Background

This report is an update to previous information reports to City Council, and provides information regarding the options of opting in or opting out of retail cannabis stores.

Recreational cannabis became legal in Canada on October 17th, 2018. The federal Cannabis Act provides the regulatory framework to legalize, regulate, and restrict access to cannabis. The government of Ontario passed legislation to regulate usage, licensing, retail sales and distribution of cannabis and cannabis related products in Ontario.

The retail model for cannabis sales in Ontario currently only provides for on-line sales through the provincially regulated Ontario Cannabis Store (OCS). When legal in Ontario, bricks and mortar retail cannabis outlets will be privately operated, but licensed and regulated by the Alcohol and Gaming Commission of Ontario (AGCO). It is anticipated that the process to apply for a license for retail outlets will commence on December 17, 2018, with retail outlets being allowed to commence operations on April 1, 2019.

Municipalities will have the option to opt-out of hosting retail outlets within their respective geographic boundaries. This would require that municipal councils pass a resolution and advise the AGCO by January 22, 2019 stating they do not wish to host cannabis retail stores in their communities. The AGCO’s receipt of this resolution will automatically cancel any outstanding applications for a storefront in the municipality. There is no formal process for “opting in”. For municipalities that opt out, there will be an opportunity for municipalities to opt in at a later date. There has been no confirmation of a time period for a local municipality to opt back in via resolution. If the opt out is reversed by a municipal government, that decision is final.

It is recommended that Council consider taking a decision regarding allowing cannabis retail stores in Greater Sudbury and pass the resolution prepared.

Previous Reports to Council


Enforcement

Police will enforce the some of the federal and provincial cannabis legislation, including criminal offences. The federal government has provided funds to police forces for training and the Ontario government has worked with Ontario Provincial Police and municipal police forces to increase the number of officers trained in the Standard Field Sobriety Test and as Drug Recognition Experts.

Public Health Units enforce the Smoke Free Ontario Act (SFOA) which, among other regulations, regulates where tobacco can be consumed. Cannabis use enforcement has been added to these duties. The City of Greater Sudbury has amended the Parks Bylaw that addresses smoking in open
public spaces designated for active or passive recreation. The bylaw will align with the Smoke Free Ontario Act, and will continue to be enforced by Municipal By-law Enforcement Officers.

The *Federal Cannabis Act* strictly controls the operations of licensed growers as well as the advertising and promotion of cannabis. The Federal government also regulates the *medical* cannabis industry, sales and distribution.

**Authorizing and Licensing Retail Outlets**

Bill 36, also referred to as *The Cannabis Statute Law Amendment Act, 2018* authorizes the Alcohol and Gaming Commission of Ontario (AGCO) to license and regulate private cannabis retail in the province. The AGCO will establish processes for Retail Operator Licensing and Retail Store Authorization for retail cannabis stores in communities where municipal governments have not opted out.

The AGCO will designate the authority to carry out inspections and enforcement of the Act. Municipal official plans, zoning approvals and licensing by-laws will not apply. The AGCO has three licensing functions:

- The AGCO will be responsible for licensing cannabis Retail Store Operators. Licensing will be subject to criminal and financial eligibility checks. The AGCO will open the application process for store operator licenses on December 17, 2018.

- Once a specific cannabis retail site has been proposed, the AGCO will be responsible for determining and granting Retail Store Authorization.

- AGCO will license cannabis store retail managers employed in senior positions at retail locations

The AGCO will provide municipal governments and the public with a 15-day notification period of a proposed store site to receive public input, establish public interest and hear concerns from the local community. The public notification of a proposed cannabis retail site will also be posted on the building and on the AGCO’s website.

Cannabis retail siting is exempt from typical land use planning processes in that a cannabis retail store cannot be zoned as a specific land use. As a retail store, it would still need to comply with existing zoning requirements. The province is, however, enforcing some requirements including that store locations will need to observe a minimum distance of 150 metres from schools. A municipal government may consider setting out a policy statement identifying locally sensitive considerations for uses, to best represent the expectations of the community. Note that there is no regulatory requirement for the AGCO to act on the municipal input.

There is no cap on the number of storefronts, leaving it to market demand to decide locations and the number of stores. A market concentration limit of 75 stores per operator has been set to prevent a high degree of market consolidation, promote opportunities for small businesses and promote investment in the cannabis retail sector.

Other new strict regulations established by the Ontario Government include:
Retailers will not be permitted to allow anyone under the age of 19 to enter their stores. This approach and other regulations were developed to address the risk of youth exposure to the cannabis retail market.

Specific instances in which applicants will be denied a licence, including cannabis-related criminal offences. Notably, illegal cannabis retailers who were operating after October 17, 2018 are not eligible for Ontario cannabis sales licenses.

A prohibition on the issuance of a licence to any individual or organization who has an association with organized crime.

Requirement that individuals or entities applying for an operator licence demonstrate their tax compliance status to show that they are in good standing with the government.

A requirement for all private recreational cannabis retail storefronts to be stand-alone stores only.

Individuals with a store authorization, cannabis retail managers and all retail employees will be required to complete the approved training to ensure that any individual who works in the cannabis retail market is trained in the responsible sale of cannabis.

Private retail recreational cannabis stores will be permitted to open between 9:00 a.m. and 11:00 p.m. on any day, aligning with regulations for the operating hours of alcohol retail.

Funding Approach

The transition to legal recreational cannabis will impact some local services and municipal government functions including: policing, public health, by-law enforcement and potentially paramedic services. To help manage these municipal impacts, the provincial government has confirmed the commitment to provide municipal governments with $40 million from the federal excise tax to municipal governments. An initial $15 million will be split on a per household basis among the province’s municipalities at the start of the new year, with all communities receiving at least $5,000. An additional $15 million will then go to municipalities that agree to host cannabis retail stores within their boundaries. The province will set aside an additional $10 million as a contingency fund to deal with any "unforeseen circumstances" related to marijuana legalization that municipalities might encounter. On a per household basis, Greater Sudbury would receive approximately $200K of the initial $15M (based on the most recent StatsCan stats).

An additional funding amount equivalent to the 50/50 provincial-municipal split of federal excise tax will be available if Ontario’s revenues exceed $100 million in the first two years. It is anticipated that opting out of allowing cannabis retail in their respective communities will affect excise tax revenue sharing for municipalities.

The City of Greater Sudbury will continue to track incremental costs to enable evidence based feedback to the Province regarding the costs of implementing and enforcing the legalization of recreational cannabis at a municipal level.

Community Engagement

Over to You

The online civic engagement platform Over to You was used to gather initial opinions from citizens and to conduct a survey regarding:

- The support of legalization
- Concerns regarding legalization
- Preferred channel for purchasing recreational cannabis
- Whether Greater Sudbury should allow retail stores
The engagement, which will run from November 13\textsuperscript{th} to November 30\textsuperscript{th} has generated a significant number of responses on the Over to You website and, thus far, suggests overwhelming support for retail stores in Greater Sudbury. As of the drafting of this report, the Over to You engagement has received more than 10,000 responses from over 6,500 unique IP addresses, with approximately 91\% of respondents indicating they are in favour of Greater Sudbury allowing retail cannabis stores. Details are attached in Appendix A.

**Formal Polling**
A third party firm was contracted to complete a random poll of 1000 Greater Sudbury residents over the age of 19. The services of Oraclepoll Research have been procured to complete formal survey activities and provide a report on the results. Results from the poll will be presented to Council on December 11, 2018, to inform the decision before Council regarding opt in/opt out. See Appendix B for the proposed questions on the formal survey.

**Other Municipal Impacts and Implications**

**Planning and Zoning**
Regarding zoning implications for retail outlets, the province has restricted municipalities from passing by-laws that have 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.

Regarding zoning and permitting other cannabis operations (i.e. production facilities), City planning staff are examining policy options for cannabis production facilities and will bring a report to Planning Committee in January 2019 to seek direction to amend the Official Plan and Zoning By-law to allow cannabis production facilities in agricultural and industrial areas.

**Economic Development**
The legalization of cannabis presents a wide range of economic opportunities. At first glance, economic opportunities appear to be uniquely in large-scale production and retail, however there are numerous small business opportunities that will develop as the industry matures. For example:

- Small scale production
- Chemical testing facilities to test CBD and THC levels and conduct quality control
- Processing facilities
- Textiles production and processing
- Supply of agricultural/growing equipment to home producers, and small and large-scale producers
- Clinical trials and research

Given the City of Greater Sudbury's strength in health and life sciences and engineering, the community is well positioned to maximize economic opportunities in this sector. CGS Economic Development staff are currently involved in a number of large-scale production facility projects for both the recreational and medical cannabis markets. One project is expected to include a processing facility to transform dried cannabis product to oil.

**CGS Substance Abuse Policy**
The City of Greater Sudbury has introduced a revised corporate substance policy that now includes recreational cannabis use. The policy clearly indicates that “Employees must not use, distribute or offer for sale any alcohol, recreational cannabis, illicit drugs and/or drug paraphernalia while at work”. The workplace is defined as “all land, property, structures, installations, offices, job sites, vehicles, and equipment owned, leased, operated or otherwise directly controlled by CGS and/or used for CGS business”.

By-Laws

As previously noted, the municipal parks by-law has been revised to include cannabis and e-cigarette restrictions. Council could consider, through additional by-law(s), further restricting the consumption of cannabis on municipal properties.

Opting In vs Opting Out

As previously referenced, the Province of Ontario has committed to funding that would see municipal governments share at least $40 million of the provincial portion of the federal cannabis excise tax. Opting out of retail outlets will impact the amount of funding a municipality receives.

In July 2017 Public Health Sudbury & Districts (PHSD) along with a number of other Ontario public health units published a consultation paper, *Cannabis Legalization in Ontario* making several recommendations. One of the key recommendations was the avoidance of a commercial regulatory model, and instead, it was recommended that a not-for-profit approach to cannabis regulation be adopted with the public health goal of delaying and reducing cannabis use within the population.

As the provincial government has implemented a private retail model, municipalities choosing to opt-in are encouraged to consider health protection strategies early in the decision-making process. PHSD strongly recommends that municipalities, where possible:

1. Reduce cannabis retail outlet density through minimum distance requirements between cannabis retail outlets and place limits on the overall number of outlets.

2. Prevent the role-modeling of cannabis use and reduce youth access through minimum distance requirements from youth-serving facilities such as schools, child care centers and community centers.

3. Discourage the co-use of cannabis and other substances by prohibiting co-location and enacting minimum distance requirements between cannabis, alcohol and tobacco retail outlets.

4. Protect vulnerable residents by limiting cannabis retail outlets in low socioeconomic neighbourhoods and enacting minimum distance requirements from other sensitive areas.

5. Reduce cannabis consumption and harms by limiting late night and early morning retail hours.

For Council consideration, it is significant to note that opting out of cannabis retail does not prohibit the use of cannabis in the City of Greater Sudbury, it only restricts access. Enforcement and other municipal costs will still be incurred, as it is anticipated that recreational cannabis use will still occur. As previously noted, opting out of cannabis retail will have an impact on the revenue realized from senior levels of government.
A municipality can decide to allow cannabis retail stores within its jurisdiction any time before January 22, 2019. If a municipality decides it will allow cannabis retail stores within its jurisdiction, the AGCO should be notified as soon as possible. Early notification to the AGCO will not change the date that licensed retail stores may open, which remains April 1, 2019 at the earliest. However, it will allow the AGCO to process retail store applications, complete the public notice process and, provide more time for stores to set up their operations.

Next Steps

Internal meetings with City staff and community partners (PHSD and GSPS) have occurred to discuss impacts of the legislation. Further discussions regarding details of policy/business practices will continue. Two working groups with representation from programs and services across the enterprise have been established to work on policy/direction (Enforcement and Safe Use).

The working groups will continue to work through policy and business practices, to ensure that municipal programs and services are aligned with the implementation of the retail cannabis model prescribed by the provincial government.

Resources Cited