

# STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



<b>Report to:</b>	Mayor and Council Members	<b>Priority:</b>	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
<b>Submitted by:</b>	Brent Larmer, Municipal Clerk/Director, Legislative Services Legislative Services Division <a href="mailto:blarmer@cobourg.ca">blarmer@cobourg.ca</a>	<b>Meeting Type:</b>	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
<b>Meeting Date:</b>	<b>May 30, 2022</b>		
<b>Report No.:</b>	Legislative Services-026-22		
<a href="#">Submit comments to Council</a>			

**Subject/Title: Cannabis Retail Stores in Ontario Information Report**

## RECOMMENDATION:

THAT Council receive the Staff Report for information purposes.

### 1. STRATEGIC PLAN

Not Applicable.

### 2. PUBLIC ENGAGEMENT

There has been no public engagement on this Staff Report. Although there was public engagement on this topic in 2018-2019 and below is a summary of the Public Engagement that took place prior to the legalization of recreational cannabis in Canada and the private retail selling that took effect in 2019. In the province of Ontario.

Recreational cannabis was legalized on October 17, 2018. On April 1, 2019, the province intended to allow private retail cannabis stores to operate within Ontario and in Ontario Municipalities. At that time the Town of Cobourg engaged the public leading up to the April 1, 2019 date.

In 2018 the Town of Cobourg engaged with residents, local business, and other stakeholders on the proposed cannabis retail establishment's implementation in the Town of Cobourg.

The Town of Cobourg held a Public Meeting on Monday December 17, 2018, allowing for public comment on the Municipal Council decision to allow Retail Sales of Recreational Cannabis in the Town of Cobourg.

The Town of Cobourg conducted a resident survey on the Town of Cobourg Website in order to engage the public on whether or not they would like to see Retail Recreation Cannabis Store allowed within the Town's jurisdiction.

### 3. PURPOSE

The purpose of this Staff report is to report back to Council on a request that is on the Unfinished Business Tracking List to inform the public on the placement of future Cannabis stores and Cannabis Retail process and regulations within the Town of Cobourg.

### 4. ORIGIN AND LEGISLATION

On December 13, 2022, Council passed the following resolution based on a correspondence item that was received from a Cobourg Resident on the growing number of Cannabis Retail establishments that are being opened across the Town of Cobourg:

*THAT Council receive the correspondence for information purposes;*

*FURTHER THAT council direct staff to prepare an information report to explore options for Council to inform the public on the placement of future Cannabis stores in Cobourg;*

*AND FURHTER THAT staff provide the information report to Council and the public by April 19, 2022.*

Since Council passed its resolution in 2019 to allow cannabis retail stores to operate and in the Town of Cobourg the legal landscape has changed in two (2) significant ways:

- (1) cannabis edibles can now be sold in retail stores and
- (2) the Province has lifted the cap on the number of licences that are issued.

### 5. BACKGROUND

On November 14, 2018, the Provincial Government enacted the *Cannabis Licence Act*, which requires persons to obtain a licence from the Alcohol and Gaming Commission of Ontario ("AGCO") in order to operate a "brick and mortar" cannabis retail store in Ontario.

Despite introducing this licensing regime, the Provincial Government gave municipalities the opportunity to prohibit cannabis retail stores from being in the municipality by passing a resolution no later than January 22, 2019.

On January 14, 2019 Municipal Council directed the Municipal Clerk/Manager of Legislative Services to notify the Alcohol and Gaming Commission of Ontario (AGCO) that the Town of Cobourg will permit private cannabis retail stores in the Town of Cobourg.

## Legislative Update

In the time since Council opted-in of retail stores in December 2018, the Provincial Government has updated the legislative framework for retail cannabis use in Ontario as follows:

- **Edibles** - Cannabis edibles (including cookies, chocolates and gummies), extracts and topicals became legal in Ontario as of October 17, 2019. These items are sold online through the Ontario Cannabis Store or through licensed retail stores, similar to dry forms of cannabis. Over the years, there have been reports of children consuming cannabis edibles because of their resemblance to candy. Health Canada requires the packaging of legal edibles to be child resistant and the labelling cannot be designed in a way that appeals to children. Evidence suggests that illegal retailers do not follow the same standards.
- **Number of Licences** – Whereas previously the number of cannabis retail stores was set at 75, as of March 2, 2020, there is no longer a cap on the number of cannabis retail stores that are permitted to operate in Ontario. At the time of writing this report, there are 1,468 cannabis locations that are permitted to open in the province. According to the AGCO, it is approving approximately 30 new locations across Ontario each week.
- **Licensed producers of cannabis can now obtain a licence to sell cannabis** – called “farmgate stores” - allowing them to open a store at one of their production facilities. According to the AGCO, two farmgate stores have been authorized to open at the time of writing this report.
- **Cannabis Lounges and Special Occasion Permits** - In July 2020, a representative for Ontario’s Attorney General released a statement that the Province would not be making any changes to cannabis legislation to permit cannabis lounges or allow for special occasion permits to consume cannabis publicly in locations such as festivals.

## 6. ANALYSIS

As the regulator for private cannabis retail in Ontario, the AGCO has the authority to license, regulate and enforce the sale of recreational cannabis in privately run stores in Ontario.

All owners and operators of cannabis retail stores are subject to the provincial *Cannabis Licence Act, 2018* and its regulations, and the AGCO's Registrar Standards. These are intended to ensure that only responsible and lawful businesses and people receive licenses to own and operate cannabis stores. They aim to minimize the public risk of cannabis store operations and allow for ongoing monitoring of the operation of these businesses.

Other than deciding to permit or prohibit retail sale through the opt in or opt out process in 2019, municipalities have a very limited role to play in regulating cannabis in Ontario. For retail sale, municipalities are not permitted to license these businesses. From a zoning perspective, municipalities are not permitted to designate cannabis retail as a separate land use from retail or commercial, however, a cannabis retail store must comply with the Town's Zoning By-law related to retail use.

Municipalities have the ability to provide feedback to the AGCO related to pending licences. Municipalities have fifteen (15) days to provide comments to the AGCO having regard to "protecting health and safety, protecting youth and preventing illicit activities in relation to cannabis". **Although municipalities can provide input, the decision to licence is made by the AGCO alone.** The AGCO has never denied a licence because a municipality objected to a particular location.

Below is a listing of the current licensed and approved Cannabis Retail Establishments within the Town of Cobourg. As you will see there are a total of five (5) establishments that are authorized to open and one (1) store that is still going through the process and has not yet been authorized to open.

Name	Address	Status
CIRCA 1818	8 Strathy Road – Unit 3	Authorized to Open
Your Local Cannabis	2 King Street East	Public Notice Period – Ended 2020/08/27
Mary J's Cannabis Cobourg	38 King Street West	Authorized to Open
The Peace Pipe	1 King Street East- Unit 1 A	Authorized to Open
Inspired Cannabis Co	1111 Elgin Street W Unit F	Authorized to Open

To date, there are no Cannabis Retail Establishment Applications currently going through the Public Notice Application process through AGCO for the Town of Cobourg. Attached to this report as Appendix "A" is a sample File Objection

Submission Form that can be filed out by members of the public or the municipality online when a Retail Sales Application is being processed.

In order to understand the process better, the following is the Cannabis Retailer Licensing Journey that an applicant wishing to open a Cannabis Retail establishments have to proceed through currently when looking to open a brick and motor location:

- 1. Pre-Application Assessment**
- 2. Apply for Retail Operator Licence (ROL) on iAGCO**
- 3. Find a Suitable Retail Location**
- 4. Apply for Retail Store Application on iAGCO**
- 5. Retail Operator Licence (ROL) Issued**
- 6. Contact Ontario Cannabis Store (OCS) Client Services**
- 7. Validate/Update Business Plan and Review Regulatory Requirements**
  
- 8. Public Notice Posting Period**

Public Notice is an opportunity for the Municipality and its residents to make written submissions to the Registrar as to whether the issuance of the Retail Store Application is in the public interest. The applicant can enter the public notice period only once they have taken possession of their proposed store location.

The AGCO will determine the dates of the posting period (15 calendar days) and will email the Public Notice placard (in PDF format) to the Applicant.

The Applicant is required to post several copies of the Public Notice placard at their store location in full public view for 15 days as identified on the placard. The application will also be searchable on iAGCO for submissions to be made during the 15day period and the AGCO will Tweet about the application.

Failure to post the Public Notice for the required period of time will result in a delay in the processing of the application and may result in reposting the Public Notice for a further 15 days

## **9. Public Notice – Written Submissions**

Once the public notice period has ended, the AGCO will provide the Applicant with copies of any submissions received. An Applicant can expect to receive copies of submissions within 10 business days after the submission deadline.

Applicants have 5 calendar days, from the time written submissions are sent to them, to provide the Registrar with a response to submissions from local residents and from the municipality.

The Registrar will review submissions as well as the Applicant's response.

**10. Retailer Education**

**11. Pre-Authorization Inspection**

**12. Approval of Retail Sales Application**

**13. Retail Sales Application Issued**

**14. Enter into Commercial Agreement with Ontario Cannabis Store**

**15. Order Product/Receive Product from Ontario Cannabis Store**

**16. Open Store**

**17. Retail Reporting and Ongoing Education**

**Options for Town Policy Development:**

Since private retail cannabis stores have been able to operate within Ontario, some municipalities have established policies to assist the AGCO in considering the public's interest, some municipalities (including the City of Burlington and the City of Hamilton, City of Guelph and Wasaga Beach, to name a few) have developed policy guidelines that are made available to the AGCO, which advocates for cannabis retail stores to be located at least 300 metres away from sensitive areas such as schools, parks and mental health/addiction centres.

In the development of this report, Staff researched municipal policies and on March 8, 2021, City Staff at the City of Hamilton introduced a report entitled "Cannabis Retail Store Locations" (Link Attached) to provide a cannabis update to its City Council. This report indicated that staff have objected to a total of 29 locations, primarily based on concerns of clustering and close proximity to schools and parks. Despite these objections, the AGCO issued all 29 licences.

A potential cannabis policy statement could include and consider the following if Council would like to pursue this option:

- Identifying one staff person who will be designated to be responsible for coordinating with other Town Departments in order to provide comment to the AGCO within the 15 day deadline and regular monitoring of the AGCO Application process webpage.
- Identifying within the Policy Sensitive Areas within the Town of Cobourg - Discourage the placement of stores in "sensitive areas" related to youth or other vulnerable populations which could include libraries, community centres, parks, day cares, mental health/addiction centres or other retail cannabis stores.

- Despite municipalities having the ability to provide feedback, the AGCO has issued licences for retail cannabis stores even where a municipality has objected to a particular location.

Staff have included a copy of Wasaga Beach Cannabis Retail Policy Statement attached to the Staff Report as Appendix B, as Wasaga Beach is considered a Municipal Comparator to the Town of Cobourg as a sample of a policy if Council were wishing to introduce a Policy of their own for the Town of Cobourg.

### **Other On-Going Considerations:**

On November 25, 2020, the Ontario NDP introduced Bill 29 – Cannabis Licensing Amendment Act. If passed, this legislation would permit municipalities to submit Council resolutions to the AGCO, instead of relying on written submissions or cannabis policies alone. A Council resolution could address a particular retail application, an area of the municipality or the entire municipality. It is important to note that even if this Bill passes, the AGCO will continue to have full control over whether a particular location is approved.

At present, the Bill has not moved past first reading.

In the City of Toronto, Council Members in November tabled a motion requesting that the Ontario Government pause the issuing of new licensees for one (1) year or until a private members bill which would give municipalities more say over the location of Cannabis Retail Stores is passed.

The Motion that was passed in the City of Toronto as follows:

1. City Council endorse Member of Provincial Parliament Marit Stiles's Private Members' Bill 29, entitled "An Act to Amend the Cannabis Licence Act, 2018".
2. City Council direct the Clerk to convey City Council's endorsement of the above Bill to the Province of Ontario.
3. City Council request the Ontario Government to place a moratorium on the issues of new cannabis licenses and retailers in Toronto for one year or until Bill 29 is successfully adopted.
4. City Council direct the City Manager to report on the status of funding promised by the Province of Ontario that was to be forwarded to the City of Toronto for opting into the Provincial retail cannabis program.
5. City Council direct the City Manager to report on the number of retail cannabis licences granted by the Province of Ontario in the City of Toronto.
6. City Council direct the City Manager to undertake a public education campaign that explains to the citizens of Toronto that only the Province of

Ontario can grant cannabis retail licences, that the City of Toronto has no say in where cannabis retailers are located, that only the Province of Ontario's Alcohol and Gaming Commission of Ontario has the authority to grant licences and that the Alcohol and Gaming Commission of Ontario oversees the operation of these cannabis retailers.

So far there has been no report back to City Council, and the Private Members Bill Amendment still remains in its first reading.

## 7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

There are no Financial Implications associated with this Staff Report.

As part of the January 2018 staff report to Council on the option to permit or to not permit private cannabis retail stores in the Town of Cobourg staff provided Council with the following information related to funding to be forwarded to municipalities who opted into permitting Retail Cannabis locations within their municipality:

The Minister of Finance has indicated that the Ontario Cannabis Legalization Implementation Fund (OCLIF) will be available to municipalities to offset permitted costs that are directly relate to the legalization of recreational cannabis, including costs related to increased enforcement; increased response to public inquiries; increased paramedic and fire services; and by-law/policy development.

Funds will be distributed as follows:

- There will be a first payment of \$15 million in early January 2019 to all municipalities on a per household basis (with a minimum payment of \$5,000) to help pay for planned legalization activities. (the Town of Cobourg will receive \$11,759);
- A second payment of \$15 million will be distributed after the January 22, 2019 deadline for municipalities to opt-out of cannabis retail storefronts as follows:
  - i. Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per household basis (again, with a minimum \$5,000 payment) to support initial costs related to hosting retail storefronts; and
  - ii. Municipalities that have opted-out will each receive a second \$5,000 only.
- The Province is setting aside the remaining \$10 million of municipal funding to address costs for unforeseen circumstances related to the legalization of recreational cannabis, and priority will be given to those municipalities that have not opted out.



- In addition, if the Province of Ontario's portion of the revenue from recreational cannabis exceeds \$100-million in the first two (2) years of legalization, the Province will provide fifty per cent (50%) of the surplus to be divided only amongst municipalities that have opted-in to the private cannabis retail store regime.

In speaking with the Finance Department, the Town of Cobourg has received the following as part of the cannabis retail store regime:

**Total funding received - \$37,141.00**

**Expenditures to date - \$ 9,710.82**

**Funds being held in reserve – \$27,430.18**

## 8. CONCLUSION

In summary Council can consider creating and implementing its own Cannabis Retail Establishment Policy Statement for the Town of Cobourg, or pass its own resolution on ways to provided municipalities and particularly the Town of Cobourg for ways they can have more control on the approval or input in these types of establishments in the community.

### Report Approval Details

Document Title:	Cannabis Retail Stores in the Town of Cobourg; - Legislative Services-026-22.docx
Attachments:	- AGCO - File Objection Submission Form.pdf - Cannabis Retail Establishment Sample Policy Statement WB.pdf
Final Approval Date:	May 20, 2022

This report and all of its attachments were approved and signed as outlined below:

**Tracey Vaughan, Chief Administrative Officer - May 20, 2022 - 12:13 PM**