Committee of the Whole Meeting
Agenda

SCOW-02/2019
Monday, January 14, 2019
Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

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Pages

1. Call to Order and Declaration of Quorum

2. Adoption of Agenda

3. Disclosure of Pecuniary Interest and General Nature Thereof

4. Department Reports

   4.1 Community Planning and Development

   4.1.1 Retail Cannabis Opt In/Opt Out Presentation 2 - 24

   B. Wiens, Director of Community Planning and Development

   4.1.2 Retail Cannabis Opt In/Opt Out Report 25 - 39

5. Adjournment

Pelham
NIAGARA

Vibrant · Creative · Caring

Retail Sales of Cannabis

Opt In/Opt Out

Community Planning
& Development

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Cannabis Legislation

- Federal government legalized cannabis use on October 17, 2018
- Provincial government established the regulatory framework for private retail stores
- Provincial government committed to allowing private retail stores by April 1, 2019
- Provincial government announced initial phase of 25 stores

Cannabis Legislation

- Decision to opt out of allowing private cannabis retail stores must be made by January 22, 2019
- Provincial government aligned cannabis use with the Smoke Free Ontario Act (SFOA)
- Alcohol and Gaming Commission of Ontario (AGCO) will be responsible for issuing licences

Cannabis Legislation

- Intent of the legalizing cannabis for recreational purposes is:
  - To protect access to the youth
  - Provide for public health and safety
  - End illegal sales/black market trade and illicit activities associated with cannabis

Current Situation

- Recreational cannabis can be legally purchased on-line from the Ontario Cannabis Store (OCS)
- 19 years of age
- 30 g (1 oz) of dried cannabis can be purchased at one time
- Access to medical cannabis will continue to be subject to Health Canada rules

Licencing

- 3 components to licencing:
  - Retail operator licence
  - Retail manager licence
  - Retail store authorization
- Applications to be processed on line through the AGCO website
- AGCO will complete review and due diligence, including background checks

Retail Operator Licence

- Allows a person or corporation to operate one or more retail stores
- Must have separate retail store authorization for each store
- Eligibility criteria:
  - 19 years of age
  - Not convicted or charged with certain offences
  - Not have any connection with criminal organization

Retail Operator Licence

- Not in default of filing a tax return or have outstanding amounts owing
- Not carried out activities not in compliance with certain laws
- Not made false statements on application
- Has a business number with CRA
- If application is made by a corporation, not more than 9.9% of the corporation is owned or controlled by a licenced cannabis producer or affiliate
- Have to be financially responsible, operate in compliance with the law and have control over the cannabis retail business

Retail Manager Licence

- Retail manager licence is for people who:
  - Supervise, manage or hire employees for a store
  - Manage sale of cannabis
  - Manage compliance issues relating to sales
  - Buy cannabis for the store
  - Enter into contracts for the store

Retail Manager Licence

- Eligibility criteria:
  - Must be 19 years
  - Must act in compliance with the law
  - Not convicted or charged with certain offences
  - Not connected with a criminal organization
  - Not carried out activities not in compliance with certain laws
  - Has not made a false statement on the application

Retail Store Authorization

- Retail store authorization required to sell cannabis
- Need separate authorizations for each store
- A person or corporation cannot have more than 75 store authorizations
- To be eligible for a store authorization, must have a retail operator licence when store authorization is issued

Retail Store Authorization

- Public notice is given by having a notice posted on the proposed site and on the AGCO website
- Written submissions from the public or municipality can be made on-line to AGCO within 15 days of notice being posted
- Comment with regards to matters of public interest:
  - Protecting youth and restricting access to youth
  - Protecting health and safety
  - Preventing illicit activities in relation to cannabis

Retail Store Requirements

- Located in areas where retail is permitted by zoning
- Must be a separate store, cannot be a kiosk in a store or a store within a store
- Cannot have an outdoor area
- Official cannabis retail seal/decal must be displayed at the entrance
- Store authorization must be posted visible inside the store
- Hours of operation restricted to 9am-11pm

Retail Store Requirements

- Area where cannabis is received and stored cannot be accessible to the public
- Anyone under age of 19 not permitted to enter the store
- Employees must ask for identification for anyone who looks younger than 25 years
- All employees required to take approved training by the AGCO on responsible sale of cannabis

Retail Store Requirements

- Only cannabis purchased through the OCS can be sold and it must be in the same packaging
- All sales must be recorded and payment must take place in the store
- Can only sell 30g (1oz) of cannabis at one time
- Cannot hire anyone under 19 years of age
- Information regarding responsible use of cannabis must be made available

Retail Store Requirements

- Can only sell cannabis, cannabis accessories and shopping bags
- All cannabis and accessories must be displayed so that are not visible by a young person, even outside of the store
- Cannot be sold from a self serve display or from a vending machine
- Regulation requires 150m (500 ft) separation distance from schools

Phase In of Retail Cannabis Stores

- Temporary cap of 25 store authorizations by April 1, 2019
- Interested parties submit expression of interests by January 9, 2019
- Lottery conducted on January 11, 2019
- Niagara located in west region that has been allocated a maximum of 7 stores
- Located in municipalities with a minimum population of 50,000 people

Funding

- Ontario Cannabis Legalization Implementation Fund (OCLIF) will provide funding to municipalities, $40million over two years
  - First payment of $15 million in January 2019
  - Second payment of $15 million after January 22, 2019
  - $10 million for unforseen circumstances

Funding

- If provincial portion of federal excise duty on recreational cannabis is over $100million in the first 2 years, the province will provide 50% of the surplus only to municipalities that have not opted out by January 22, 2019
- Funding is split between lower and upper tier municipalities
- Funds must be used for implementation costs directly related to legalization

Public Interest

- Matters of public interest are defined by regulation as:
  - Protecting public health and safety
  - Protecting youth and restricting their access to cannabis
  - Preventing illicit activities in relation to cannabis
- Corresponding changes made to criminal code

Municipal Role

- Deadline to opt in/out to allowing retail stores is January 22, 2019
- If opt out, municipalities can opt in at a later date but will not be allowed to opt out again
- Municipalities cannot licence
- Municipalities cannot specifically zone for cannabis retail stores, they will be allowed in areas where zoning permits retail use
- Municipalities that opt in to allow private licenced retail stores could consider other factors that might influence decision making for the AGCO to consider

Considerations

- Consumption is legal
- Funding to assist with enforcement, education, paramedic and fire services
- AGCO has proven record with licencing
- Public interest
- Other sensitive land uses
- Wide range of public perceptions and degree of acceptance
- Sale of medical cannabis subject to different rules

Recommendation

- Staff recommend that:
  - Council opt in to allow sale of recreational cannabis
  - AGCO consider setback of 150m (500 ft) from MCC and Libraries
  - Interim Control By-law be amended to exempt retail sales of recreational cannabis

Retail Cannabis Opt In/Opt Out

Executive Summary:

This report addresses the question of whether the Town of Pelham should opt in/opt out to allow retails sales of cannabis in the municipality. Further reports will be presented in the future to Council that will address other policies and regulations regarding cannabis production and other cannabis related uses in the Town of Pelham as part of the process to address the interim control by-law on cannabis and cannabis related uses. This report deals only with the decision that Council needs to make with regards to opting in/out to allowing retail sales of cannabis in the Town.

The intent of the federal and provincial governments in legalizing cannabis for recreational purposes is to protect access to children and youth, provide for public health and safety, and end illegal sales and the illicit or black market activities associated with cannabis. The provincial government is committed to allowing private recreational cannabis retail stores by April 1, 2019 and has determined that the retail stores will open in phases with the initial phase of 25 stores opening on April 1, 2019.

The provincial government has established a regulatory framework for private retail stores of recreational cannabis and how they will be licensed and regulated by the Alcohol and Gaming Commission of Ontario (AGCO). The provincial government has also given municipal governments an opportunity to opt out of retail recreational cannabis stores in their communities. The decision to opt out must be made by Council by January 22, 2019.

Policy Review:

On October 17, 2018 the sales of recreational cannabis was legalized by the federal government and the provincial government provided legislation relating to how, where and who can buy and possess cannabis in Ontario. Currently, recreational cannabis can be legally purchased by those 19 years of age and older on-line through the Ontario Cannabis Store (OCS). Those over 19 years of age are able to purchase up to 30g (1 ounce) dried cannabis at one time for personal use. The provincial government also aligned the consumption of cannabis with the *Smoke Free Ontario Act* and is moving forward with a regulated private retail model for cannabis that is be in place by April 1, 2019.

Access to medical cannabis will continue to be subject to Health Canada rules which are different than recreational cannabis. Medical use of cannabis was legalized in Canada in 2001.

The provincial regulatory framework for retail sales of recreational cannabis under the *Cannabis Licence Act* establishes that the AGCO will license and regulate retail sales. As recreational cannabis is a legal, controlled and regulated product, cannabis stores are to be considered like any other type of retail stores and as such, municipalities will not be allowed to specifically zone for retail cannabis uses, but rather retail cannabis uses will be allowed in zones where retail sales is generally permitted. The provincial regulations also require that a retail cannabis store must be a stand-alone store and cannot be a store within a store and are only allowed to sell permitted items such as dried cannabis, cannabis oils, accessories to use cannabis and shopping bags. A retail cannabis store will not be permitted to sell other convenience items or be a kiosk within a larger store.

Licencing

The licensing system established by the AGCO will have 3 components: operator licence, a retail manager licence and a retail location authorization. All licence applications will be processed on-line through the AGCO website. The AGCO will review and complete their due diligence, including background checks on applications from corporations and individuals seeking to sell recreational cannabis.

Holders of retail operator licences are called “licenced retail operators”. To get this licence, one must meet all of the eligibility criteria set out in the *Cannabis Licence Act* and its regulations. A retail operator licence allows a person or corporation to operate one or more retail stores in Ontario. However, one must have a separate retail store authorization for every store they operate.

A store that has a retail store authorization is called an “authorized store” and is required to display an official retail seal at the entrance identifying it as an authorized store. This identification lets the public know that the store is allowed to sell legal cannabis to individuals that are 19 years of age or older and meets the licencing requirements of the AGCO.

Individuals who have a cannabis retail manager licence are called “licenced retail managers”. Every retail store must have a licenced retail manager. The only exception is if the licenced retail operator is a sole proprietor or is in a partnership between two or more individuals, and will be both the

licenced operator and performing the duties of the retail store manager for a particular store, in that situation a cannabis retail manager licence is not required.

A person or corporation may not sell cannabis unless they are licensed and authorized by the AGCO, and have a supply purchase contract with the OCS. Only cannabis obtained through the OCS can be sold at an authorized store.

Retail Operator Licence Requirements

To be eligible to open a retail store and sell recreational cannabis, a person or corporation must have a retail operator licence. If a person or corporation operates several stores, they will need a separate retail store authorization for each store.

To be eligible for a retail operator licence a person:

- Has to be 19 years of age or older. This includes directors, officers and shareholders of corporations.
- Has not been convicted or charged with certain offences:
  - any offence under the *Cannabis Licence Act*
  - certain offences under the *Cannabis Control Act* and *Cannabis Act* .
- Has not had a connection or role with a criminal organization as defined in the Criminal Code of Canada including:
  - Been a member of a criminal organization
  - Been involved in a criminal organization
  - Have contributed to the activities of a criminal organization.
- Has not carried on activities that are not in compliance with certain laws.
  - certain offences under the *Cannabis Control Act* and *Cannabis Act*
- Has not made a false statement or provided false information on their retail operator application form.
- Is not in default of filing a tax return under a tax statute administered and enforced by the government of Ontario, or have any outstanding amounts owing and past due of tax, penalty or interest under those laws and have not made payment arrangements;

- Has a business number with the Canada Revenue Agency and has filed a tax return in accordance with Federal or provincial legislation;
- If the application is made by a corporation, no more than 9.9 percent of the corporation is owned or controlled, either directly or indirectly, by a licensed cannabis producer or affiliate.
- Has to be financially responsible in operating the cannabis business.
- Has to operate the cannabis retail business in compliance with the law, and with integrity, honesty and in the public interest.
- Has to have sufficient control over the cannabis retail business.

If a retail operator licence has been refused or revoked, a person or corporation must wait two years to apply again for a retail operator licence. A retail operator licence cannot be transferred to another person or corporation.

The AGCO can apply conditions to the retail operator licence to address specific risks or concerns.

Retail Manager Licence

Every cannabis retail store must have a licenced retail manager. People who perform certain duties within the cannabis retail store must get a cannabis retail manager licence. People who:

- supervise, manage or hire employees of the store
- manage the sale of cannabis
- manage compliance issues relating to the sale of cannabis
- buy cannabis for the store
- enter into contracts for the store.

The only people that can perform the duties listed above are people with a cannabis retail manager licence or a retail operator licence.

To be eligible for a retail manager licence a person:

- must be 19 years of age or older
- must act in compliance with the law, and with integrity, honesty and in the public interest
- have not been convicted or charged with certain offences:

  - any offence under the *Cannabis Licence Act*
  - certain offences under the *Cannabis Control Act* and *Cannabis Act*
- have not had a connection or role with a criminal organization as defined the *Criminal Code* of Canada
  - are not, and have not been a member of a criminal organization
  - are not and have not been involved in a criminal organization
  - do not contribute, and have not contributed to, the activities of a criminal organization.
- has not carried on activities that are not in compliance with certain laws.
  - certain offences under the *Cannabis Control Act* and *Cannabis Act*
- has not made a false statement or provided false information in their application for a retail manager

If a retail manager licence has been refused or revoked, a person must wait 2 years to apply again for such a licence and a retail manager licence cannot be transferred to another person. The AGCO can also apply conditions to a retail manager licence to address specifics risks or concerns.

Retail Store Authorization

A retail store authorization issued by the AGCO is required to open a retail store and sell recreational cannabis. If a person or corporation operates more than one store, separate retail authorizations are required for each store. A person or corporation cannot have more than 75 retail store authorizations in the province, either on their own, or between affiliates.

If a retail store authorization has been refused or revoked, there is a 2 year wait period to apply again for a retail store authorization. The initial retail store authorization is good for 2 years and then a person or corporation can renew for a period of 2 or 4 years.

To be eligible for a retail store authorization, a person or corporation must have a retail operator licence, or would have a retail operator licence at the time when the retail store authorization is to be issued for the store location, therefore a person or corporation must meet the eligibility requirements for a retail operator licence described above. The retail store authorization must be in a municipality that has not opted out of allowing retail sales of recreational cannabis.

Retail Cannabis Opt In/Opt Out

January 14, 2019

After an application for retail store authorization is made the AGCO Registrar will inform local residents and the municipality about the application by having a notice posted at the proposed store and on the AGCO's website. The municipality or local residents are able submit written submissions to the Registrar about whether the proposed store is in the public interest, as set out in provincial regulation. The submissions must be sent within 15 calendar days after the notice is posted.

The provincial regulation defines matters of public interest as:

- protecting public health & safety;
- protecting youth and restricting their access to cannabis;
- preventing illicit activities in relation to cannabis.

The store, equipment and facilities must comply with the *Cannabis Licence Act*, regulations and the Registrar's Standards or requirements.

If a person or corporation has a licence under the federal *Cannabis Act* to produce cannabis for commercial purposes they may be permitted a retail authorization in municipalities that have not opted out provided that the retail store is located on or within the site set out in that licence and they may not have more than one retail store authorization.

A retail store authorization cannot be transferred to another person or business.

Retail Store Requirements

A cannabis retail store may be located in areas that permit retail use through zoning. The retail space where cannabis may be sold must be enclosed by walls separating it from any other commercial establishment or activity, it cannot have an outdoor area, and cannot be entered from or passed through in order to access any other commercial establishment or activity, other than a common area of an enclosed shopping mall. The hours of operation for a store are restricted to 9 am to 11 pm. The official cannabis retail seal must be posted where it is readily visible on the outside of the entrance to the store and the retail store authorization must be posted in the store in a visible location.

Also, the area where cannabis will be received or stored cannot be accessible by any other business or by the public.

The regulation establishes a minimum distance of 150 metres (approximately 500 feet) between cannabis retail stores and schools.

Retailers are not allowed to permit anyone under the age of 19 to enter the store. All employees, including the retail store operator and manager, are required to complete approved training by the AGCO in the responsible sale of cannabis.

Only cannabis that is purchased through the OCS can be sold in an authorized store and it must be sold in the same packaging. This is to insure that only legal cannabis is sold and that the cannabis is not tampered with. All sales must be recorded and all sales including ordering and payment must take place in the store.

Information regarding the responsible use of cannabis must be made available. Employees must ask for identification from anyone who looks younger than 25 years of age.

A retail store cannot sell cannabis or cannabis accessories to anyone who is under 19 years old, cannot sell cannabis to anyone who is intoxicated or looks intoxicated, cannot sell more than 30 grams of dried cannabis (or equivalent amount of another kind) to a person in a single visit or hire anyone who is under 19 years of age.

Cannabis or cannabis accessories cannot be sold from a display that allows self-service, or from a vending machine. All cannabis and accessories must be displayed in a way that they cannot be seen by a young person, even from outside the store.

Phase In of Retail Cannabis Stores

On December 13th, 2018 the provincial government announced that retail cannabis stores will open in phases with a temporary cap of 25 store authorizations being released while the cannabis supply stabilizes. The AGCO conducted a lottery to determine who may apply for a retail operator licence. All interested parties were able to submit expressions of interest online from January 7th to the 9th. The

expressions of interest were put into a lottery pool for a draw conducted on January 11th with the results published on the AGCO website within 24 hours.

The AGCO retained KPMG, an independent third party, to act as fairness monitor to oversee the lottery. KPMG monitored the lottery to ensure that it is conducted fairly and according to the established rules.

Within 5 business days of publishing the results of the lottery pool, the 25 selected expressions of interest applicants will be required to submit a retail licence application form including the non-refundable $6,000 payment fee and a $50,000 Letter of Credit to the AGCO.

The regulation regarding the lottery stipulates that the initial phase of 25 store authorizations will be allocated across the province by region as follows:

- East Region – maximum of 5 stores
- GTA Region – maximum of 6 stores
- North Region – maximum of 2 stores
- Toronto – maximum of 5 stores
- West Region – maximum of 7 stores.

Niagara is included in the West Region which also consists of Dufferin-Wellington, Hamilton, Haldimand, Norfolk, Brant, Waterloo, Perth, Elgin, Oxford, Chatham-Kent, Essex, Lambton, Middlesex, Huron, Bruce, Grey and Manitoulin.

The regulation for the initial phase of 25 retail stores states that recreational cannabis stores may only be located in municipalities with a minimum population of 50,000 people. Therefore, Pelham does not qualify as potential location for a recreational cannabis store under the initial phase in process.

Holders of a cultivation, processing or nursery licence issued by Health Canada also cannot apply under the lottery process.

Funding

The provincial government has also established the Ontario Cannabis Legalization Implementation Fund (OCLIF) that will provide funding to municipalities. The initial commitment of funding is $40 million funding over two years to municipalities to help with the implementation costs of recreational cannabis legalization. The funding to municipalities will be as follows:

- In January, 2019 the first payment of $15 million will be made to all municipalities on a per household basis, adjusted so that at least $5,000 is provided to each municipality. The Town of Pelham will receive $8,838.
- A second payment of $15 million will then be distributed following the January 22nd, 2019 deadline to opt out as follows:
  - Municipalities that have not opted out as of January 22, 2019 will receive funding per household, adjusted so that at least $5,000 is provided to each municipality. The Town of Pelham will receive $8,838 if it opts in to allowing recreational cannabis sales.
  - Municipalities that have opted out will receive only a second payment of $5,000.
- The province is setting aside $10 million of the municipal funding to address costs associated from unforeseen circumstances related to legalization of recreational cannabis and priority will be given to municipalities that have not opted out. Details relating to this funding are not available at this time.
- If the province's portion of the federal excise duty 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 as of January 22, 2019. Should a municipality opt back in after January 22, 2019 they would not qualify for this additional funding.

Lower tier and upper tier municipalities will receive a 50/50 split of the funding allocation such that upper tier municipalities will receive funding in relation to opt out decisions by the local tier municipalities. The Region of Niagara would qualify to receive $253,478 if all municipalities opt in. This amount will vary depending on if municipalities opt out.

Municipalities must use the funding to address the implementation costs that directly relate to the legalization of recreational cannabis such as:

- Increased enforcement (police, public health, by-law enforcement, court administration and litigation)
- Increased response to public inquiries (public education)
- Increased paramedic services
- Increased fire services
- By-law and policy development (police, public health, workplace safety policy).

Municipalities will be required to report back to the provincial government how they used the funding and may be subject to audit.

Access to provincial funding is an important consideration in the decision to opt in or out to allowing retail sales of recreational cannabis. A municipality that opts out to allowing retail sales of cannabis will have very limited opportunity to benefit from funding from the provincial government. The decision to opt out will also have implications with regards to how much funding the Region of Niagara may receive as well.

Public Input

Council received a deputation from Mr. Jeffs on behalf of the Pelham Community Preservation Coalition on December 17th, 2018 requesting that the Town of Pelham opt out of allowing retail sales of recreational cannabis. Mr. Jeffs expressed concern over the potential for adverse impacts on the municipality.

An on-line survey with 7 questions was posted on the Town website seeking public feedback on the potential for recreational cannabis retail stores in Pelham. The on-line survey was 'live' from December 17th to January 7th. There were just over 700 respondents to the survey with the results of the survey are as follows:

Question	Response
1. Are you aware of the strict regulations governed by the AGCO, retail cannabis stores must ahere to?	Yes – 87.5% No – 12.5%
2. Are you aware of the funding made available to municipalities that opt in to	Yes – 69.6% No – 30.4%

Question	Response
cannabis retail store operations?	
3. What is your primary concern/benefit for cannabis retail operations in town?	Concern - Availability of harmful substance - Gateway drug - Smell - Negative impact on kids - Impression on children - Increase in crime - General "harm" - Bring the wrong people to town - Downgraded image of the Town - Will be an increase of vehicular and human traffic Benefit - Potential revenue source - Safer product - Keeps spending in town - Eliminate black market - Local retail jobs/employment - Ease of access - Safer
4. The intent of legalizing cannabis for recreational purposes is to protect access to children and youth, provide for public health and safety and end illegal sales and illicit trade of cannabis. Do you believe opting in for a cannabis retail store will achieve these goals?	Yes – 28.14% No – 49.29% Some, but not all – 20.29% Unsure – 2.29%
5. If cannabis retail stores are permitted, where do you think they should be located?	- Marketplace on HWY 20 - Downtown - Any retail area in Pelham - Outskirts of Town - Near a pharmacy - Nowhere near schools - At growing facilities

Question	Response
6. Have you read the fact sheet provided by the Town of Pelham regarding cannabis retail stores?	Yes – 47.71% No – 25.57% Skimmed it – 15.14% Didn't need to, my mind is made up – 11.57%
7. Do you support or oppose cannabis retail stores in Pelham?	I support – 41.99% I oppose – 54.75% Unsure – 3.26%

Staff Comments:

The consideration of allowing retail sales of cannabis in the municipality is a controversial and polarizing issue and people bring their own biases, prejudices and morals to the discussion. Historically recreational cannabis use has had a negative stigma, however with legalization the conversation is changing and this is the beginning of a cultural shift. By comparison, we have seen the negative stigma associated with the medical use of cannabis breaking down since it was legalized in 2001 through education around the benefits of its use for certain types of illness and conditions, and as an alternative to using opioid medications for pain relief.

As mentioned earlier in the report, the intent or reason behind the federal and provincial government's decision to legalizing recreational cannabis use was to protect access to the youth, provide for public health and safety and to address the illegal or black market sale of cannabis. This is the public interest in legalizing cannabis use and as defined by regulation and which is to take precedence over one's own morals and beliefs with regards to recreational cannabis retail sales and use.

The use of recreational cannabis, particularly in the youth, has been increasing in recent years despite it having been illegal. Correspondingly, the illegal sale of recreational cannabis has also been increasing over the years, which only further benefits the illegal drug trade. Legalization of use, production and retail sales is seen as a more effective means to controlling and regulating access.

The legal sale of recreational cannabis in private retail stores will be highly regulated as outlined in this report. Only legal cannabis that is produced by licenced producers (also highly regulated from seed to product) can be sold in private cannabis retail stores and only to people 19 years of age and older. This means that access to the youth will be better controlled and the product that will be available will be legally produced, will not be altered or cut with other substances so that it will be safer, and will be appropriately labelled with regards to its THC potency so that people will know what they are buying and will be able to use it safer. Selling only legally produced cannabis will also help to address the illegal or black market trade of cannabis and help reduce the criminal element associated with cannabis.

It is also important to note that the legislation that provided for the legalization of cannabis use, also provided corresponding changes to the criminal code that improved the authority and jurisdiction for police authorities to target the illegal or black market trade of cannabis, including illegal storefronts.

Should a municipality opt out of allowing retail sales of recreational cannabis, it must be recognized that consumption is still legal and opting out of retail sales does not mean that cannabis consumption is not allowed in the municipality. Opting out of the legal sale of recreational cannabis supports the illegal trade of illegal cannabis and the criminal activity associated with illegal trade as those that wish to consume cannabis will still do so and if they cannot purchase it legally, they will purchase it illegally.

Opting out of retail sales of recreational cannabis also means that access to long term funding to help support public education programs on the responsible use of cannabis, help combat illegal or illicit activities associated with cannabis use and trade, funding for enforcement of cannabis use will be restricted to a municipality and there will also be reduction to the share of funding that the Region may receive to be used for similar programs.

As a regulator, the AGCO has significant experience with regulating alcohol, gaming and horse racing that they will bring to the cannabis sector. In addition to licencing, the AGCO also undertakes compliance activities such as inspections and monitoring, conduct due diligence investigations, undertake education and training activities associated with the sectors they regulate and conduct hearings.

The provincial legislation requires that cannabis retail stores are permitted where retail use is permitted by zoning and the regulation requires that recreational cannabis stores be a minimum of 150 metres (approximately 500 feet) from a school. Council may wish to consider some additional criteria for the AGCO to consider when they are approving a store authorization in Pelham that also addresses the public interest matters, such as access to the youth, public safety and preventing illicit activities associated with cannabis. Such criteria may be similar separation distances for other sensitive uses such as the Meridian Community Centre and libraries where youth congregate.

The market for recreational cannabis sales in Pelham is unknown, however it is not anticipated that there will be an abundance of recreational cannabis stores should Council opt in, given the population size and demographics of the Town. By comparison there is one LCBO and one Brewers Retail store in the Town. It is also noted that under the initial phase in of 25 cannabis stores through the lottery process, Pelham does not qualify for a store given its population size. As a result, at this time, it is not known when Pelham may qualify for a store should Council opt in to allowing private recreational cannabis retail stores. The provincial government has not announced what its intentions are after the initial phase in of 25 stores.

As of the date of writing this report, and according to posting on the ACGO website, 23 municipalities in Ontario opted out and 54 municipalities opted in with regards to allowing private cannabis retail stores, with the majority of municipalities having not made a decision or the decision is pending.

It is noted that cannabis consumption has been legal since October 17, 2018 (3 months) and the Town has not received one complaint regarding cannabis use since legalization. Cannabis is a legal product and the Town does not restrict retail sales of other legal products.

Staff recommends that Council opt in to allow private cannabis retail stores in the Town of Pelham and that the public interest related to protecting access to the youth, public health and safety and restricting the illegal or black market activities associated with cannabis use takes precedence over opting out. However, staff recommends that additional criteria be considered with regards to separation distance of a potential cannabis retail store. The regulation requires a 150m separation distance from schools and staff recommends that the same separation distance also be considered from libraries and the Meridian Community Centre as these are also areas where the youth

congregate. These additional criteria should be cited when commenting to the AGCO on any future proposals for private cannabis retail stores in the municipality. It is noted that any additional criteria that a municipality may wish the AGCO to consider as part of its comments cannot be so restrictive that it effectively does not permit for the siting of a store. Opting in to allow private cannabis retail stores also means that the Town and Region will qualify for some funding from the provincial government that can be used for public education on responsible use of cannabis, by-law enforcement, policing and paramedic services associated with cannabis use.

Prepared by: Barbara Wiens, MCIP, RPP Director of Community Planning and Development

Alternatives:

Council could choose to opt out of allowing the retail sales of recreational cannabis is the Town of Pelham.

Recommendation:

1. **THAT** Committee of the Whole receive this report on Retail Cannabis Opt In/Opt Out;

2. **THAT** Committee recommend that Council opt in to allow retail cannabis in the Town of Pelham;

3. **THAT** Committee recommend that Council support the following policy considerations with regards to siting criteria for retail sales of recreational cannabis in addition to the siting criteria determined by provincial regulation when providing input to the AGCO:
   a) A setback of 150 m from the Meridian Community Centre
   b) A setback of 150 m from the Pelham Public Libraries located in Fonthill and Fenwick

4. **THAT** Committer recommend that Council amend the Interim Control By-law 4046(2018) to exempt retail sales of recreational cannabis from the interim control by-law effective April 1, 2019.