million over two years to help municipalities with the implementation costs of recreational cannabis legalization. Revenue allocations after the first two years are not known at this time, and there could be longer term financial implications of opting out.

The Ontario Cannabis Legalization Implementation Fund will be distributed as follows:

- January, 2019 - \$15 million will be made available to all municipalities on a per household basis, adjusted so that each municipality will receive a minimum of \$5,000.
- After January 22, 2019 – a second \$15 million will be distributed. Municipalities that have opted out will receive \$5,000 each. Municipalities that allow the retail sale of cannabis will receive funding on a per household basis, with a \$5,000 minimum.
- \$10 million will be set aside to respond to unforeseen circumstances.

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- If Ontario's portion of the Federal excise duty on recreational cannabis in the first two years exceeds \$100 million, municipalities that allow retail cannabis stores will get a proportional share of 50% of the surplus.
- The funding provided to municipalities is intended to address the implementation costs that directly relate to the legalization of recreational cannabis. Increased enforcement costs (police, public health, by-law enforcement, court administration and litigation), increased paramedic or fire services, by-law and policy development and public enquiries are examples of the costs this funding is intended for.
- Municipalities must keep and record all records relating to funding received and how the money was used.

Municipal Funding – (Specific to Middlesex Centre)

The first payment allocations for 2018-19 from the Ontario Cannabis Legalization Implementation Fund have been calculated. Middlesex Centre will receive \$ 8,194.00. This is regardless of the municipality opting in or out.

The second payment allocation for 2019-20 from the Ontario Cannabis Legalization Implementation Fund, will be distributed as shown below.

- Opted-out municipalities will receive \$5000 each.
- Opted-in municipalities that allow the retail sale of cannabis will receive funding on a per household basis, with a \$5000 minimum.

If Middlesex Centre opts-in for the second allocation payment, the municipality would receive approximately \$8,194 provided the same allocation formula is used.

If the municipality decided to opt-out, the municipality will receive the base funding of \$5,000, and will not receive the full allocation payment. If the second payment is calculated with the same formula as the first payment this would result in a difference of approximately \$3,194.

In addition, if the municipality decided to opt-out we will not receive any funding if Ontario's portion of the excise duty exceeds \$100 million on recreational cannabis in the first two years. Municipalities that allow retail cannabis stores will get a proportional share of 50% of the surplus.

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Community Impact:

- Retail stores will provide a safe, regulated, legal and competitive retail alternative for Cannabis. Staff is not currently aware of illegal cannabis retail sites within Middlesex Centre, however there is potential of these in the future where there is demand and a lack of retail stores.
- Potential of business investment being established which would add jobs and be a potential draw of customers to a commercial area for other businesses.
- It is unlikely that opting out would impact local consumption given the availability of on-line sales and retail stores in neighbouring municipalities.
- To minimize loitering at sites where cannabis is sold and in other public/private areas, staff is investigating the option of a by-law prohibiting the consumption of cannabis on public/private parking lots, parks, etc.

Financial Implications:

- Revenue allocations are available for the first two years. In Middlesex Centre, \$8,194 has been allocated in the first round of payments. This amount is anticipated for the second round if an 'opt in' is chosen. An 'opt out' would result in a second payment of \$5,000.
- If an excise duty surplus is realized, an 'opt in' municipality would qualify for share of this. An 'opt out' municipality would not qualify for share of this.
- Allow business investment and diversification of an added tax revenue.
- Potential cost of increased enforcement (public health, policing, by-law enforcement, court administration and litigation), paramedic, by-law and policy development and public enquiries
- Cost of staff training with respect to issues arising from cannabis retail.
- Whether an opt in/out is chosen, staff is investigating the option of a by-law regulating the use of Cannabis. The cost for the erection of prohibition signs would be required regardless of retail stores being within the municipality (if council chooses to regulate its consumption).



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Strategic Plan:

Financial

Economic Development

Attachments:

Minister's letter to Municipalities

Ontario Cannabis Legalization Implementation Fund - Middlesex Centre

Ministry of Finance
Office of the Minister

Ministère des Finances
Bureau du ministre



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November 20, 2018

Dear Head of Council (elect):

Recently, Ontario's Government for the People moved to a new cannabis retail model to meet our key priorities of combatting the illegal market and keeping our children and communities safe.

Today, the Province is beginning the fulfillment of its commitment to provide \$40 million in funding over two years to municipalities to help with the implementation costs of recreational cannabis legalization.

The Ontario Cannabis Legalization Implementation Fund (OCLIF) will be distributed as follows:

- In early January, the first payment of \$15 million will be made to all municipalities on a per household basis, adjusted so that at least \$5,000 is provided to each municipality. This will enable all municipalities to proceed with their planned legalization activities.
- A second payment of \$15 million will then be distributed following the deadline for municipalities to opt-out under the *Cannabis Licence Act*, which is January 22, 2019.
 - Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per household basis, adjusted so that at least \$5,000 is provided to each municipality. This funding will support initial costs related to hosting retail storefronts.
 - Municipalities that have opted-out will receive only a second \$5,000 each.
- The Province is setting aside \$10 million of the municipal funding to address costs from unforeseen circumstances related to the legalization of recreational cannabis, and priority will be given to municipalities that have not opted-out. Further details will be provided at a later date.

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- Finally, 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 have not opted-out as of January 22, 2019.

Our government is committed to respecting taxpayers and their hard-earned money. We believe municipalities have an obligation to do likewise.

As such, municipalities must use this funding to address the costs that directly relate to the legalization of recreational cannabis. Examples of permitted costs include:

- increased enforcement (e.g. police, public health and by-law enforcement, court administration, litigation);
- increased response to public inquiries (e.g. 311 calls, correspondence);
- increased paramedic services;
- increased fire services; and
- by-law / policy development (e.g. police, public health, workplace safety policy).

Lower-tier and upper-tier municipalities will receive a 50/50 split of the allocation. The household numbers will be split between the upper- and lower-tier, and the allocation calculated accordingly. Decisions to adjust the split in allocation and transfer funding can be made at the local level as needed. Upper-tier municipalities will receive funding in relation to opt-out decisions made by the lower-tier municipality.

The Deputy Minister of Finance will write to your Treasurer with further details on the administration of this funding and attach each municipality's specific allocation notice.

To assess the impact of the funding, the Association of Municipalities of Ontario and the City of Toronto have been asked to work with the Ministry of Finance to establish a process by which a sample group of municipalities can assess the use and impact of these funds. More information on this process will be provided at a later date.

Our government is committed to building a retail system for cannabis sales that will help eliminate the illegal market and is safe and reliable with rules that keep cannabis out of the hands of children and youth, while keeping our roads safe. Complementary to this municipal funding, the Province continues to do the following:

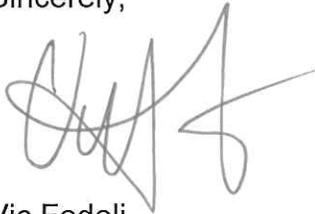
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- Increase the capacity of law enforcement to help detect drug impaired driving through training. The Province has also created a specialized legal team to support drug impaired driving prosecutions, increased capacity at the province's Centre of Forensic Sciences, and has created a Cannabis Intelligence Coordination Centre.
- Support local boards of health (public health units) by providing a suite of tools and resources for enforcement of the *Smoke-Free Ontario Act, 2017*, which includes rules for smoking and vaping of cannabis.
- Conduct an integrated public awareness campaign to communicate the rules and regulations for recreational cannabis and educate Ontarians about the health and safety measures in place to protect them.

We appreciate the efforts of municipalities in the implementation of the federal government's legalization of cannabis and look forward to continuing to work together.

Sincerely,



Vic Fedeli
Minister of Finance

- c: The Honourable Caroline Mulroney, Attorney General
The Honourable Steve Clark, Minister of Municipal Affairs and Housing
Paul Boniferro, Deputy Attorney General
Greg Orencsak, Deputy Minister of Finance
Laurie LeBlanc, Deputy Minister of Municipal Affairs and Housing
Renu Kulendran, Ontario Legalization of Cannabis Secretariat, Ministry of Attorney General
Nicole Stewart, Executive Lead, Cannabis Retail Implementation Project, Ministry of Finance
Kate Manson-Smith, Assistant Deputy Minister, Local Government and Planning Policy Division, Ministry of Municipal Affairs and Housing
Dan Miles, Chief of Staff

**Ontario Cannabis Legalization Implementation Fund
2018-19 First Payment - Allocation Notice**



**Municipality of Middlesex Centre
County of Middlesex**

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The Ontario Cannabis Legalization Implementation Fund (OCLIF) is provided to municipalities to help with the implementation costs of recreational cannabis legalization.

Funding Allocation	\$8,194
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A Funding Amount based on Number of Households (A1 x A2 ÷ 100)	\$8,194
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1. Number of Households	6,426
2. Funding Amount per 100 Households	\$127.50

Notes and Data Sources

A - funding amount is rounded up to the nearest dollar.

A1 - household figures are based on the 2018 returned roll provided by the Municipal Property Assessment Corporation (MPAC).

A2 - represents the funding amount per 100 households for lower-tier municipalities.