

To: **COUNCIL**

Meeting Date: **11/09/21**

Subject: **Legalized Recreational Cannabis Year 2 Update**

Submitted By: **Cheryl Zahnleiter, Deputy City Manager, Corporate Enterprise**

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Report No.: **21-287(CRE)**

File No.: **N/A**

Recommendation(s)

THAT Council receive staff report 21-287(CRE) regarding the Legalized Recreational Cannabis Year 2 Update as presented,

AND THAT the “Recreational Cannabis Retail Store Municipal Commenting Criteria” policy (File A09) be repealed.

Executive Summary

Purpose

- The purpose of this report is to update City Council on the results and implementation of legal recreational cannabis following the second year of legalization and to request the repeal of the current Commenting policy.

Key Findings

- It has now been over two years since Cambridge City Council approved report 19-033(CRE) that included the recommendations that the municipality “opt-in” to recreational cannabis sales in January 2019.
- At that time, City Council also adopted a “Recreational Cannabis Retail Store Municipal Commenting Criteria” policy (File A09), with commenting authority delegated to the City Planner, now Chief Planner.
- The “Recreational Cannabis Retail Store Municipal Commenting Criteria” has now been used to evaluate 17 retail proposals since its adoption. Of the 17 proposals reviewed, City staff have provided comments in support of 3

applications and comments opposed to 14 applications based upon the Council policy criteria. To date, 13 of the applications submitted were approved by the AGCO and 4 were denied.

- The City's By-Law Division indicates there have been no significant concerns related to public consumption of cannabis or the enforcement of the Smoke Free Ontario Act. This information is consistent with anecdotal information from other municipalities that have not seen a significant rise in complaints.

Financial Implications

- There are no direct financial implications as a result of this report.
- The City received funding from the Ontario Cannabis Legalization Implementation Fund (OCLIF) in the amount of \$175,412 in 2019.
- Of this amount, \$84,877 was recognized as revenue in the City's 2019 financial statements and \$2,880 in 2020. An additional \$3,401 can be recognized in 2021 based on year-to-date costs. The remaining balance (\$84,254) is being held in a deferred revenue holding account until further eligible costs are accumulated.

Background

On October 17, 2018 the Federal government made consumption of cannabis for recreational purposes legal in Canada

The Provinces and Territories are responsible for determining how cannabis will be sold and where cannabis can be consumed. In Ontario, the legislation evolved through several iterations from 2018 to the present day (see Attachment 1 for key dates and milestones). Since the last update to Council was circulated in April 2020 (20-065(CRE)) there have been no significant updates to the legalization/distribution framework.

Further, since the City of Cambridge's opt-in decision and approval of the commenting policy, the City has commented on 17 Retail Cannabis proposals. Of the 17, the City has indicated support for 3 and recommended 14 not be approved.

Analysis

Strategic Alignment

PEOPLE To actively engage, inform and create opportunities for people to participate in community building – making Cambridge a better place to live, work, play and learn for all.

Goal #2 - Governance and Leadership

Objective 2.4 Work collaboratively with other government agencies and partners to achieve common goals and ensure representation of community interests.

Since the legalization of recreational cannabis in late 2018, staff have continued to monitor operational impacts. To date, the City has been monitoring the AGCO site on a daily, weekday basis to ensure that the City can provide comments (as per policy A-09) on potential sites within the 14 day commenting period allowed.

In addition to comments, City staff continue to field inquiries about potential locations. In 2019 and 2020 there were on average 24 inquiries (phone, email or other) related to zoning for retail or production facilities per year. From a planning perspective, lounges would be regulated through zoning similar to a coffee shop, bar, club, etc.

Comments

Commenting Policy

The AGCO does not notify the City of a cannabis store application with a proposed location in Cambridge. Accordingly, in 2020 internal procedures were put in place for monitoring the AGCO website for new retail cannabis store applications and for commenting on behalf of the City based on the Council criteria established. The procedures require an extensive amount of staff time to monitor the AGCO website, notify Council and senior staff, review and provide comments. Applications are reviewed based on the zoning to allow retail uses and the proximity within 150m to the following uses as specified in the Commenting Policy (File A09) established in January 2019:

- Schools
- Child Care/Day Care Centres
- Post-Secondary Institutions
- Parks
- Core Areas
- Addiction Service Providers
- Residential Shelters/Supportive Housing
- Social Services
- Community/Recreational Centres and Libraries
- Other Retail Cannabis Stores, LCBO and Beer Stores

The prohibition in proximity to schools is identified in Ontario Regulation 468/18. The remaining criteria were identified as municipal priorities.

Outcomes

To date the City has provided comments on 17 retail cannabis applications and of those 17 applications only 3 met the City criteria above and comments in support were provided to the AGCO. For the remaining 14 applications, comments were provided by the Chief Planner on behalf of the City advising that, based on proximity to specific uses, Cambridge Council did not support the application. All but 4 of these applications were approved by the AGCO.

Funding

The City received funding from the Ontario Cannabis Legalization Implementation Fund (OCLIF) in the amount of \$175,412 in 2019. According to the letter received from the Ministry of Finance, this funding must be used solely for the purpose of paying for implementation costs directly related to the legalization of cannabis. The Ministry noted examples of such 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
- By-law / policy development (e.g. police, public health, workplace safety policy)

The City's costs associated with the implementation of cannabis legalization have totaled \$91,159 to date. As such, the remaining balance of funding (\$84,254) is being held in a deferred revenue holding account until further eligible costs are accumulated.

By-Law Enforcement

Follow-up with the City's By-Law Division indicates there have been no significant concerns related to public consumption of cannabis or the enforcement of the Smoke Free Ontario Act. This includes information from regional by-law enforcement staff who are responsible for receiving and acting on potential concerns.

Overall, this is consistent with anecdotal information from other municipalities (Waterloo and Kitchener) who have not seen a significant rise in complaints due to recreational cannabis use.

Repeal of Commenting Criteria

Since the commenting criteria was developed, the provincial regulations have not provided for a formal opportunity for municipalities to provide input when applications

are made. The City's criteria may not align with the AGCO evaluation criteria, which has led to applications being approved that do not align with the City's preferred requirements. At this time, since this process remains exclusively within the domain of the Province, it is respectfully submitted that the City does not have jurisdiction to also evaluate these opportunities and therefore the Policy be repealed.

Alternatively, it is suggested that Council continue to advocate the Province for more stringent criteria surrounding the location of potential cannabis retail locations as part of the AGCO's application review process.

Existing Policy/By-Law

Policy (File A09) "Recreational Cannabis Retail Store Municipal Commenting Criteria" policy is the subject of this report and is attached as Attachment 2.

This report outlines the status of both recreational retail cannabis establishment approvals to date. Relevant by-laws and policies include:

- The current city-wide zoning by-law permits manufacturing and processing of cannabis in some industrial zones provided the growing of plants is not occurring.
- The current city-wide zoning by-laws would define retail cannabis as a retail use which is permitted in any commercial zone where retail is permitted.
- In the new city-wide zoning by-law it is proposed that medical cannabis/marijuana facilities, including the growing of plants, be permitted in the M4 industrial zone. For non-medical cannabis, the current approach noted above in the existing city-wide zoning is proposed.

Financial Impact

The City received funding from the Ontario Cannabis Legalization Implementation Fund (OCLIF) in the amount of \$175,412 in 2019.

The City's costs associated with the implementation of cannabis legalization have totaled \$91,159 to date. As such, the remaining balance of funding (\$84,254) is being held in a deferred revenue holding account until further eligible costs are accumulated.

Public Input

Posted publicly as part of the report process.

Internal/External Consultation

Corporate Strategy staff sought input from Finance, Planning and By-Law staff in the preparation of this report. There was no external consultation undertaken for the purposes of this report.

Conclusion

The purpose of this report is to update City Council on the results following the January 2019 decision to allow recreational cannabis sales to be sold legally in the City. At the time of the decision, City Council also adopted a “Recreational Cannabis Retail Store Municipal Commenting Criteria” policy (File A09), with commenting authority delegated to the City Planner, now Chief Planner.

In the two years since this decision, the “Recreational Cannabis Retail Store Municipal Commenting Criteria” has been used to evaluate 17 retail proposals since its adoption. Of the 17 proposals reviewed, City staff have provided 3 comments in support, and 14 recommending the proposal NOT be approved based on the Council policy criteria. To date, the AGCO approved 13 applications and only denied 4 applications.

Based on the experience and outcome related to the comments submitted to date (no or little impact on AGCO approvals), City staff are recommending that the policy be repealed. This will ensure that staff resources can be redirected to areas of greater impact.

Signature

Division Approval

Reviewed by the CFO

Reviewed by Legal Services



Name: Brooke Lambert

Title: Director of Corporate Strategy



Name: Lisa Prime

Title: Chief Planner

Departmental Approval



Name: Cheryl Zahnleiter

Title: Deputy City Manager Corporate Enterprise



Name: Hardy Bromberg

Title: Deputy City Manager Community Development

City Manager Approval



Name: David Calder

Title: City Manager

Attachments

Attachment 1 - Legalization of Recreational Cannabis Key Dates

Attachment 2 – Policy (File A09) “Recreational Cannabis Retail Store Municipal Commenting Criteria”

Attachment 1 – Legalization of Recreational Cannabis Background

On October 17, 2018 the Federal government made consumption of cannabis for recreational purposes legal in Canada.

The Provinces and Territories are responsible for determining how cannabis will be sold and where cannabis can be consumed. In Ontario, the legislation has evolved as follows:

- On October 17, 2018 recreational cannabis began to be sold online, through the Ontario Cannabis Store (OCS). Private retail stores were permitted to open on April 1, 2019 in those municipalities that did not opt-out of private cannabis retailing in the municipality.
- As part of the provincial implementation, updates were also made to the *Smoke Free Ontario Act 2017* (SFOA), including locations where cannabis can and cannot be consumed. Recreational cannabis can be consumed anywhere that tobacco can be consumed. Public areas such as parks (but not playgrounds), beaches, sidewalks and other public areas where the *Smoke-Free Ontario Act, 2017*, leases, or by-laws do not specifically ban the consumption of tobacco and/or cannabis, are now legal areas to consume.¹
- On December 13, 2018 the Province announced a “phased approach” (lottery system) to issuing retail store licenses across Ontario. The Alcohol and Gaming Commission on Ontario (AGCO) is responsible for licensing cannabis retail operators within municipalities. Licensing is subject to criminal and financial eligibility checks.
- On January 15, 2019, Cambridge Council approved report 19-033(CRE) that included the recommendations that the municipality “opt-in” to recreational cannabis sales and adopted a “Recreational Cannabis Retail Store Municipal Commenting Criteria” policy, with commenting authority delegated to the City Planner, now Chief Planner.
- The Province committed to share the cannabis excise tax with municipalities, and has guaranteed to distribute \$40 Million over 2 years to municipalities.
- The City of Cambridge received \$175,412 from the Province as a result of the opt-in decision. This funding was to be used to cover municipal costs related

• ¹ The rules with regard to medical cannabis have not changed and employers are still required to provide accommodation on a case by case basis.

to the implementation of the new framework. To date \$87,757 in costs have been incurred. Approximately 70% of the costs incurred are related to staff time.

- The initial phase of the lottery included 25 licenses for operators to open stores by April 1, 2019. No initial licenses were granted to operators in Waterloo Region as part of the first phase.
- On June 14, 2019 the Government of Canada announced amendments to the *Cannabis Regulations* setting out the rules governing the legal production and sale of edible cannabis, cannabis extracts and cannabis topicals. The amended regulations came into force on October 17, 2019. “Edible” is the general term for cannabis-infused products, which can include beverages, dissolvable strips, gummy candies or baked goods. Topicals are products which can include lotions, balms, and oils absorbed through the skin for relief of pain or inflammation. The Provinces will each be allowed to further regulate the products. Currently edibles in Ontario are only legally available through Ontario Cannabis Stores.
- The second phase of licenses was completed on August 20, 2019. While initially no license was identified for any site in Cambridge, one successful lottery recipient did eventually revise their license to include a location in Cambridge at 75 Pinebush Road. The City provided comment to the AGCO on December 6, 2019 and based on the Council criteria identified that the site was in proximity to a childcare centre and future City park. This location opened on February 19, 2020.
- On December 12, 2019, the government amended Ontario Regulation 478/18 under the *Cannabis License Act, 2018*. This opens Ontario’s cannabis retail market in 2020. Retail applications began on January 6, 2020 and the new changes in the regulation include:
 - Ceasing the lottery for retail licenses
 - Eliminating pre-qualification requirements for retailers
 - Allowing licensed producers to open retail store connected to a production facility
- On March 2, 2020, the restrictions on the total number of store authorizations permitted in the province were revoked. Licensed operators were allowed up to 30 stores until September 2021 and up to 75 stores afterwards. Store applications will only be eligible in municipalities that have opted-in to sell cannabis.

Recreational Cannabis Retail Store Municipal Commenting Criteria

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|-----------------------|--|
| POLICY TITLE | Recreational Cannabis Retail Store Municipal Commenting Criteria |
| CATEGORY | Corporate |
| POLICY NUMBER | File A09 |
| DEPARTMENT | Community Development |
| DIVISION | Planning Services |
| AUTHORITY | Council |
| APPROVED BY | Council |
| EFFECTIVE DATE | January 2019 |
| REVIEW DATE | January 2020 |

POLICY STATEMENT

This policy outlines the criteria that will guide and delegate authority to staff to respond and provide municipal comments on proposed locations for recreational cannabis retail stores.

PURPOSE

This policy confirms delegated authority and criteria for staff to provide comment to the Alcohol and Gaming Commission of Ontario (AGCO) with regard to the location of recreational cannabis retail store locations.

The City of Cambridge is committed to providing comment on proposed retail cannabis locations based on the safety and security of our residents including the protection of vulnerable residents. As such, the City's comment shall be based on the "public interest" as defined below.

The intent of establishing this policy statement is to provide consistent and fair comment among all interested retail store operators, and to provide clear direction to potential retail store operators in their site selection.

DEFINITIONS

Provincial

As per Ontario Regulation 468/18:

the “public interest” has been defined as:

- Protecting public health and safety
- Protecting youth and restricting access to cannabis
- Preventing illicit activities in relation to cannabis

“private school” means a private school as defined in the *Education Act*.

Municipal

“core areas” means areas defined by the City of Cambridge Official Plan

AUTHORITY

The City Planner (or designate), shall provide comment on behalf of the City of Cambridge to the AGCO in regard to the proposed location of retail cannabis stores.

SCOPE

The intent of this policy is to provide feedback to the AGCO as it relates to the possible placement of retail establishments. The AGCO has established a commenting period that permits comments to be provided for applications that are submitted to establish retail cannabis storefronts.

POLICY

Municipal Commenting Criteria:

Staff shall comment on behalf of the City to the AGCO in accordance with the timeframes prescribed below by the Province on proposed cannabis store locations based on the definition of “public interest” outlined above.

In addition to the criteria established by the province as per Ontario Regulation 468/18 (i.e. minimum distance to schools),

Ontario Regulation 468/18

No issuance, proximity to schools

11. (1) In this section,

“private school” means a private school as defined in the *Education Act*.

(2) For the purposes of clause 4 (12) (a) of the Act, a proposed cannabis retail store may not be located less than 150 metres from a school or a private school, as determined in accordance with the following:

1. If the school or private school is the primary or only occupant of a building, 150 metres shall be measured from the property line of the property on which the school or private school is located.

2. If the school or private school is not the primary or only occupant of a building, 150 metres shall be measured from the boundary of any space occupied by the school or private school within the building.

(3) Subsection (2) does not apply to a private school if,

(a) it is located on a reserve; or

(b) it only offers classes through the Internet.

Municipal Priorities

a) Staff will review the municipal address of the proposed retail cannabis store to ensure zoning compliance for retail uses as required.

b) Staff will also review proposed retail cannabis stores with respect to their proximity to the following uses:

- i. Post-secondary institutions
- ii. City-owned parkland or parkland used for recreational use owned by a conservation authority
- iii. Core areas

Where appropriate, staff will recommend a minimum setback distance of 150 metres, from the property line for other sensitive uses to the property line of the location of the proposed retail cannabis store.

Additional Comment

Comments may also be provided on proximity to the following uses based upon best available information (e.g. internet searches and the database and mapping maintained by the Social Planning Council of Cambridge and North Dumfries), including but not limited to:

- a. Addiction service providers
- b. Residential shelters or supportive housing for youth or vulnerable populations
- c. Social service providers that support vulnerable populations and youth
- d. Community/recreational centres and libraries
- e. Other retail cannabis stores, LCBO and Beer Stores

- f. Child care/Day care centres

POLICY COMMUNICATION

The communication for this policy is that the internal working staff group will be informed by the City Planner (or designate) upon receipt of any applications that are proposed, this will enable the working group to assist the City Planner (or designate) in gathering and responding back to the AGCO within the required time period.

Council and the Regional Working Group will be informed on an as-required basis based on the number of applications that are proposed within the City.

Application fees may be applicable in accordance with the City's rates and fees.