

Staff Report

Report To: City Council
Report From: Pamela Coulter, Director of Community Services
Meeting Date: January 21, 2019
Report Code: CS-19-010
Subject: Recreational Cannabis – Draft Municipal Cannabis Policy Statement

Recommendations:

That in consideration of Staff Report CS-19-010 regarding a Draft Municipal Cannabis Policy Statement, City Council requests that staff, using digital online and a public open house, engage public comments regarding the draft Municipal Cannabis Policy Statement.

Strategic Initiative:

Objective 1: Retain and grow existing local businesses and business opportunities.

Objective 2: Develop a coordinated approach to attract new investment and encourage economic development.

Objective 8: Support community safety and social inclusion.

Background:

At its meeting on December 17, 2018, Council made a decision to provide a Notice to the Registrar (of the Alcohol and Gaming Commission of Ontario) that Owen Sound has chosen to opt in to the retail sales of recreational cannabis.

R-181217-011

THAT in consideration of the legalization of recreational cannabis by the Federal Government through Bill C-45 and the Ontario Cannabis Licence Act and Ontario Regulation 468/18 and Staff Report CS-18-158, City Council on December 17, 2018 requested that the City Clerk notify the AGCO Registrar that the City of Owen Sound has chosen to opt in to the retail sales of recreational cannabis.

Report [CS-18-158](#) provided background information on the federal and provincial regulatory framework and also suggested that, if Council was opting in, that a Municipal Cannabis Policy Statement be prepared.

The purpose would be to set out specific and locally sensitive considerations or uses to represent the expectations of the community in allowing cannabis retail stores. The statement would be used by municipal staff to provide input to the AGCO within the proposed 15-day review period.

The AGCO cannabis licensing process, very similar to the liquor licensing application process, requires that a notice of a proposed cannabis store site be posted for comments from area residents and businesses before a site authorization. This would allow the municipality, the County and individual residents and property owners of the municipality where the store is proposed to provide input into the licensing process.

The AGCO has confirmed that Notice will only be provided through the AGCO website. There is no notification alerts and the City will need to designate staff to check this site daily to ensure we do not miss an application and can provide comments within the commenting period.

There is no regulatory requirement however for the AGCO to act on municipal input (or public input) that is received.

A Municipal Cannabis Policy Statement would help identify local sensitive uses.

The policy, once adopted by Council, would be shared with the AGCO and used by City staff to provide comments during the 15-day commenting period.

AMO is suggesting that a key senior staff lead be identified to provide comments to the AGCO using the municipal policy. The template would help identify issues and criteria that the City may want to note when considering a proposed retail cannabis site. Given the 15-day comment window, it may

not be possible to ensure Council would have the applications on the public agenda and provide comment. The policy would provide clear direction and be the basis on which staff would provide comments on a particular store location.

As noted, in terms of land use planning, the Regulation prohibits municipalities from passing a zoning by-law to prohibit the retail sales of cannabis. It is intended that cannabis retail stores would be permitted in all zones where retail stores are permitted. Compliance with the site and building requirements for such a use would be required.

Compliance with the Ontario Building Code is also a requirement for the stores.

At this time, based on information from AMO, Hamilton and Ottawa are considering Municipal Cannabis Policy Statements.

Council is reminded that it was announced late in 2018 that due to a shortage of cannabis supply that only 25 stores would be licensed in the first round. These stores are restricted to municipalities with a population of over 50,000 who have "opted in" under the provincial regulation. The City does therefore have some time to prepare the policy as Owen Sound will not have a location receive a retail cannabis store retail licence in the first round.

Analysis:

Draft Municipal Cannabis Policy Statement (attached)

The purpose of the policy statement is:

1. 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 with respect to the licensing process.
2. Provide municipal staff a framework on which to base comments to the AGCO during the 15-day comment window.
3. Assist individuals and businesses who are planning to make an application to the AGCO to operate a store, understand the local context of where a store may be most appropriate, understanding however, that all licensing is the sole responsibility of the AGCO.

The draft policy statement:

- Includes background respecting the legislation and process
- States the purpose
- The policy then identifies:
 - o Retail areas where the AGCO would consider the sale of retail cannabis a permitted use
 - o Schools as per the *Education Act* and a 150 m buffer where the AGCO would prohibit a cannabis retail store
 - o Locally sensitive uses and a 70 m buffer where the municipality considers, in the public interest, a cannabis retail store should not be permitted by the AGCO.

Sensitive uses that staff have identified include:

- Daycare
- Church
- Drinking establishment
- Addiction treatment facility
- Existing beer store or AGCO liquor sales outlet
- Group home

The policy would be shared with AGCO and it is hoped that the AGCO would consider this in addition to any comments received through the 15-day Notice window. This however is not clear and the City should still be diligent about providing municipal comments.

Staff are recommending an open house as well as an online tool that would provide background and look for the public's input on identifying sensitive land uses.

Council is reminded that the matters of "public interest" are limited to:

- i. Protecting public health and safety
- ii. Protecting youth and restricting their access to cannabis; and
- iii. Preventing illicit activities in relation to cannabis.

It is important to note, municipal comments on proposed retail stores must be focused on the matters of the "public interest" as defined in the regulation (public health or safety, protecting youth, and eliminating the illegal market). The municipal cannabis policy cannot be so restrictive to make it impossible to locate a store or can the policy state a specific number or maximum number of stores.

Title: Municipal Cannabis Policy Statement

Department/Division:

Background:

1. 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.
2. 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.
3. Under Ontario Regulation 468/18, municipalities are not authorized to pass bylaws under the *,2001* with respect to business licensing or under the *Planning Act* with respect to zoning, interim control or site plan control with respect to retail cannabis stores.
4. Ontario Regulation 468/18 provided municipalities a one time opportunity to opt out of retail cannabis sales within the municipality.
5. On December 17, 2019, the City by resolution made a decision to “opt in” to the possibility of a licenced retail cannabis outlet in Owen Sound and this decision was provided, as required by Regulation, to the Registrar.
6. Prior to April of 2019, access to recreational cannabis in Ontario is solely through the Ontario Cannabis Store on-line.
7. Following April 2019, the Registrar of the ACGO will issue licences for the operation of retail cannabis stores subject to the Registrar’s Standards.
8. Under these standards, a licensee is required to comply the Registrar’s Standards for Cannabis Retail Stores as well as other applicable law.
9. Holders of a Retail Operator Licence are responsible for meeting all Standards.

Title: Municipal Cannabis Policy Statement

10. The AGCO licensing process has 3 parts: operator approval, retail site location approval and store management licencing.
11. The AGCO will have a 15-day window for municipal comments respecting the proposed location of a retail cannabis store within a local municipality. Notice will be provided through the AGCO website and posted at the site of a proposed retail store.
12. The AGCO Registrar is not obligated to decline a store license where a municipality or a member of the public provides a submission that is not supportive of a proposed location.
13. Municipal comments and comments from the public, must focus on the three provincial public interest objectives: public health & safety, protecting youth and restricting their access to cannabis and ending illegal sales of cannabis and illicit activities in relation to cannabis.
14. The Registrar has mandated a 150 m setback from schools where no retail cannabis store would be permitted to be located.

Purpose:

15. The purpose of this 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 with respect to the licensing process;
16. Provide municipal staff a framework on which to base comments to the AGCO during the 15 day comment window.
17. Assist individuals and businesses who are planning to make an application to the AGCO to operate a store, understand the local context of where a store may be most appropriate, understanding however, that all licensing is the sole responsibility of the AGCO.

Title: Municipal Cannabis Policy Statement

Scope:

18. This policy applies to all Notices of Proposed Retail Cannabis Store that will be provided by the AGCO.

Definitions:

Policy:

19. The City acknowledges that retail cannabis stores, are permitted within areas zoned for retail stores within the City's Zoning Bylaw, 2012-078, as amended.
20. Schedule A identifies generally the areas where "retail store" is a permitted use.
21. Schedule B identifies all Schools as defined by the Education Act as well as a 150 m buffer where a retail cannabis store would not be permitted by Provincial Regulation.
22. Schedule C identifies other sensitive facilities that, based on consultation with the public, City Council considers as sensitive land uses. A 70 m buffer is identified from these uses.
23. The City, after consultation with the public, has considered the matters of "public interest" which includes:
 - i. Protecting public health and safety
 - ii. Protecting youth and restricting their access to cannabis; and
 - iii. Preventing illicit activities in relation to cannabis.
24. It is the City's position that the Registrar for the AGCO respect these locally sensitive uses and not permit a retail cannabis store within 70 m of these other sensitive uses.

Title: Municipal Cannabis Policy Statement

Related Policies & Legislation:

- 25. *Cannabis Licence Act, 2018* and Regulations thereto
- 26. City of Owen Sound Zoning Bylaw 2012-078, as amended
- 27. *Education Act*

Appendices:

- 28. None

Revision History:

Resolution Number	Date

Title: Municipal Cannabis Policy Statement

SCHEDULE B



