



**City of Kingston
Report to Council
Report Number 19-021**

To: Mayor and Members of Council
From: Lanie Hurdle, Commissioner, Community Services
Resource Staff: Stefano Hollands, Research Assistant
Date of Meeting: January 8, 2019
Subject: Cannabis Retail Stores in Kingston

Executive Summary:

Bill C-45 received Royal Assent in June 2018 and legalized access to recreational cannabis in Canada as of October 17, 2018. In 2018, the provincial government committed to allowing private recreational cannabis retail stores throughout Ontario starting April 1, 2019. In Ontario, recreational cannabis has been sold online since October 17, 2018. In legalizing cannabis for recreational purposes, the federal, provincial and municipal governments share three (3) interrelated goals: protecting youth, public health and safety, and ending illegal sales of cannabis.

The purpose of this report is to provide Council with a recommendation on future cannabis retail stores in Kingston. In 2018, the provincial government announced that it was going to provide municipalities with the ability to opt in or opt out of allowing cannabis retail stores within their communities. Municipalities in Ontario have until January 22, 2019 to decide if they will allow the province to issue licences for cannabis retail stores within their communities. Municipalities can opt out before January 22nd and opt in at a later date, but there are financial consequences that will be incurred. Municipalities that do not pass a resolution by January 22nd will automatically be considered for future cannabis retail stores.

The provincial government recently announced that it will be phasing in the number of cannabis retail stores by issuing twenty-five (25) licences for April 1, 2019. These licences will be distributed using a lottery system and will be dispersed across the province on a regional basis. The objective of implementing a phased retail store rollout is to account for the challenges that retail businesses are facing from an ongoing national cannabis supply shortage.

The provincial government established a regulatory framework (O. Reg. 468/18) under the Cannabis Licensing Act, 2018 that provides information on how these private businesses will be

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licensed and regulated by the Alcohol and Gaming Commission of Ontario (AGCO). As part of the regulations, the provincial government established a 150 metre separation distance between cannabis retail stores and schools. The regulatory framework also allows for a fifteen (15) day time frame for municipalities and the public to provide input on store licence applications within their communities. As a mechanism to provide input on proposed store licences, municipalities can develop a cannabis policy statement which will offer consistent feedback on all cannabis retail site applications. More information on the regulatory framework is provided in the Options/Discussion section of this report.

In order to bring a recommendation to Council, City staff have surveyed communities within provinces that have implemented operational private cannabis retail stores in October 2018. City staff also ran an online survey to obtain input from Kingston residents. Based on the seven (7) communities surveyed, very few concerns were noted with the implementation of cannabis retail stores. The biggest concern identified by communities was the lack of availability of cannabis to properly operate cannabis retail stores. Furthermore, City staff compiled results from an online survey which ran from November 22nd to December 12th. The survey results show that 85.1% of respondents either somewhat support or strongly support cannabis retail stores in Kingston. Details on the survey results and information obtained from other communities are also included in the Options/Discussion section of this report.

The provincial government announced the Ontario Cannabis Legalization Implementation Fund (OCLIF) which will support with the implementation of cannabis legislation. Based on the information provided by the province, it is anticipated that the City of Kingston will receive approximately \$300,000 for implementation costs if it is to allow cannabis retail stores as of April 1, 2019. Additional funding may be provided to municipalities that choose to allow cannabis retail stores as of April 1st, depending on Ontario's share of federal excise duty. The City's funding level would be reduced to about \$155,000 if the City decided to opt out of cannabis retail stores for April 1st. This funding allocation estimate is based on the number of households located within the City of Kingston. City staff have reached out to Kingston Police and Kingston, Frontenac, Lennox & Addington (KFL&A) Public Health to obtain updated information related to the costs of cannabis legalization. Based on this information, it is proposed that provincial funding could be reallocated to public health education campaigns as well as police training and equipment acquisition. Details of the potential funding allocation are included in the Options/Discussion section of this report.

Staff have reviewed all information included in this report and are recommending that Council allow cannabis retail stores in Kingston as of April 1, 2019. Recreational cannabis has been legal and available online to all residents of Kingston since October 2018. The City and KFL&A Public Health have received few complaints since its legalization. The absence of cannabis retail stores in Kingston could continue to encourage the underground illegal market and create more challenges from a police enforcement perspective. Cannabis retail stores would not only create better and safer access for consumers but would also create new jobs, additional commercial taxes and additional provincial funding for cannabis legalization. City staff are also recommending that a cannabis policy statement be approved to provide necessary input for future cannabis retail site applications.

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Recommendation:

That Council direct the City Clerk to notify the Alcohol and Gaming Commission of Ontario (AGCO) that the City of Kingston will permit private cannabis retail stores; and

That Council approve the City of Kingston Cannabis Policy Statement, attached as Exhibit A to Report Number 19-021, which will be utilized to provide feedback to the AGCO on proposed cannabis retail site applications; and

That Council delegate authority to the Commissioner, Community Services, to identify the staff and technical resources required to submit the City of Kingston's formal response, based on the City of Kingston Cannabis Policy Statement, attached as Exhibit A to Report Number 19-021, to a cannabis retail site application to the AGCO; and

That Council approve the allocation of approximately \$300,000 from the Ontario Cannabis Legalization Implementation Fund as follows: \$77,000 to KFL&A Public Health to continue the public education campaign; \$207,000 to Police Services to cover costs related to police officers' training and equipment costs; and the remaining funds to be held by the City to fund other costs related to the implementation of cannabis legislation; and

That Council authorize the City Treasurer to amend the 2019 Operating Budget as required to incorporate the anticipated provincial revenues from the Ontario Cannabis Legalization Implementation Fund with offsetting increased costs for both Kingston Police and KFL&A Public Health and the city, in accordance with the estimates provided in this report.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	√
Commissioner, Corporate & Emergency Services	Not required

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Options/Discussion:**Canada's Cannabis Act**

The federal government's *Cannabis Act* sets out federal areas of responsibility and delegates other authority to the provinces. The federal jurisdiction includes the oversight of cannabis production (licensing and oversight of commercial producers for recreation and medical markets) as well as continued oversight of medical cannabis, which means that federally Licensed Producers (LPs) will continue to sell medical cannabis directly to authorized medical users through LP websites and over the phone, with secure home delivery by mail.

Provinces have jurisdiction over retail and distribution of recreational cannabis. The federal government has also created a number of restrictions that apply to the retail and distribution model in all provinces:

- Products – limited to fresh and dried cannabis, oils, seeds and seedlings (edibles to be permitted 1 year after legislation)
- Products sourced – from federally regulated licensed producers
- Prohibited products – no products with alcohol, nicotine and caffeine
- Retailing experience – no visibility to youth, behind-counter-service, no vending machines
- Restricted activities – branding, advertising (consistent with federal *Tobacco Act*)
- Promotion restrictions – promotions limited to factual information (ingredients, THC and CBD level, production methods, etc.)
- Prohibited activities – sponsorships, testimonials, endorsements, lifestyle elements, facility naming and other promotions that would entice youth
- Public possession – limit of 30 grams for adults

The table below provides information on the sale of recreational cannabis implemented in provinces on October 17, 2018. A number of them have a combination of government online sales with private cannabis retail stores.

Province	Retail Model	Age	Possession Limit	State of Operations as of October 17, 2018
Alberta	Private retail stores and government online	18	30 grams in public, no limits at home	Multiple private storefronts and public online sales. Most available retailers are located in Edmonton.
B.C.	Private and government retail and online sales	19	30 grams in public, 1,000 grams at home	One government-run store was ready for October 17, 2018. Private retailers will be entering the market to increase consumer choices.
Manitoba	Private retail and online sales	19	30 grams in public, no limits at home	Multiple private retail shops. The province has set out a goal of having cannabis retail

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Province	Retail Model	Age	Possession Limit	State of Operations as of October 17, 2018
				outlets within a 30-minute drive for 90% of the population within two years.
New Brunswick	Government retail and online sales	19	30 grams in public, no limits at home	20 stores ready for October 17, 2018.
Newfoundland & Labrador	Government online and private retail sales	19	30 grams in public, no limits at home	30 stores to be opened on October 17, 2018.
Northwest Territories (NWT)	Government online and retail sales	19	30 grams in public, no limits at home	5 NWT liquor stores carried cannabis products on October 17, 2018.
Nova Scotia	Government online and retail sales	19	30 grams in public, no limits at home	15 stores within provincial liquor stores. One standalone store is operating in Halifax.
Nunavut	Government online and telephone sales	19	30 grams in public, 150 grams at home	Online only.
Ontario	Government online sales	19	30 grams in public, no limits at home	Online only. Province committed to private cannabis retail stores as of April 1, 2019.
Prince Edward Island	Government online and retail sales	19	30 grams in public, no limits at home	3 retail outlets ready for legalization day.
Quebec	Government online and retail sales	18	30 grams in public, no more than 150 grams at home	12 retail outlets ready for legalization day. Province is currently contemplating increasing the legal age to 21.
Saskatchewan	Private online and retail sales	19	30 grams	1/3 of the 51 licensed locations were ready for legalization day.
Yukon	Government online and retail sales. Private stores will be licensed after legalization	19	30 grams	One government-owned location was ready for legalization day. Privatized operations are to be licensed after legalization.

On December 20, 2018, the federal government announced draft regulations for edible cannabis products. The intent of this announcement was to propose consumer safety measures relating to the type of edible products that can contain cannabis, the maximum THC and CBD content, and the regulation and display of ingredients. In regards to their expected presence in cannabis

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stores, the federal government has created strict rules for the packaging and labelling of edible cannabis, such as requiring child-resistant, plain packaging, as well as standardized and informative labelling. While edible cannabis will become legalized on October 17, 2019, the provincial government has yet to create its own regulatory framework surrounding the distribution and sale of edible cannabis products. However, along with dried cannabis, edible cannabis products are expected to become a core feature of private cannabis retail stores.

Ontario's Framework for Cannabis Retail and Distribution

In 2018, the province passed the *Cannabis Licence Act, 2018* (O. Reg. 468/18) and Bill 36, *An Act to enact a new Act and make amendments to various other Acts respecting the use and sale of cannabis and vapour products in Ontario*, to establish a regulatory framework for the licensing of cannabis retail stores in Ontario as of April 1, 2019. The points below are key highlights of the regulatory framework endorsed by the province.

Municipalities have until January 22, 2019 to decide if they will allow cannabis retail stores in their communities as of April 1st. Municipalities could choose to opt out by January 22nd and opt in at a later time but this delay would have an impact on the amount of money received from the province for the implementation of recreational cannabis legalization. Municipalities that opt in by January 22nd cannot opt out at a later time. Municipalities that do not pass any resolution by January 22nd, by default, private cannabis retail stores will be allowed within that municipality as of April 1, 2019.

- Municipalities do not have the authority to pass a by-law that has 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. Cannabis retail stores must comply with municipal Official Plan and Zoning By-Law.
- Municipalities do not have the authority to pass a by-law providing for a system of licences respecting the sale of cannabis, holders of a licence or authorization issued for cannabis retail stores.
- The province, through the AGCO, will receive, review, grant, enforce, suspend and revoke all cannabis retail licences within Ontario. The province recently announced that it will phase in the implementation of cannabis retail stores with twenty-five (25) licences for April 1, 2019. The province intends to increase the number of licences over time. The initial 25 licences will be allocated through a lottery system and will be distributed across the province accordingly:
 - Greater Toronto Area: 6
 - Toronto: 5
 - Western Ontario: 7
 - Eastern Ontario: 5
 - Northern Ontario: 2

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- Municipalities and members of the public will have a fifteen (15) day period to provide input on proposed store licences within their communities. Notices will be posted on the proposed site and on the AGCO website for municipalities and members of the public to provide input. Feedback will be considered in the decision making process for store licences. Decisions by the AGCO are final.
- Cannabis retail stores could operate seven (7) days per week from 9 am until 11 pm. These hours would be aligned with the sale of alcohol in the province.
- A maximum of 75 licences will be allocated to the same business operator in order to ensure that smaller businesses also have the ability to enter the market.
- Minimum distance separation of 150 metres between cannabis retail stores and schools, as defined by the Education Act. Municipalities cannot adopt a greater distance than the provincially legislated 150 metres. The distance buffer would be measured from the property line, if the school is the primary or only occupant of a building; or the boundary of any space occupied by the school within the building, if the school shares space, such as in a mall. This distance buffer would not apply to private schools that hold classes online only, or to First Nation schools located on reserve. Municipalities are also able to provide additional feedback on distances and consideration for other sensitive uses as part of the public input process.
- Municipal density restrictions on cannabis retail stores are not permitted under the legislation or regulations. However, it is possible that the number of cannabis retail stores in one area could, in the future, be considered under the public interest criteria in the regulations and merit comment from the municipal government and community.

Other Municipal Experiences

At the time of writing this report, thirteen (13) municipalities, including Ottawa and Toronto, had voted in favour of having cannabis retail stores as of April 1st, while eight (8) municipalities, including Markham and Mississauga, had opted out of having cannabis retail stores. Below is a list of municipalities that have made decisions related to either opting in or opting out of cannabis retail stores.

Municipalities that have opted in:

- City of Ottawa
- City of Toronto
- Township of Armour
- Township of Dawn-Euphemia
- Township of East Ferris
- Municipality of Highlands East
- Township of Johnson
- Township of Nairn and Hyman
- Township of the North Shore

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- Township of Plummer Additional
- Township of Prince
- Township of Spanish
- Township of Tarbutt

Municipalities that have opted out:

- Town of Erin
- Township of Frontenac Islands
- Town of Ingersoll
- Township of King
- Township of Lake of the Woods
- City of Markham
- City of Mississauga
- Township of Papineau-Cameron

Cannabis retail stores have been established in a number of communities in the provinces of Alberta, Manitoba, New Brunswick, Northwest Territories, Nova Scotia, Saskatchewan, Quebec and Prince Edward Island since the legalization of recreational cannabis on October 17, 2018. City staff have contacted seven (7) municipalities within provinces that have established private retail cannabis stores to obtain more feedback on their experiences since the opening of these stores. The municipalities that were contacted and responded to City staff inquiries include: Calgary, Medicine Hat, Edmonton, Regina, Yorkton, Winnipeg and St. John's.

The following points were identified by most of the communities surveyed:

- The public has been relatively quiet on the presence of private cannabis retail stores in their communities. Very few complaints have been received as it relates to the opening and operation of cannabis stores;
- Private stores are often exceeding baseline regulatory requirements and are trying to win the public's trust (and are concerned with the potential of having their licences revoked);
- Most concerns over private stores stem from a national lack of cannabis supply and long line ups at times. Comments from municipalities indicated that most private stores are working with communities to address their concerns; and
- It is still too early in the process of legalization to provide empirical responses, especially in regards to the impact on underground markets.

Separation distances of cannabis retail stores from sensitive uses vary. In most cases, municipalities have established their own minimum separation distances based on their provincial legislative framework. These regulated minimum separation distances vary from 25

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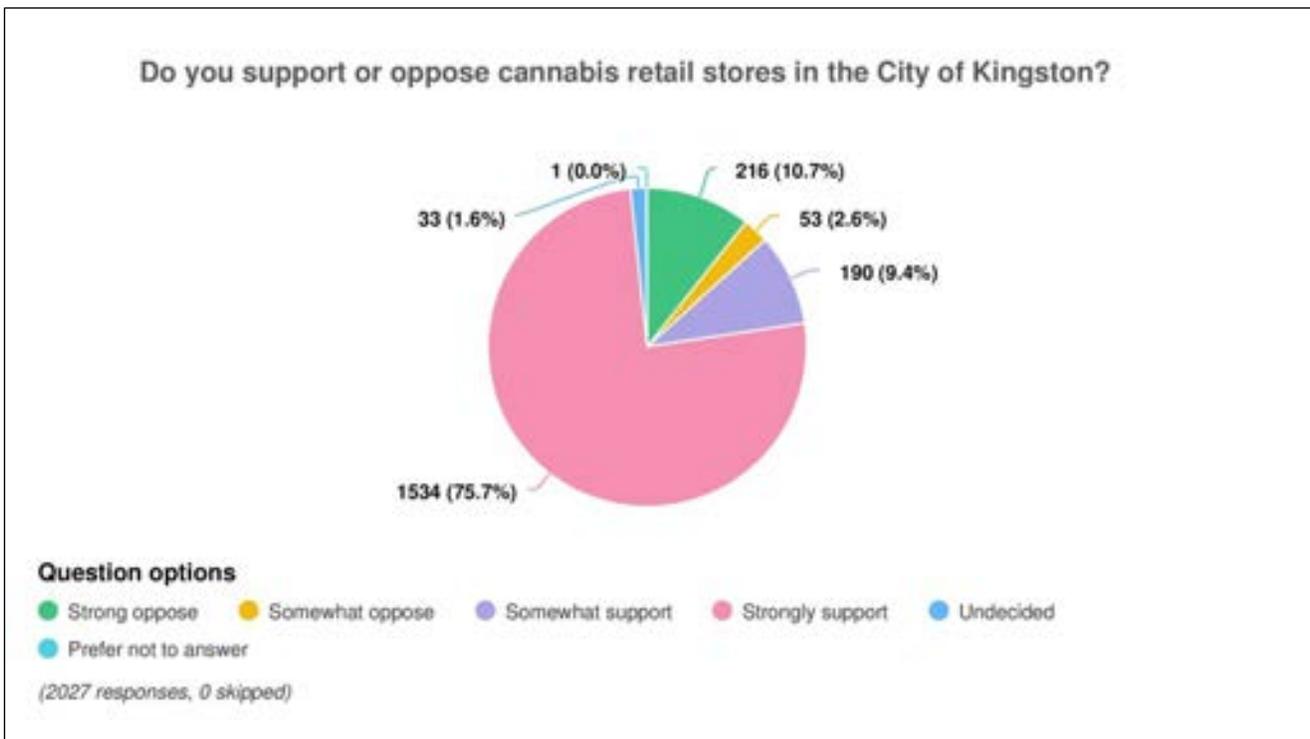
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metres to 200 metres and many cannabis retail stores have chosen to exceed those minimum separation distances.

More details on each municipalities contacted can be provided upon request.

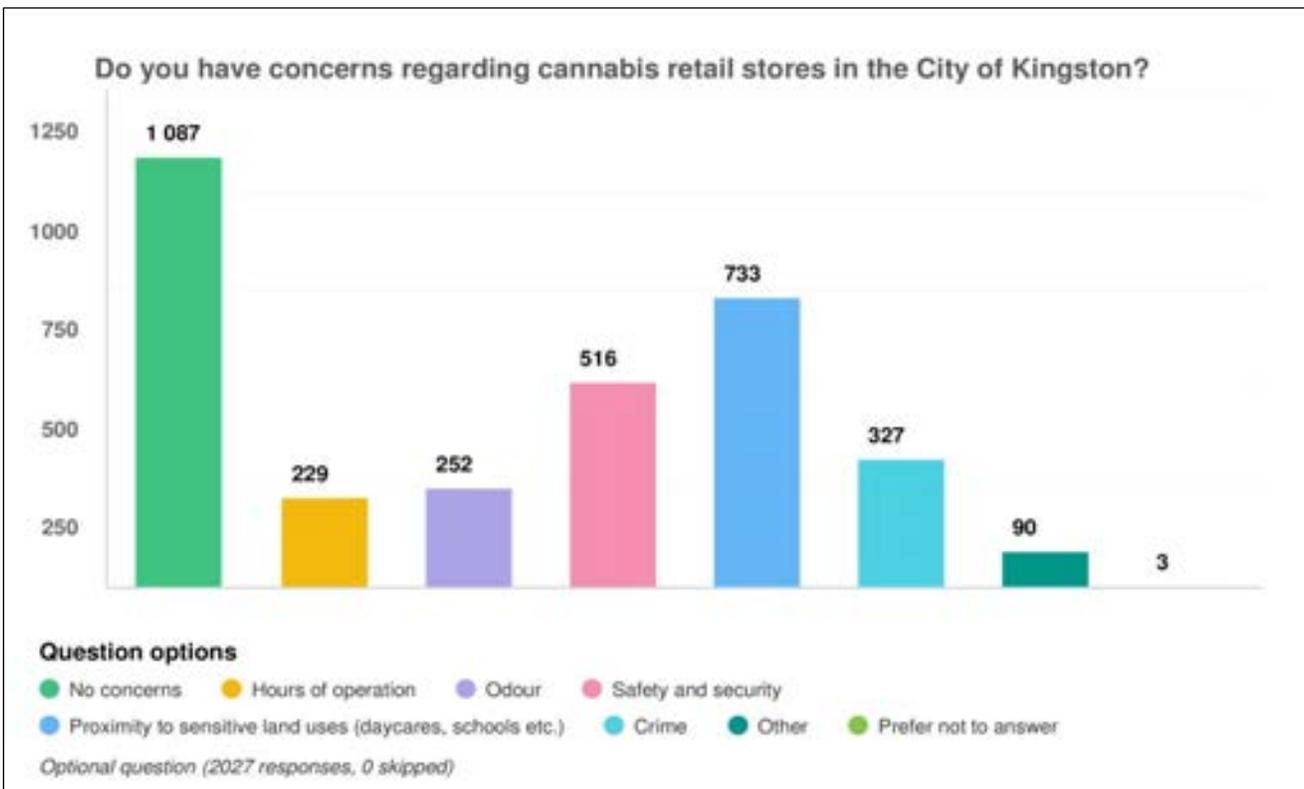
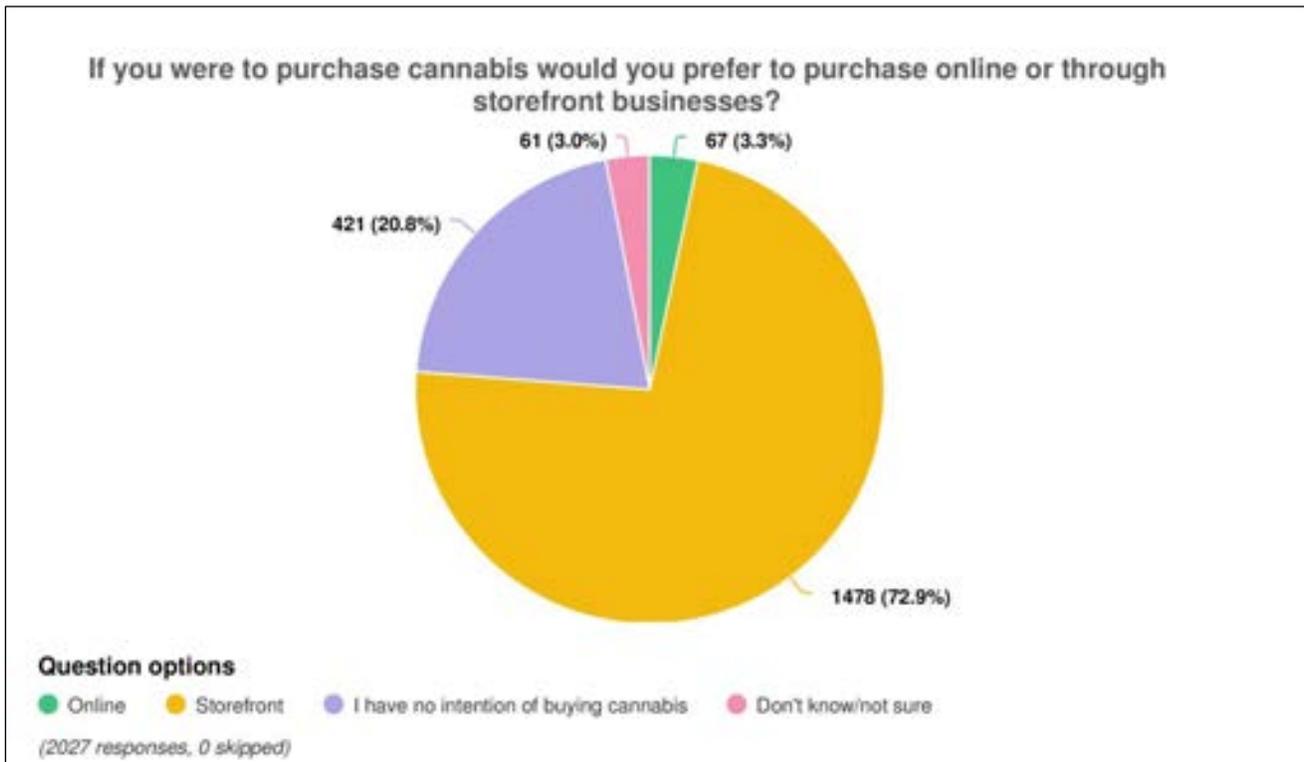
City of Kingston Public Survey

The City of Kingston ran a public survey from November 22nd to December 12th on the possibility of cannabis retail stores within the City. 2,027 individuals responded to the survey during that period of time. Results clearly demonstrate that the large majority of respondents are supportive of cannabis retail stores in Kingston and that the majority of consumers would purchase cannabis from stores if the service was available. The majority of respondents also indicated they do not have concerns with the establishment of cannabis retail stores in Kingston. The area of most concern was the minimum separation distance from sensitive uses. The graphs below show responses to survey questions.



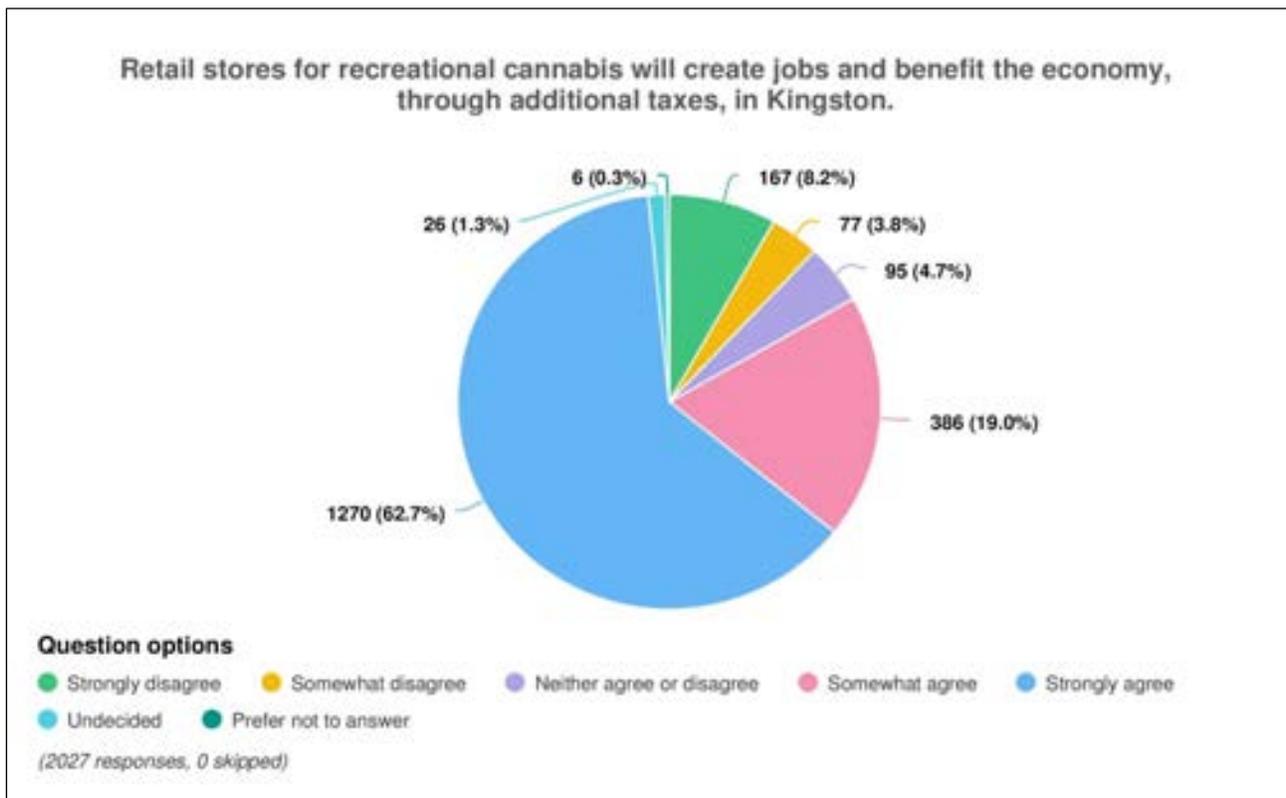
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Cannabis Policy Statement

As part of the legislative framework, the province is allowing municipalities and the public to provide input on retail stores being considered within their municipality. In order to ensure consistent and timely input from the City, staff are recommending that Council endorses the City of Kingston Cannabis Policy Statement attached as Exhibit A to this report. City staff have utilized the template for a cannabis policy statement as provided by the Association of Municipalities of Ontario (AMO). Information included in the draft cannabis policy statement is based on input provided by KFL&A Public Health and Kingston Police, and presented to Council in a report in 2017 ([Report Number 18-025](#)).

City staff are suggesting that cannabis retail stores would ideally be located at least 150 metres from other sensitive uses which are defined as youth activity centres, playgrounds, childcare centres as well as facilities that serve persons with mental health or addiction challenges. The recommended 150 metre buffer is equivalent to the provincially legislated minimum separation distance between cannabis retail stores and schools.

The cannabis policy statement cannot be so restrictive that it is impossible to locate a store. Nor can the policy state a specific number of stores permitted.

City staff believe that the provincially mandated minimum separation distances from schools and recommended distances from other sensitive uses, as per the cannabis policy statement, should help address public concerns related to distances between cannabis retail stores and sensitive

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uses. Staff are also suggesting that it would be preferable for cannabis stores to be located within a commercial centre so that it is in a destination that provides appropriate traffic circulation and parking on site.

Although the cannabis policy statement will form the basis of input provided to the AGCO through the public input process, it does not mean that it will influence the final decision to approve or not approve a retail licence for a store location.

The Ontario Legalization Implementation Fund

Through the OCLIF, the province is providing municipalities with \$40 million over two (2) years to help with the implementation costs of recreational cannabis legalization. OCLIF is distributed as follows:

- Ontario is providing \$15 million to all municipalities on a per-household basis, adjusted so that at least \$5,000 is provided to each municipality. This will enable all municipalities to proceed with planned legalization activities.
- After the deadline for municipalities to opt-out under the *Cannabis Licence Act*, which is January 22, 2019, Ontario will provide an additional \$15 million:
 - Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per-household basis, adjusted so that at least \$5,000 is provided to each municipality. This funding will support initial costs related to hosting retail storefronts.
 - Municipalities that have opted-out will receive only a second \$5,000 each.

Ontario is setting aside \$10 million of the municipal funding to address costs from unforeseen circumstances related to the legalization of recreational cannabis. Priority for this funding will be given to municipalities that have not opted-out. The province will provide further details at a later date.

If Ontario'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 per cent of the surplus exclusively to municipalities that have not opted-out as of January 22, 2019.

Municipalities must use their OCLIF to address the implementation costs that directly relate to the legalization of recreational cannabis. Examples of permitted costs include:

- increased enforcement (i.e. police, public health and by-law enforcement, court administration, litigation)
- increased response to public inquiries (i.e. 311 calls, correspondence)
- increased paramedic services
- increased fire services
- by-law/policy development (i.e. police, public health, workplace safety policy)

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City staff have worked with both KFL&A Public Health and Kingston Police to review and update anticipated expenses for the implementation of cannabis legalization. The estimated cost to continue and expand on the public education program is approximately \$77,000 over the next two (2) years. The public education program, which started in 2018, will continue to include other partners such as Kingston Police, City of Kingston, Frontenac County and Frontenac Paramedic Services. The 2019 education campaign will expand on the current education campaign, while including a new variety of topics such as Drug Impaired Driving (D.I.D.) and the risks of edibles. Costs will be incurred in 2019 and 2020.

Police Services costs associated with training of officers is estimated at \$207,000 over a period of two (2) years (2019-2020). It is anticipated that a minimum of 60 police officers will be trained during that period of time. Police Services will also incur costs related to equipment acquisition.

Existing Policy/By-Law:

City of Kingston Official Plan, City of Kingston Zoning By-Laws, Canada Cannabis Act, Cannabis Licence Act, 2018 (O. Reg. 468/18) and Bill 36, An Act to enact a new Act and make amendments to various other Acts respecting the use and sale of cannabis and vapour products in Ontario.

Notice Provisions:

Not applicable

Accessibility Considerations:

Not applicable

Financial Considerations:

Through the OCLIF, the province is providing municipalities with \$40 million over two (2) years to help with the implementation costs of recreational cannabis legalization. The OCLIF is distributed as follows:

- Ontario is providing \$15 million to all municipalities on a per-household basis, adjusted so that at least \$5,000 is provided to each municipality. This will enable all municipalities to proceed with planned legalization activities.
- After the deadline for municipalities to opt-out under the *Cannabis Licence Act*, which is January 22, 2019, Ontario will provide an additional \$15 million:
 - Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per-household basis, adjusted so that at least \$5,000 is provided to each municipality. This funding will support initial costs related to hosting retail storefronts.
 - Municipalities that have opted-out will receive only a second \$5,000 each.

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City staff have estimated that the City of Kingston would receive approximately \$155,000 if the City opts out of retail cannabis stores for April 1st and approximately \$300,000 if the City allows retail cannabis stores for April 1st. City staff are recommending that funding be allocated to Public Health for a public education campaign (\$77,000), to Police Services for police officer training and equipment acquisition (\$207,000) and the remaining funds to be held by the City to fund other costs related to the implementation of cannabis legislation.

Contacts:

Lanie Hurdle, Commissioner, Community Services 613-546-4291 extension 1231

Other City of Kingston Staff Consulted:

Paige Agnew, Director, Planning, Building & Licensing Services

JC Kenny, Director, Communications & Customer Experience

Other External Individuals Consulted:

Susan Stewart, Kingston, Frontenac, Lennox & Addington Public Health

Antje McNeely, Chief of Police, Kingston Police

Exhibits Attached:

Exhibit A City of Kingston Cannabis Policy Statement

City of Kingston Cannabis Policy Statement

Purpose & Vision

The purpose of this policy statement is to provide a format for the City of Kingston's input to the Alcohol and Gaming Commission of Ontario (AGCO), as well as help prospective recreational cannabis retailers in their consideration of the location of cannabis retail stores in the City of Kingston.

The AGCO is the provincial authority that licenses cannabis retail operators, authorizes cannabis retail locations and licenses senior store staff. The City of Kingston has no licensing authority.

The AGCO regulates and reviews all aspects of the retail operation, including municipal and public input. In specific, municipalities may submit comments to assess if the proposed store location is consistent with the public's interest as defined in the regulations.

The City of Kingston has chosen to allow retail sales of recreational cannabis. The following provides municipal staff with guidance on commenting to the AGCO when a notice on a specific proposed cannabis retail store site is provided on the site location.

Principles for Cannabis Retail Store Locations

Relationship to Other Applicable Law:

Land Use Planning: The provincial licensing process does not remove the requirement to comply with the zoning by-law and other municipal planning documents. The definitions within the City of Kingston's Official Plan and Zoning By-Laws are applicable to all retail, including cannabis retail stores. Retail sale of cannabis from a provincially licensed store is legal and is a permitted use in the retail zones.

Municipal Building Inspections: While the licensing of the store operation is the responsibility of the AGCO, the Building Code applies to cannabis retail store locations. Therefore, where a building permit is required, the building inspector will undertake duties as usual. Fire Code compliance is also mandatory.

For the purposes of this policy statement, a cannabis retail store shall mean a store licenced by the AGCO.

Cannabis Retail Stores and Sensitive Activities:

In order to help ensure public health and safety, protect youth and reduce illegal sales, retail cannabis stores are discouraged from being located within 150 metres of properties that are designed to serve youth, including youth activity centres, playgrounds, childcare facilities, as well as other sensitive facilities that serve persons with mental health or addiction challenges.

Cannabis retail stores should not abut a liquor store and should have a minimum distance from other cannabis retail stores. Stores should ideally be part of a commercial centre that provides appropriate traffic circulation and parking on site.