

# Town of Ajax Report



**Report To:** Council

**Prepared By:** Rachael Matheson, Sr. Communications Officer – Government Relations

**Subject:** Cannabis in Ajax

**Ward(s):** All

**Date of Meeting:** January 14, 2019

**Reference:** None

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## **Recommendations:**

**That staff be directed to inform the Alcohol and Gaming Commission of Ontario that the Town “opts in” and will allow retail cannabis storefronts to operate within Ajax; and**

**That the Cannabis Policy Statement, included as ATT-1 to this report, be endorsed by Council, and that staff be delegated authority to comment to the Alcohol and Gaming Commission of Ontario, on behalf of Council, with respect to any store license application that does not meet the public interest of the Town of Ajax based on the Town’s Cannabis Policy Statement; and**

**That staff be directed to report back to Council prior to April 1, 2019 outlining considerations and recommendations addressing additional bylaw restrictions on places of use for cannabis consumption, building on the Smoke Free Ontario Act and Region of Durham’s forthcoming updated Smoking Bylaw; and**

**That Council support requesting the province to include not only schools but also daycares and other sensitive uses as appropriate within the 150 m buffer from cannabis retail locations.**

## **Background:**

The Federal Government legalized Cannabis in Canada on October 17, 2018. Provinces and Territories are responsible for determining how cannabis is distributed and sold within their jurisdictions. The Province of Ontario has implemented a private cannabis retail model, regulated by the Alcohol and Gaming Commission of Ontario (AGCO). The Town must decide whether to exercise its one-time right to opt out of allowing private cannabis retail sites within Ajax’s municipal boundaries by the legislated deadline of January 22, 2019.

## **Key Provincial Dates**

- September 27, 2018 - Cannabis Statute Law Amendment Act introduced, significant changes to Ontario’s Cannabis Act (2017)
- October 17, 2018 – Ontario opened online cannabis sales

- December 17, 2018 – AGCO began accepting retail licence applications
- January 7 – 9 – Expression of Interest submitted for Cannabis Retail Licence Lottery
- January 11 – Cannabis Retail Licence Lottery
- January 22, 2019 – Deadline for municipalities to opt out of hosting cannabis retail sites
- April 1, 2019 – First date that cannabis retail locations can be operational in Ontario

Deloitte's 2018 Cannabis Report estimates that the total cannabis market in Canada is expected to generate \$7.2 billion in total sales in 2019, with overall consumption jumping 35% as legal channels are introduced. According to the report, the projected legal market size in Ontario ranges from \$700 million to \$1.7 billion in sales with 65% of cannabis products to be purchased through legal channels. This could result in \$445 million to \$1.1 billion in legal sales for 2019.

In addition, the federal Parliamentary Budget Officer's projections suggest figures closer to \$2.1 billion to \$2.3 billion in retail sales in Ontario. These are forecasts, however they suggest that entrepreneurs will thrive, and through taxation provincial reserves will benefit extensively from this emerging industry.

Another study, conducted by CIBC World Markets projects that by 2020, the national legal market for cannabis will be approximately \$6.8 billion, of which 95 percent will be recreational use. They estimate that this will be greater than the amount of spirits sold in Canada and close to the amount of national wine sales.

A recent statistic released by Statistics Canada in October stated that 4.6 million Canadians used cannabis in the third quarter of 2018.

## **Discussion:**

### **Provincial Cannabis Rules**

The Ontario Cannabis Retail Corporation oversees online sales and acts as a wholesaler to private retailers. The AGCO will licence private retailers. Other rules and regulations include:

- Cannabis will not be sold in the same retail location as alcohol.
- Anyone caught running an illegal retail location will be barred from obtaining a retail license in the future.
- There will be a 30 gram sales and possession limit. Purchasers must be 19+.
- Recreational users will be allowed to consume cannabis anywhere that a person is able to smoke cigarettes, with the exception of vehicles and boats.
- Ontarians can grow up to four plants per residence (not per person).

#### **1. ONLINE SALES:**

Anyone 19+ in Ontario can purchase cannabis online exclusively through the Ontario Cannabis Store (OCS), meaning that anyone over 19 has access to cannabis regardless of any municipality's decision to opt in or out of hosting retail stores. The OCS online outlet launched October 17, 2018, and processed 100,000 sales in its first 24 hours.

The province requires the OCS to:

- Keep appropriate records of its activities in relation to the cannabis that it possesses, including records related to the Federal National Cannabis Tracking System, monthly sales and inventory records, and any records related to product recall; and
- Take adequate measures to reduce the risk of its cannabis being diverted to an illicit market or activities, in accordance with applicable regulations.

Cannabis products (including dried flowers, seeds, pre-rolled product, oils, capsules and accessories) sold by the OCS must be purchased by credit card, along with the provision of personal information to ensure the individual is of legal age. Customers receive their products by Canada Post using standard shipping and ID is checked at the time of delivery.

To date, staff and Council have received limited comments on the subject. Primary concern remains places of use (proximity or potential proximity to children in public places).

## **2. RETAIL SALES:**

The Province of Ontario has created a legislated framework that will allow recreational cannabis to be sold in private cannabis retail stores. Licenced retailers will be able to open cannabis locations in municipalities who have not opted out, beginning April 1, 2019. The Province's system does not allow for municipalities to determine the number, location, concentration or manage the operation of private cannabis retail stores.

Due to supply shortages, the Province of Ontario is limiting the number of Retail Store Authorizations through an Expression of Interest Lottery process from January 2 – December 13, 2019 where authorizations will be subject to a temporary cap of 25.

The province has announced the following allocation for the first round:

- East Region: five (5) stores;
- GTA Region (Durham, York, Peel and Halton): six (6) stores;
- North Region: two (2) stores;
- Toronto Region: five (5) stores; and
- West Region: seven (7) stores.

Applicants can identify up to five (5) Regions for a total of five (5) separate Expression of Interest entries to the lottery.

The draw took place on January 11. Within five (5) days of the results being posted on the AGCO website, the 25 selected Expression of Interest Applicants will need to submit a Retail Operator Licence Application. Following submission of a Retail Operator Licence application, selected applicants must submit a Retail Store Authorization application for a municipality with a population over 50,000 that has opted into hosting cannabis retail.

With only six retail locations allocated to Peel, York, Halton and Durham Region, they would be serving a market of 3.7 million residents – a large economic opportunity. In addition, retail

operators are not required to operate in all jurisdictions (i.e. they could all be located in York Region).

## **AGCO Licencing**

The AGCO will:

1. Issue Retail Operator Licences
  - There is a 25 retailer cap for phase one of retail operations (April 1).
  - Sale or transfer of the license are prohibited and a market concentration limit of 75 retail stores province-wide per operator has been set (future phases).
2. Issue Retail Store Authorizations to licenced Retail Operators
  - 15-day local public notice process – online posting and storefront notice.
  - No requirement to notify municipalities. The AGCO is encouraging applicants to engage with their target municipality prior to submitting their application.
  - Authorized retailers must display a specified seal.
3. Issue Cannabis Retail Manager Licences
4. Conduct compliance and audit processes

AGCO Retail Standards:

- Licensees must obtain criminal background checks from all employees, ensure employee training is completed, ensure all employees demonstrate integrity and comply with the law.
- Cannabis must be stored securely at all times, and all points of access must be protected against unauthorized access including a high resolution surveillance system operating 24 hours/day. Cannabis and related accessories must not be visible from the exterior.
- Signage on the store exterior must clearly identify the business, and images may not be misleading or appealing to young people.

## **Zoning**

If the Town opts in, retail cannabis stores would be permitted in any area zoned for retail, such as Business Improvement Areas (BIAs), strip malls, plazas, or big box centres, subject to being outside the 150 metre buffer from a school site. In most cases, if a retail store was seeking to establish in one of these areas, the only municipal approval required would be a Building Permit, if applicable. A cannabis store must be the only use within any single retail unit, and cannot be part of another type of retailer (i.e. cannot be within a grocery store or Walmart).

## **Role of Municipalities related to Cannabis Legalization**

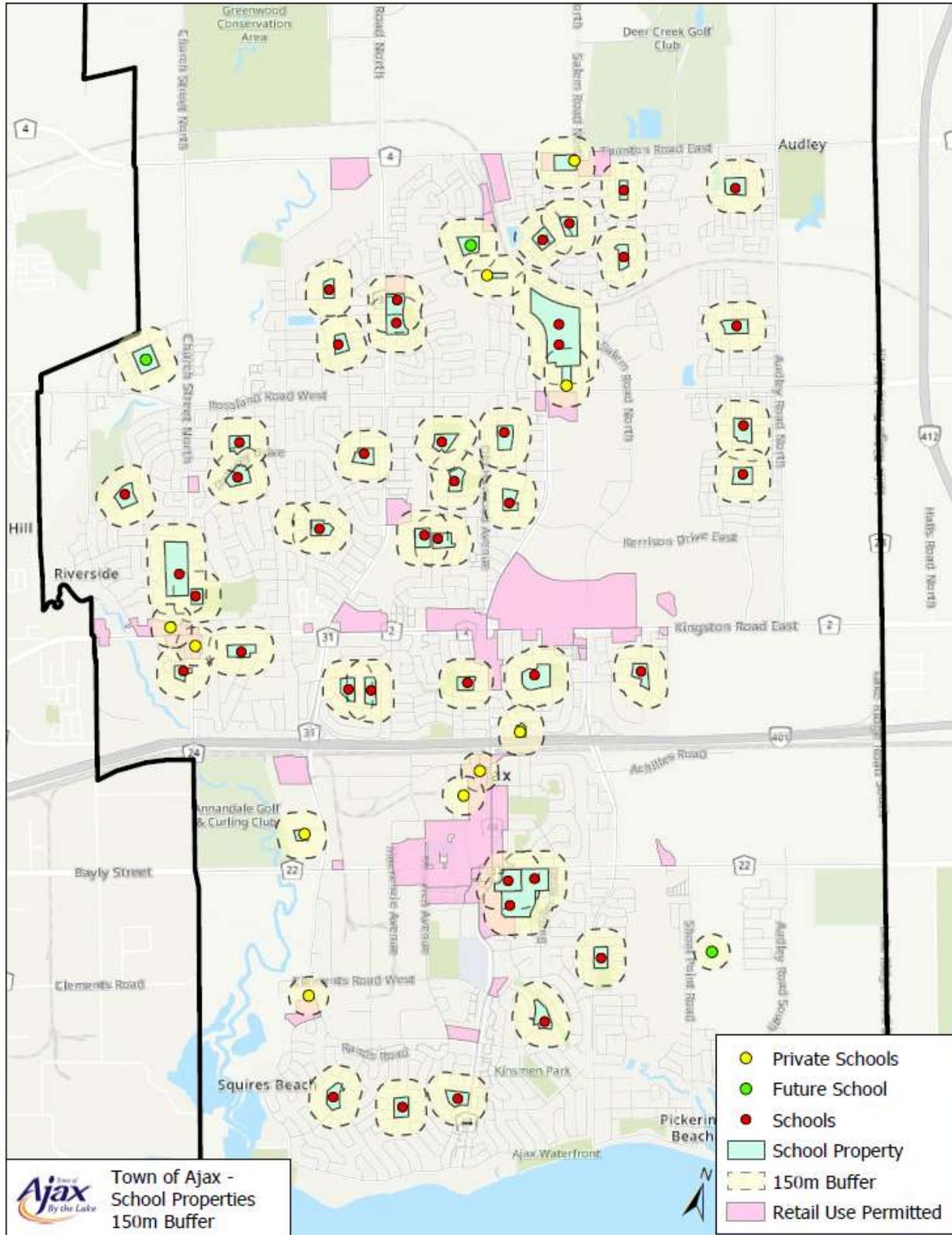
Under the Cannabis License Act, 2018 the Ontario government has limited municipal authority to add to the cannabis regulatory regime over and above the federal and provincial regulatory frameworks. Specifically, the legislation provides as follows:

- Municipalities are prohibited from further regulating private cannabis retail stores by way of traditional municipal business licensing and zoning powers. This means that

municipalities cannot pass any land use bylaws that distinguish between stores that sell cannabis and those that do not;

- The Province has set a 150 metre buffer zone from public and private schools (defined in the Education Act) where retail cannabis stores cannot locate. Municipal councils do not have the authority to pass bylaws that create larger buffer zones or identify additional sensitive land uses that would be included in the 150 metre buffer; and
- There is no ability for the municipality to limit the number of cannabis retail stores within its boundaries and there is no cap on the number of store authorizations issued in a municipality or across the province. On September 27, 2018, the Deputy Attorney General of Ontario estimated that 500 to 1,000 private cannabis stores would open in Ontario once the retail regime was in force.

Current retail zoning and school buffers in Ajax illustrated on the map on the next page.



## AGCO Comment Period

If Council opts in, staff will endeavour to monitor the AGCO website for online postings as part of the 15-day local public notice process.

By way of legislation and regulation, AGCO's 15-day notice period functions as follows:

- Public notice must be provided of an application for a potential retail location by posting the notice on the proposed location site and on the AGCO website.
- Municipalities have 15 days to make written submissions to the AGCO on whether the issuance of the retail store authorization for the site/location is in the public interest, having regard the needs and wishes of the residents.
- The AGCO shall consider the written submissions received on a particular application.

## Municipal Cannabis Policy Statement

Although municipalities have the right to make submissions to the AGCO, the 15 day notification period will not allow enough time for staff to receive direction from Council to make a submission on behalf of the Town.

As such, staff would provide comments within the parameters of a municipal cannabis policy statement approved by Council (see proposed draft Appendix 1). A municipal cannabis policy statement may identify specific sensitive uses, and outline ideal parameters for consideration. It's important to note, that any municipal cannabis policy statement and comments based upon them will not have any regulatory authority and will not bind the Province or AGCO. It simply describes the desires of the Town of Ajax as it related to the AGCO's review and decision-making on license applications.

## Opt in or opt out Considerations

Consideration	Opt in	Opt out
Ability for Council to change its mind:	Decision is final.	Reversible by a resolution of Council. (2/3 majority required)
Cannabis available for purchase & use by residents:	Whether a community opts in or out, cannabis is available via: <ul style="list-style-type: none"> <li>- OCS website to anyone over 19+</li> <li>- Any Municipality that has opted in for retail sales</li> <li>- Four plants may be grown per household</li> </ul>	
Revenue sharing:	Per-household allocation of \$30 million in two payments: \$15 million will be divided between all municipalities. <b>Ajax's allocation of the first payment is \$48,959.</b> Durham Region's allocation	Per-household allocation of \$15 million.  Second payment of only \$5,000.

	<p>of the first payment is \$300,308.</p> <p>\$15 million will be divided between opt in municipalities. 50% of lower-tier revenues will be shared with the Region of Durham.</p> <p>If Ontario's portion of federal excise duty over the first two years exceeds \$10 million, 50% of the surplus will be shared with municipalities that did not opt out.</p> <p>Revenues must be used for enforcement, response to inquiries, fire services and bylaw/policy development.</p>	<p>Revenues must be used for enforcement, response to inquiries, fire services and bylaw/policy development.</p> <p>It is unclear whether councils that first opt out and subsequently opt back in will be eligible for future revenue sharing. Therefore opting out, regardless of whether the Town opts back in, may jeopardize access to future revenue sharing.</p>
<p>Economic Development:</p>	<p>May dissuade illegal operators, which would be a benefit to the local business community, particularly the BIAs.</p> <p>New stores also fill retail vacancies and increase opportunities for job creation. According to cannabis industry stakeholders, it's estimated that each cannabis retail store will employ 30-40 people creating additional well-paying jobs. In fact, many of these jobs will require specialized training. Durham College offers Cannabis Industry Specialization courses and recognition.</p> <p>In addition, stakeholders believe that cannabis stores will have a positive impact on tourism and local business.</p>	<p>N/A</p>

	Finally, stakeholders have observed a positive impact on surrounding businesses as customers and staff access local shops while attending cannabis stores. Commercial tax revenue opportunities (scale dependent on number of stores).	
Public Health:	Reduction of the illegal market ensures that recreational cannabis users have better access to reputable, regulated product. Whether the Town opts in or out, addictions and mental health programming is mandated by other levels of government via Public Health, medical practitioners and other organizations.	No guarantee that an online sales channel will effectively reduce/eliminate the illegal market. Illegal supply increases potential health risks to users. Whether the Town opts in or out, addictions and mental health programming is mandated by other levels of government via Public Health, medical practitioners and other organizations.

### 3. MANUFACTURING, WAREHOUSING AND DISTRIBUTION:

#### Zoning By-law Permissions for Cannabis Production Facilities and Cannabis Warehousing/Distribution Facilities

The Town's Zoning By-law currently does not specifically define or allow facilities for the production (i.e. growing) and warehousing/distribution of cannabis and cannabis related products. However as outlined below, the Town's Zoning By-law has existing defined and permitted land uses that could accommodate cannabis production and warehousing/distribution facilities.

#### Cannabis Production Facilities:

##### Growing of Cannabis

The Town considers the growing of cannabis plants an 'Agricultural Operation' as defined in the Zoning By-law, which allows for the growing, cultivating and processing of crops. The Zoning By-law allows 'Agricultural Operations' in the Permanent Countryside Zone and Agriculture Zone.

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) also considers the growing of cannabis an agricultural activity. However, in conversations with OMAFRA it was noted that, based on the scale of operation, municipalities might also consider developing criteria to determine when the scale of such an activity would be considered an industrial/manufacturing use.

### **Production of Cannabis into Oils or Edibles**

When a cannabis production facility exceeds a certain scale of activity, it may be more appropriate to consider it an industrial/manufacturing use. Beyond what would be the 'processing of crops' as part of an agricultural operation, the processing of cannabis may also include extraction of oils, rolling and packing of products, and the production of edibles once approval is granted by the federal government. These types of processing activities would be considered manufacturing.

The Zoning By-law allows 'Manufacturing' which is the processing, fabricating or assembly of raw materials or goods in the General Employment and Heavy Employment Zones. The Zoning By-law also allows 'Light Manufacturing' which is the processing, assembly, treatment, or packaging of goods in the Prestige Employment, General Employment, and Heavy Employment Zones, as well as the Downtown Central Area Mixed Employment 1 and Mixed Employment 2 Zones

Through the Town's Comprehensive Zoning By-law Review, staff are looking at specifically defining 'Cannabis Production Facility' (growing and processing) and also looking at appropriate zones in which to explicitly allow for such a facility based on its scale.

### **Cannabis Warehousing/Distribution Facilities:**

In the context of cannabis related operations, warehousing would consist of the storage of all types of cannabis products (dried flower, oils/capsules, and edibles and drinks once they are government approved) and all types of cannabis related accessories, such as smoking accessories (bongs, pipes, papers, and vaporizers), storage/lock boxes, cleaners, scales, grinders, presses, and extractors. Distribution would consist of warehoused cannabis products being distributed to licensed retailers.

The Zoning By-law allows 'Warehouse/Distribution Centres' within the Prestige Employment, General Employment, and Heavy Employment Zones, as well as the Downtown Central Area Mixed Employment 1 and Mixed Employment 2 Zones.

## **4. PLACES OF USE:**

Regardless of opt in or opt out municipal status, Ajax residents will be able to legally purchase and consume cannabis.

The Smoke Free Ontario Act sets out minimum standards for legal cannabis and tobacco consumption. Municipalities are able to add to these standards through bylaws. According to the Act, consumption of cannabis will be prohibited by provincial law in all areas that tobacco is prohibited, as well as in vehicles and on boats.

The Region of Durham is undergoing a process to update their smoking bylaw to include cannabis. This bylaw should be before Regional Council early in 2019. Preliminary discussions indicate that the Region's approach may introduce a number of new limitations on places of use that may be sufficient to address the concerns of Ajax staff and residents. If they are not, Ajax is free to introduce further restrictions.

Staff recommend reporting back to Council prior to April 1, 2019 outlining considerations and recommendations addressing additional places of use bylaw(s) for cannabis consumption, building on the Smoke Free Ontario Act and Region of Durham's bylaw.

Areas that staff will review for potential bylaw changes include:

- Public parks (waterfront, etc.)
- Festivals and events (any hosted by the Town)
- Municipal parking lots
- Public gathering places (i.e. Pat Bayly Square)

These areas of review all received consistent public support. See chart below for further details.

## 5. PUBLIC ENGAGEMENT:

The Town undertook a comprehensive public engagement process from December 4 -14. Engagement activities included 6 in-person facility pop ups, surveys in high-traffic Town facilities (Audley Recreation Centre, Ajax Community Centre, McLean Community Centre and Ajax Library Main Branch), an automated telephone survey and online survey. In total, the Town engaged a considerable sample size of 2,374 responses. *All of the surveys were open which may have resulted in duplicate submissions.*

The results seen in the chart below reflect provincial trends. It is believed that having previously been illegal, the concept of legal cannabis is new. It will take time to see a shift in social acceptance of legal recreational cannabis use.

	Telephone Survey	Online Survey	Pop-ups & Facility Surveys	Total Valid Surveys
<b>Total Completed*</b>	936	1,324	177	2,374
Support private retail cannabis (in general)	41.3%	47%	57%	45.7%
Oppose private retail cannabis (in general)	58.7%	47.4%	37.9%	51.3%
Support private retail cannabis (in Ajax)	40%	41.8%	46.9%	41.6%
Oppose private retail cannabis (in Ajax)	60.1%	49.6%	44%	53.5%
Support for additional restrictions on cannabis use beyond SFOA**	69.2%	52.5%	61.3%	66.8%
Do not need additional restrictions on cannabis use beyond SFOA**	30.9%	31.8%	34.1%	31.7%
Cannabis rules should be more like alcohol***	45.3%	28.1%	30.2%	35%
Cannabis rules should be more like tobacco***	17.3%	31.4%	30.2%	25.8%
Cannabis rules should be a combination of alcohol and tobacco rules***	37.4%	38.3%	29%	37.3%
Cannabis should be allowed at public festivals and events in designated areas	45.4%	44.8%	53.8%	45.7%
Cannabis should be banned from all public festivals and events	40.1%	42%	32%	40.5%

\*Duplicates and responses from those under 18 were removed from analysis.

\*\*Smoke Free Ontario Act.

\*\*\*Survey identified consistent support for additional restrictions in places including festivals and events, streets and sidewalks, public gathering places like Pat Bayly Square, public parks including the waterfront. These areas will be explored further in future bylaw discussions and reviews.

## **6. MUNICIPAL SCAN (+100,000 residents)**

According to the AGCO, the large urban municipalities (over 100,000 residents – comparable to Ajax) who have opted in to hosting cannabis retail are:

- Chatham-Kent
- Greater Sudbury
- Guelph
- London
- Toronto
- Ottawa

Those who have opted out are:

- Markham
- Mississauga
- Pickering

Staff continue to monitor other large municipalities including Barrie, Brampton, Burlington, Cambridge, Hamilton, Kingston, Kitchener, Milton, Oakville, Oshawa, Richmond Hill, St. Catharines, Thunder Bay, Vaughan, Waterloo, Whitby, and Windsor. *As of publication of this report these municipalities have not made a decision.*

### **Financial Implications:**

#### **Revenues:**

Opting in to cannabis retail will allow for new economic development and commercial tax revenues for the Town (See chart on page 8 & 9).

The federal government has chosen to share excise tax revenues with the provinces, and in turn the Province of Ontario has developed the following revenue-sharing model:

Per-household allocation of \$30 million in two payments:

1. \$15 million will be divided between all municipalities. Ajax's allocation of the first payment is \$48,959. Durham Region's allocation of the first payment is \$300,308.
2. \$15 million will be divided between opt in municipalities.

Revenues must be used for enforcement, response to inquiries, fire services and bylaw/policy development.

50% of lower-tier revenues will be shared with the Region of Durham. Durham Regional Police and Public Health will be bearing the bulk of costs regarding illegal dispensaries, underage

enforcement and public education. Note: if the lower-tier municipalities opt out, the Region loses their 50% share of the second allocation.

If Ontario's portion of federal excise duty over the first two years exceeds \$10 million, 50% of the surplus will be shared with municipalities that opt in. The province is also keeping a \$10 million fund for "unforeseen circumstances" related to cannabis.

### **Costs:**

The following areas of Town oversight may be financially impacted by cannabis legalization:

- Bylaw
- Customer Service
- Fire
- Additional security needs for facilities and/or events

The above may be further impacted by a Town places of use bylaw.

### **Communication Issues:**

Since cannabis will be accessible to residents 19+ regardless of Council's decision, a dedicated webpage at [ajax.ca/cannabis](http://ajax.ca/cannabis) has been established to host frequently asked questions (FAQs), and ongoing social media engagement is planned. Town staff will work closely with local school boards, Durham Public Health and community safety partners to ensure key messaging is distributed and shared amongst residents, students, businesses and community groups.

Further, as April 1 approaches, we will utilize our communications channels to ensure up-to-date messaging is available to the public.

### **Conclusion:**

After reviewing all information available, as summarized below, staff is recommending that Council approve private cannabis retail stores in Ajax – that is, that council "opt in" to the provincial regulatory regime, for the following reasons.

- The anticipated negative consequences of allowing the illicit cannabis market to flourish in the absence of a legal retail option for recreational cannabis users;
- The potential economic development opportunities and impacts of having private retail cannabis stores in Ajax;
- The benefit of quality of legal cannabis product, education and support that can be provided at the point of sale in a retail store model; and
- The public input received mimics and reflects trends seen province-wide, where the public response numbers in support vs. opposing cannabis in Ajax are marginal.

Therefore, based on the information in this report, staff is of the opinion that providing a retail option for consumers best serves the public policy aims of cannabis legalization, and is recommending that Council direct staff to notify the AGCO that the Town of Ajax will permit private cannabis retail stores.

**Attachments:**

ATT-1: Appendix A – Town of Ajax Cannabis Policy Statement

ATT-2: Town of Ajax Cannabis Policy Statement Map

Prepared by:

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Submitted by:

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Rachael Wraith – Manager of Public & Strategic Affairs (Acting)

Approved by:

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Shane Baker – Chief Administrative Officer

## **ATT-1: Appendix A – Town of Ajax Cannabis Policy Statement**

The following cannabis policy statement is based on a template developed by the Association of Municipalities of Ontario (AMO) and is being used as a standard template to guide decision-making and commenting across Ontario including Hamilton and Ottawa.

As stated in the attached report, the Town's cannabis policy statement reflects the desires of the Town and Council, and is not binding to the AGCO.

### **Town of Ajax Cannabis Policy Statement**

For the purpose of this Policy Statement, a Cannabis Retail Store shall mean a store licensed by the Alcohol and Gaming Commission of Ontario (AGCO).

1. In order to help ensure public health and safety, protect youth and reduce illegal sales, retail cannabis stores should generally not be located within 150 metres of:
  - Schools
  - Alcohol and Detox Centres
  - Day Nurseries/Child Care Centres
  - Libraries
  - Community Centres
  - Mental Health/Addiction Centres
  
2. In the interest of public health and safety, cannabis retail stores should not be permitted in the following:
  - Areas that already have a high concentration of cannabis retail stores (i.e. the “clustering” of stores should be avoided)
  - Locations that have insufficient parking or transit access
  - Locations that are in predominantly residential area

### ATT-2: Town of Ajax Cannabis Policy Statement Map

