

# Cannabis Retail Outlet Considerations for Municipalities

Monday December 10, 2018

On October 17, 2018, the Ontario Government passed legislation that privatized the cannabis retail model. The newly enacted *Cannabis License Act, 2018* sets the Alcohol and Gaming Commission of Ontario (AGCO) as the regulator of cannabis retail outlets, and the Ontario Cannabis Retail Corporation (OCRC) as the exclusive wholesaler and online retailer of cannabis in Ontario.<sup>1</sup> The first retail stores are to be operational beginning in April, 2019. In the interim, the public can purchase cannabis from OCRC's online store. Retail applications to the AGCO will be received starting December 17, 2018.

Municipalities must declare by January 22, 2019 whether they will opt-out of privatized retail outlets in their communities. To opt-out, municipal councils must provide a notice of resolution to opt-out to the Registrar no later than January 22, 2019. Opting out is a one-time option for municipalities, however, those that choose to opt-out may opt-in at a later date.<sup>1</sup> If a council does not opt-out, cannabis retail outlets will be permitted.

The recently released Ontario Regulation 468/18 made under the *Cannabis Licence Act, 2018* governs private cannabis retail in Ontario and sets out requirements regarding retail store authorizations and operations. For example, minimum distances between a retailer and a school has been set at 150 metres and hours of operation are between 09:00 and 23:00. The Ontario government indicated that municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. Municipalities are also prohibited from passing a by-law providing for a licensing system for cannabis retailers.

The Government of Ontario's response to the federal government's legalization of cannabis is a phased approach and information is still emerging. The decision to introduce retail outlets into your municipality may be difficult, particularly in the absence of a complete understanding of community impacts of allowing stores within a municipality. We encourage municipal councils to seek input from their community on local concerns and to include considerations from a public health perspective in their deliberations on the issue.

## Is your Municipal Council considering OPTING IN to cannabis retail outlets?

You may want to consider the following:

### ***The physical availability of a legal substance matters.***

Research shows that increased availability and exposure of substances, such as alcohol and tobacco, increases related harms; for example:

- High retail outlet density can contribute to increased consumption and harms.<sup>2</sup>
- Retail outlet proximity to sensitive use spaces increases normalization among sensitive populations.<sup>3,4</sup>
- Retail outlet proximity to other substance retail outlets shows increased number of traumas.<sup>3</sup>
- Longer retail hours significantly increase consumption and related harms.<sup>2</sup>

Municipalities are prohibited from using licensing or land-use by-laws to control the placement or number of cannabis retail outlets. Association of Municipalities of Ontario has recommended that municipalities that opt in develop a [Municipal Cannabis Policy Statement](#) that can outline community concerns and considerations for retail, providing direction for municipal staff input to the AGCO on a retail store site during the 15 day review period. Considerations could include suggested distance requirements between cannabis retail outlets and other youth serving facilities; the number of outlets in a neighbourhood; and proximity to other sensitive use spaces (e.g. facilities with mental health and addiction services).

### ***The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.***

The bulk of provincial funding for municipalities is tied to not opting out. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs, with all municipalities receiving at a minimum \$10,000. A municipality that opts in would be eligible to receive additional funds through the Ontario Cannabis Legalization Implementation Fund (OCLIF). Furthermore, if Ontario's portion of the federal excise taxes exceed \$100 million in the first two years, the province will provide 50% of the surplus only to municipalities that have not opted out.<sup>1,5,6</sup>

## Is your Municipal Council considering **OPTING OUT** of cannabis retail outlets?

You may want to consider the following:

### ***A central tenant of the Cannabis Act is the curtailing of the illegal cannabis market.***

Opting out may not decrease cannabis use and its impact on the community, rather it could maintain the demand on the illegal market. Some consumers will access cannabis through legal sources, however, in the absence of retail outlets, the demand for the illegal cannabis market will remain.

### ***The retail system provides access to regulated and controlled cannabis products.***

Some marginalized groups may not be able to access regulated products (e.g., individuals without a physical address, a credit card or access to transportation). These marginalized groups could be pushed to utilize the illegal cannabis market, creating a demand for the illegal market; as well as putting them at risk of unregulated products and the risks associated with these products (e.g. unknown potency and lacing with other substances).

### ***The Government of Ontario has committed \$40 million to help with cannabis legalization implementation, with some conditions.***

Municipalities will incur costs associated with cannabis legalization regardless of the presence of retail storefronts in their communities. The Ontario Government has committed \$40 million over two years to help municipalities with implementation costs. If opting out of the retail model, communities will receive a minimum \$10,000 (on a per household basis) to help with associated costs, however, they will not be eligible to access additional funds through the OCLIF. Furthermore, if Ontario's portion of the federal excise taxes on recreational cannabis over the first two years of legalization exceeds \$100 million, the province will provide 50% of the surplus only to municipalities that have not opted out by January 22<sup>nd</sup>, 2019.<sup>1,5,6</sup>

### ***Opting out may allow municipalities time to fully understand the regulations and funding prior to committing to retail outlets.***

Opting out now may allow time for further clarification of municipal roles and responsibilities as information emerges and to prepare for the edibles market. It is unknown if municipalities will receive additional funding if they choose to opt-out now and decide later to host retail storefronts in their communities.



**For more information, please contact the Health Unit at 1-866-888-4577**

Lisa Kaldewey – ext. 2207

Catherine MacDonald – ext. 2401

#### References

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6. Letter from Ministry of Finance to Association of Municipalities of Ontario, November 20, 2018. [Internet]. Available from <https://www.amo.on.ca/AMO-PDFs/Letters/2018/2018-11-20-Ministers-Letter-to-AMO-Municipal-Canna.aspx>