

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)

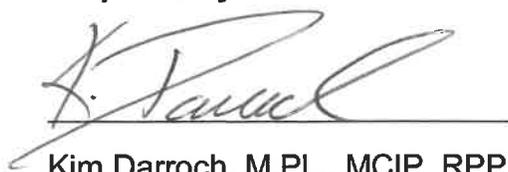
Essex-Windsor Emergency Medical Services (EMS)
Host Municipalities (Police, By-law Departments, Planning Departments)
Public (Town of Lakeshore)
Alcohol and Gaming Commission of Ontario (AGCO)
Health Canada

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

Appendix 1 Cannabis Policy Statement

Background:

Bill C-45, the Cannabis Act came into effect on October 17, 2018. The Act legalizes access to recreational cannabis in Canada and controls and regulates how cannabis is grown, distributed and sold. In Ontario, the Cannabis Licence Act, 2018 and Ontario Regulation 468/18 provide the Registrar of the Alcohol and Gaming Commission of Ontario (AGCO) with the authority to establish standards and requirements respecting the licensing of retail cannabis stores.

Purpose & Vision

AGCO is the provincial authority that licenses cannabis retail operators, authorizes cannabis retail locations and licenses senior store staff. Municipal governments have no licensing authority.

The AGCO regulates and reviews all aspects of the retail operation to ensure that the proposed store location is consistent with the public interest. Public interest is defined in the regulations (O. Reg. 468/18) as public health or safety, protecting youth and eliminating the illegal market. AGCO has already mandated a 150 metre setback from schools where no retail cannabis store would be permitted to be located.

For each store site proposed by an approved operator, the AGCO will have a 15-day window for public and municipal government comments. Comments must focus on whether a proposed location is in the public interest as defined in the regulation. AGCO is not obligated to reject a store licence where public or municipal government comments are unsupportive of a proposed location.

On xxxx Council made the decision to allow retail sales of recreational cannabis in the Town of Lakeshore. This policy statement provides municipal staff with guidance on commenting to AGCO when notice on a specific proposed cannabis retail store site is provided on the site location. It also helps prospective recreational cannabis retailers in their consideration of location of cannabis retail stores in the Town of Lakeshore.

Principles for Cannabis Retail Store Locations:

Relationship to Other Applicable Law:

- **Land Use Planning:** The provincial licensing process does not remove the requirement to comply with the zoning by-law and other municipal planning documents. The definitions within the municipality's Official Plan and Zoning By-law are applicable to all retail, including cannabis retail stores. Retail sale of cannabis from a provincially licensed store is legal and is a permitted use in the retail zones.
- **Municipal Building Inspections:** while the licencing of the store operation is the responsibility of the AGCO, the Building Code applies to cannabis retail store locations.

Therefore, where a building permit is required, the building inspector will undertake duties as usual. Fire Code compliance is also mandatory.

For the purposes of this policy statement, a cannabis retail store shall mean a store licensed by the AGCO.

1. The Town of Lakeshore acknowledges that retail cannabis stores are a permitted use in areas zoned for retail stores within the Town's Zoning By-law, 2-2012, as amended. Lakeshore Zoning By-law 2-2012 permits retail uses in the: Hamlet Commercial (HC), Service Commercial (CS), Central Area (CA), Neighbourhood Commercial (CN) and Mixed Use (MU) zones. Retail is a permitted use in some site specific zones as well.

2. Cannabis Retail Stores and Sensitive activities:

In order to help ensure public health and safety, protect youth, and reduce illegal sales, retail cannabis stores are discouraged where nearby properties are designed to serve youth or other sensitive facilities that service persons with mental health or addiction challenges. The following table provides separation distances from land uses that Council has identified as sensitive. It is the Town's position that the Registrar for the AGCO respect these separation distances when authorizing cannabis retail locations:

Community Centres/Facilities	Separation (Metres)	Distance	Reference # on Schedule A
Belle River Marina	100		1
Atlas Tube Centre	100		2
Comber Community Centre and Fairgrounds	100		3
Libro Community Centre and Library	100		4
Schools and Daycares	Separation (Metres)	Distance	Reference # on Schedule A
Your Wooden Treehouse (daycare centre)	150		5
Alexander's Daycare Centre – Lakeshore	150		6
The Children's House Montessori - Lakeshore	150		7
Lakeshore Ontario Early Years Centre	150		8
Lakeshore Discovery School	150		8
St. Anne Catholic High School	150		9
St William Catholic Elementary School	150		10
Our Lady of Annunciation School	150		11

École Élémentaire catholique Pavillon des Jeunes	150	12	
École élémentaire catholique Saint-Ambroise	150	13	
École élémentaire catholique Saint-Paul	150	14	
Belle River District High School	150	15	
St John the Baptist Catholic School	150	16	
Belle River Public School	150	17	
Saint John the Evangelist Catholic School	150	18	
Centennial Central Public School	150	19	
310 Croft Drive (Commercial School)	150	20	
1303 County Road 22 (Commercial School)	150	21	
1302 County Road 22 (Commercial School)	150	22	
1203 Faith Drive (Commercial School)	150	23	
540 Notre Dame Street (Commercial School)	150	24	
540 Old Tecumseh Road (Commercial School)	150	25	
21 Amy Croft Drive (Commercial School)	150	26	
486 Advance Blvd (Commercial School)	150	27	
2548 County Road 27 (Commercial School)	150	28	
Parks	Separation (Metres)	Distance	Reference # on Schedule A
Centennial Park	100		29
Duck Creek Park	100		30
Gerilyn Tellier – Perdu Memorial Park	100		31
Girard Park	100		32
Golfview Drive Lakefront Parkette	100		33
Gracey Sideroad Lakefront Parkette	100		34
Helena Park	100		35
Johnson Riverview Park	100		36

Ladouceur/Lions Park	100	37
Lakeview Park	100	38
Lakeview Park West Beach	100	39
Leffler Peace Park	100	40
Legion Park	100	41
Lighthouse Cove Community Park	100	42
Maidstone Park	100	43
Oakwood Park	100	44
Optimist Park	100	45
Puce Road Lakefront Parkette	100	46
Renaud Line Lakefront Parkette	100	47
River Downs Park	100	48
River Ridge Park	100	49
Russel Woods Parkette	100	50
Shanahan Park	100	51
Staples Community Park	100	52
St Clair Shores Park	100	53
Stoney Point Park	100	54
Stoney Point Lakefront Parkette	100	55
Strong Lakefront Parkette	100	56
Stuart Lakefront Parkette	100	57
Terra Lou Park	100	58
Wallace Line Lakefront Parkette	100	59
Woodslee Memorial Park	100	60
Libraries	Separation (Metres)	Distance Reference # on Schedule A
Comber Library	100	61
Stoney Point Library	100	62
Toldo Library	100	2

3. Schedule A identifies each sensitive facility and its separation distance listed in Section 2.