

**Report to
Rapport au:**

**Council
Conseil**

**Submitted on December 5, 2018
Soumis le 5 décembre 2018**

**Submitted by
Soumis par:**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2018-EPS-GEN-0011

**SUBJECT: Report on Ontario Cannabis Legislation, Cannabis Retail Stores, and
Response to Council Direction of August 29, 2018**

OBJET: Rapport sur la législation sur le cannabis en Ontario, sur les établissements de vente au détail de cannabis et sur une réponse à une directive du Conseil municipal datant du 29 août 2018

REPORT RECOMMENDATIONS

- 1. That, at its meeting of December 5, 2018, City Council receive and table the “Report on Ontario Cannabis Legislation, Cannabis Retail Stores, and Response to Council Direction of August 29, 2018” for consideration at the December 13, 2018, Special Meeting of Council called for that purpose, and which will include receiving public delegations; and**
- 2. That, at the December 13, 2018 Special Meeting, Council, sitting as Committee of the Whole:**
 - a. Receive the information in this report in response to Council’s August 29, 2018 directions to staff, including:**
 - i. An update on the *Cannabis Licence Act, 2018*, changes to the *Cannabis Control Act, 2017*, and associated legislation and regulations, including the analysis of the powers the City has under the current *Planning Act* to zone cannabis store location;**
 - ii. A high-level summary of the feedback provided to the Province on Ontario’s cannabis retail model, as well as the outreach to the Provincial Government, the Association of Municipalities of Ontario, Ottawa Public Health, and the City of Toronto;**
 - iii. An outline of the work to date of the City’s Integrated Cannabis Legalization Steering Committee;**
 - iv. An analysis of the implications of the proposed “opt-out” option for cannabis retail stores within the City of Ottawa, including staff’s recommendation in favour of permitting cannabis retail stores in Ottawa, due to the implications of opting out with respect to crime consequences, economic development opportunities, public health, proximity to other**

jurisdictions and provincial cannabis funding for municipalities; and

- v. The results of the Ekos Research Associates survey and the on-line feedback tool used to gather public opinion to inform this report.**

b. Direct the City Clerk and Solicitor to notify the Alcohol and Gaming Commission of Ontario (AGCO) that the City of Ottawa will permit private cannabis retail stores; and

c. Delegate authority to the General Manager of Planning, Infrastructure and Economic Development (PIED) to develop a process and identify the staff and technical resources required to submit the City of Ottawa's formal response, with the concurrence of the Ward Councillor, to a cannabis retail site application to the AGCO, as described in this report, and including in the response:

- i. the City's opposition for those proposed retail sites where a site is:**

- 1. Within 150 m of another cannabis retail store, so as to prevent undue clustering and concentration of such stores in one area;**

- 2. Within any identified publicly owned and or operated community facility performing a public assembly function analogous to a school, such as recreational facilities, community centres, libraries and public parks;**

- ii. the City's opposition where the site is in an area where retail uses are not listed as principal uses, and where the site is located within a Local Commercial (LC) zone so as to prevent establishment of cannabis stores in inappropriate zones,**

- iii. that the Province have regard for concerns expressed by health and/or treatment service providers to the AGCO (including operators of shelters, group homes, addiction counselling or other independently managed health service)**

where the location of a cannabis retail store is within 150m of their establishment,

- iv. comments on any other relevant factors of local importance including any opposition expressed by the Ward Councillor to be noted to the AGCO, and
 - v. That the City's responses to the AGCO be posted to Ottawa.ca for accountability and transparency.
- d. Direct staff to measure the impact of the legalization of cannabis on City services, and report back to the appropriate Standing Committee prior to Council's consideration of the 2020 Draft Operating and Capital Budgets.
 - e. Delegate the authority to the Mayor to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances between such establishments, as described in this report.

RECOMMANDATIONS DU RAPPORT

1. Que lors de sa réunion du 5 décembre 2018, le Conseil municipal reçoive le « Rapport sur les dispositions législatives sur le cannabis en Ontario et sur les établissements de vente au détail de cannabis, et réponse aux directives du Conseil municipal du 29 août 2018 » en vue de son examen lors de la réunion extraordinaire du Conseil qui se tiendra à cette fin le 13 décembre 2018 et à laquelle des délégations publiques pourront assister.
2. Que lors de sa réunion extraordinaire qui aura lieu le 13 décembre prochain, le Conseil en comité plénier :
 - a. Reçoive les renseignements contenus dans le présent rapport en réponse aux directives qu'il a communiquées au personnel le 29 août 2018, notamment :
 - i. Une mise à jour sur la *Loi de 2018 sur les licences liées au cannabis*, sur les modifications apportées à la *Loi de 2017 sur le contrôle du cannabis*, sur les dispositions législatives et sur les règlements connexes, ainsi qu'une analyse des pouvoirs

de la Ville en vertu de la *Loi sur l'aménagement du territoire* en vigueur relativement au zonage de l'emplacement des magasins de cannabis;

- ii. Un résumé général des rétroactions communiquées à l'autorité provinciale sur le modèle de vente au détail du cannabis, de même que des mesures de sensibilisation prises auprès du gouvernement provincial, de l'Association of Municipalities of Ontario, de Santé publique Ottawa et de la Ville de Toronto;
 - iii. Un aperçu des travaux réalisés à ce jour par le Comité directeur intégré sur la légalisation du cannabis;
 - iv. Une analyse des répercussions de l'option d'interdiction des magasins de vente au détail de cannabis au sein de la Ville d'Ottawa et la recommandation du personnel d'autoriser l'exploitation de ces magasins à Ottawa, en raison des répercussions qu'entraînerait l'interdiction sur la criminalité, sur les occasions de développement économique, sur la santé publique, sur la proximité des autres administrations et sur le financement provincial offert aux municipalités pour la gestion du cannabis;
 - v. Les résultats du sondage mené par Les Associés de recherche EKOS et les données recueillies à l'aide de l'outil de rétroaction en ligne utilisé pour connaître l'opinion publique qui ont servi à la rédaction du présent rapport.
- b. Demande au greffier municipal et avocat général d'informer la Commission des alcools et des jeux de l'Ontario (CAJO) que la Ville d'Ottawa autorisera l'exploitation de magasins privés de vente au détail de cannabis sur son territoire;
- c. Délègue au directeur général de la Direction générale de la planification, de l'infrastructure et du développement économique (DGPIDE) le pouvoir d'élaborer un processus et de définir le personnel et les ressources techniques nécessaires – en collaboration avec le conseiller du quartier – pour présenter la réponse officielle de la Ville d'Ottawa à la CAJO relativement à l'établissement des magasins de vente au détail de cannabis, tel qu'il est décrit dans le présent rapport, incluant les éléments suivants :

- e. Délègue le pouvoir au maire de recommander au gouvernement de l'Ontario de mettre sur pied une autorité chargée de la planification municipale des magasins privés de vente au détail de cannabis, notamment dans le but d'augmenter les distances de séparation entre les établissements, comme décrit dans le présent rapport.**

EXECUTIVE SUMMARY

Since October 17, 2018, access to and use of recreational cannabis is permitted for adults of legal age in Canada, subject to a number of restrictions. The legalization of this formerly illegal product was brought forward to achieve a number of public policy goals: namely, and in broad terms, to protect the health of young people and enhance public awareness of the health risks of cannabis, to deter illegal markets, to provide access to a quality-controlled supply of cannabis for consumers, and to reduce the burden on the criminal justice system in relation to cannabis.

The regulatory regimes for cannabis legalization developed by both the federal and Ontario governments have been designed to support those public policy goals. As such, both the federal and Ontario governments have already put in place strict regulatory regimes governing all aspects of legal recreational cannabis, and staff anticipates there will be more regulations, and changes to existing regulations, to come over time.

The report provides more detail about the federal and provincial framework for recreational cannabis, but, at the highest level, and taken together, recreational cannabis:

- Can only be sold by authorized entities to individuals of legal age, which in Ontario is 19;
- Is strictly controlled in all areas, including production, marketing, packaging and display, and there are specific prohibitions against any promotion that is appealing to youth, requirements for plain packaging, and requirements that cannabis sales displays not be visible to youth;
- Cannot be sold by unauthorized individuals or entities to anyone, including to persons under legal age;
- Can only be sold in Ontario by the government-run Ontario Cannabis Store (OCS), which is the exclusive online purchasing option and the Ontario Cannabis Retail Corporation (OCRC) will be the exclusive supplier to private retail stores;

- Can only be sold at retail storefronts licensed by the Alcohol and Gaming Commission of Ontario (AGCO), where:
 - No cannabis or cannabis-related products will be visible from the street;
 - Minors will be prohibited from entering the store and only those of legal age can work in the store;
 - Only in-person, on-site transactions for recreational cannabis are permitted. No other type of purchase is allowed (e.g. online);
 - Only cannabis legally obtained from the Ontario Cannabis Retail Corporation can be sold in a cannabis retail store and cannabis from other sources is prohibited;
 - All sales must be recorded;
 - A maximum of 30 grams of dried cannabis or an equivalent amount of other authorized forms of cannabis may be sold to an individual in a single visit;
 - Cannabis cannot be sold to an intoxicated person;
 - The retailer cannot sell cannabis at a price that is lower than the price prescribed by the Province; and
 - Authorized retailers will need to display an official Ontario Cannabis Retailer Seal.

There are stringent record-keeping requirements both federally and provincially, and new and increased enforcement tools and penalties have been established. Given the tightly-controlled federal and provincial framework in Ontario, local municipalities have been given very few additional regulatory powers at this point in time. That said, because access to recreational cannabis is now legal in Canada, subject to all the restrictions imposed by the Federal and Provincial governments outlined in this report, and recreational cannabis will be used in the City of Ottawa whether or not privately operated cannabis retail stores are also present, there will be direct impacts on City services, particularly in areas such as by-law services, 311, Ottawa Police and Ottawa Public Health, long-term care, fire services, paramedic services and building code services. It should be noted that, as this report will be published seven weeks from the date of legalization, staff does not yet have data that quantifies the expected impact beyond noting that there has not been a noticeable increase in either calls for information or by-law complaints in these early days.

The Ontario government has recognized that the legalization of recreational cannabis is expected to add financial pressures to municipalities and has committed funds to municipalities to assist with the cost of municipal services involved in the implementation of recreational cannabis, under certain conditions.

Specifically, the Minister of Finance has indicated that the Ontario Cannabis Legalization Implementation Fund (OCLIF) will be available to municipalities to offset permitted costs that are directly relate to the legalization of recreational cannabis, including costs related to increased enforcement (e.g. police, public health and by-law enforcement, court administration, litigation); increased response to public inquiries (e.g. 311); increased paramedic and fire services; and by-law/policy development (e.g. police, public health, workplace safety). Funds will be distributed as follows:

- There will be a first payment of \$15 million in early January 2019 to all municipalities on a per household basis (with a minimum payment of \$5,000) to help pay for planned legalization activities.
- A second payment of \$15 million will be distributed after the January 22, 2019 deadline for municipalities to opt-out of cannabis retail storefronts (discussed in the next section), as follows:
 - Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per household basis (again, with a minimum \$5,000 payment) to support initial costs related to hosting retail storefronts; and
 - Municipalities that have opted-out will each receive a second \$5,000 only.
- The Province is setting aside the remaining \$10 million of municipal funding to address costs for unforeseen circumstances related to the legalization of recreational cannabis, and priority will be given to those municipalities that have not opted out.

In addition, if the Province of Ontario's portion of the revenue from recreational cannabis exceeds \$100-million in the first two years of legalization, the Province will provide 50 per cent of the surplus to be divided only amongst municipalities that have opted-in to the private cannabis retail store regime.

The opt-out option referenced above is a provincial tool provided to municipalities with respect to refusing the ability for private retail cannabis stores to be located within a specific jurisdiction. While municipalities cannot opt out of the legalization of recreational cannabis as a whole, Section 41 of the *Cannabis Licence Act, 2018*, provides that municipal councils may pass a resolution no later than January 22, 2019, to opt-out of having private cannabis retail stores located within their municipal borders.

The opt-out provisions in s. 41 of the *Cannabis License Act, 2018* state that:

- If a municipal council opts-out of hosting cannabis retail stores by January 22, 2019, the AGCO will not process any applications for cannabis retail licenses or authorizations for that municipality;
- A municipality that opts out by January 22, 2019 can only reverse this decision once. Such a reversal is final and cannot be reversed again;
- If a municipal council does not pass an opt-out resolution by January 22, 2019, private cannabis retail stores will automatically be able to apply to the AGCO authorizations to operate within that municipality. As a result, a municipal council's silence on this issue will have the automatic effect of "opting-in"; and
- There is no authority for a municipal council to opt-out at a later date once cannabis stores have been allowed. A municipality's decision to allow private cannabis stores (i.e. "opting-in") is final and cannot be reversed by subsequent councils.

Again, as described above, opting-out of cannabis retail will materially affect the amount of provincial cannabis funding received by a municipality.

Therefore, before January 22, 2019, Council must address whether the City of Ottawa will refuse to allow retail cannabis storefronts within its borders. Council can only prohibit such storefronts by way of a formal resolution to opt-out of the provincially-regulated private retail model – a failure to say no by way of Council motion is an automatic yes to those stores.

In response to an August 29, 2018 Council direction, staff analyzed the 'opt-out' option and looked at the anticipated outcomes as they relate primarily to public health and safety, consumer protection and economic development. They also gave regard to the stated goals of the legalization framework, particularly with respect to protecting youth and reducing the illegal market, all while keeping in mind the public input received.

As outlined in more detail later in this report, and summarized in Documents 4 and 5, public opinion polling conducted in response to Council's August 29th direction indicates that 53% of Ottawa residents support the legalization of recreational cannabis, while 38% oppose and 9% are undecided or preferred not to answer. This fundamental difference in belief was reflected in subsequent responses regarding whether Ottawa should permit or refuse retail storefronts – 78% of those supporting legalization support allowing retail stores while 83% of those opposed to legalization are against allowing retail stores.

Residents had an opportunity to express their views related to private cannabis retail stores from October 24 to November 7th through a City survey posted on ottawa.ca and available at Client Service Centres. The online survey received more than 23,800 responses during the two-week period – nearly 16,000 of which were Ottawa residents -- setting a new record for resident responses to an Emergency and Protective Services Department-led consultation. This is a high level of engagement for any City process. As a measure of comparison, the consultation undertaken for the Vehicle-for-Hire By-law received approximately 7,000 responses in a 30-day period. Of the 15,888 Ottawa residents who responded to the online survey, 12,626 support the legalization of recreational cannabis, while 2924 oppose legalization. In addition, 12,136 respondents support allowing retail stores for recreational cannabis and 3261 oppose allowing them.

After reviewing all of the information available, as summarized below, staff is recommending that City Council agree to have private cannabis retail stores in Ottawa – that is, that City Council not “opt out” of the provincial regulatory regime, for the following reasons:

- the anticipated negative consequences of allowing the illicit cannabis market to flourish if there is an absence of a legal retail option for recreational cannabis users;
- the potential economic development opportunities and impacts of having private retail cannabis stores in Ottawa;
- the public health benefits related to the quality of legal cannabis product and the education and support that can be provided at the point of sale in a retail store model; and
- the public input received in favour of having cannabis retail stores, and for cannabis consumers in particular, in favour of shopping at retail stores.

The Effect of Opting Out on the Illicit Market

Ottawa Police Service (OPS) representatives sit on the City’s Integrated Cannabis Legalization Steering Committee and on the Operational Team. Their advice, based on internal consultations and knowledge of other jurisdictions, is that the City permit retail storefronts. They note that cannabis is now a legal yet highly regulated substance. Through legalization, it has been the Government’s intention to reduce and eliminate organized crime profits, and limit the availability of cannabis to youth. The public demand for cannabis has been proven in Ottawa. The sources for cannabis are either legal through government-regulated sources, or illegal, through illicit storefronts, criminal traffickers, or criminal on-line traffickers. The Provincial Cannabis Retail Model

provides a safe and regulated source of cannabis that does not support organized crime and limits exposure to youth at the retail level.

While staff acknowledge that, if the City adopts the Provincial Cannabis Retail Model there is no guarantee that the associated crimes prevalent with illicit storefronts will not continue, law enforcement intelligence experts believe that organized crime profits and their related crimes will be reduced by adopting the Provincial cannabis retail model for legal storefronts.

Economic Development Considerations related to Opting Out

The legalization of recreational cannabis brings into play a completely new sector to Canada's formal economy. Though projections of users and sales vary depending on the source, it is anticipated that the market will be sizeable.

Should the City decide to opt-out of hosting cannabis retail stores in Ottawa, there are a number of economic implications that could occur. These implications range from the potential loss of new just opportunities -- purchases made in neighbouring municipalities and online will mean that any direct benefits, namely the total amount of expenditures directly attributed to local retail sales in Ottawa, will be either unrealized or exported outside the city. This will also mean that any new jobs that would have directly accompanied retail stores in Ottawa will not materialize or will occur elsewhere in neighbouring municipalities.

Opting out of retail sales of cannabis in Ottawa could also result in a number of unrealized indirect economic impacts. Indirect economic impacts occur in industries that interact with, and supply, a primary industry. In the case of retail cannabis, indirect impacts include, for example, money spent on security services, building upgrades, professional services like legal, accounting and e-commerce, commercial leases, and tourism. If the City chooses to opt-out of permitting the sale of retail cannabis, indirect positive impacts to Ottawa's economy would not be fully realized.

Additionally, opting out could also mean that many of Ottawa's main streets or Business Improvement Areas may not see increased foot traffic or additional consumers drawn to their areas which could have occurred if retail cannabis stores opened in new locations or filled current vacant properties. Staff also recognizes that cannabis retail may not be wanted in some areas, as it may not align with, and complement, the existing nature of stores on main streets.

Consumer Protection and Public Health Information at Point of Sale

If the City opts out of hosting cannabis retail in Ottawa, then limited purchasing options for residents could potentially translate into a market where supply cannot meet local demand for readily and easily available cannabis. In such a case, local consumers may choose to turn to the illicit market. Local consumers may also turn to the illegal market if they have concerns with online purchasing privacy or if they simply want in-person service and product knowledge firsthand.

The Medical Officer of Health advises that Ottawa residents who choose to use cannabis could have less risk to their health with access to legal products, which include approved labeling (i.e. clearly stated THC levels) and are subject to Health Canada's Good Production Practices. These Practices include product testing for microbial and chemical contaminants among other requirements to ensure product quality and safety.

It is noted that public input received through the research conducted by Ekos and through the City's online survey indicates a preference for purchasing cannabis in a retail store as opposed to the OCS online platform. Respondents in these cases cited the following as some of the reasons for preferring retail stores over online ordering: better service and less delay, and impediments of the online service such as having to use a credit card and leaving identifying information for online purchases. In addition, the Ekos research noted that irrespective of the views of respondents about legalization or whether stores should be allowed in Ottawa, the large majority of residents agree that it will be easier to acquire legally (by of-age consumers) in a retail model, enabling cannabis consumers to more easily obtain the products they want. The Ekos survey further indicates that eight in ten residents expect that consumers will continue to purchase through the black market if a retail option is not available. The existence of a strong black market makes it difficult to regulate the supply and circulation of safe and legal cannabis as well as reduce the consumption by young people, all federal objectives of legalization.

In addition to these reasons, staff again note the municipal reality that recreational cannabis is legal and therefore is present in the community, and there will be a loss of provincial funding to assist the City in offsetting the related costs for cannabis legalization. As Ottawa is the second largest municipality in Ontario, it could expect to also receive the second largest allocation from the Ontario Cannabis Legalization Implementation Fund.

While the Ontario legislative framework only allows municipalities to 'opt out' of the cannabis retail storefront regime, such that municipalities are automatically considered 'opted in' unless they say no, AGCO staff indicated in a webinar on November 27, 2018 (in which many City staff participated) that municipalities could send a letter from their City Clerk, Mayor or City Manager/Chief Administrative Officer indicating their willingness to permit such stores. Given that retail storefronts can be operating effective April 1, 2019, this gives prospective operators time to find a suitable location and meet their regulatory obligations.

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 the City Clerk and Solicitor to notify the AGCO that the City of Ottawa will permit private cannabis retail stores.

Should Council decide in favour of the staff recommendation, staff is mindful of the fact that the current AGCO regulatory regime does not take into account local context and local communities. As noted in the report, there is no authority for municipal councils to regulate the locations of cannabis retail stores, nor to restrict their numbers. The City does have the right under the legislation to provide comment to applications for storefronts, as does the public. The comments must be provided within 15 calendar days and this commenting window presents the only opportunity for municipalities to provide local input to the AGCO on potential store sites/ locations.

Because of the short turnaround times, staff is recommending that the City develop a process to provide those comments, in particular notifying the AGCO where there are local considerations regarding a site that staff and/or the Ward Councillor believe would work as intended in the community, particularly in regards to public health and safety.

Proposed review and response criteria and process for AGCO notices

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 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 that 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.

- The AGCO shall not issue a retail store authorization that is not in the public interest, having regard to the needs and wishes of the residents of the municipality.

The legislation provides that the AGCO must reject applications that are not in the “public interest”, which has been defined in s. 10 of Regulation 468 as meaning protecting public health and safety, protecting youth and restricting their access to cannabis, and preventing illicit activities in relation to cannabis.

Staff believes that communicating local concerns and providing input to the AGCO will ensure that the AGCO has the opportunity to take note of municipal considerations in the retail approval process. To accommodate the compressed timelines for response, staff are recommending that the General Manager of Planning, Infrastructure and Economic Development (PIED), or an authorized representative, be delegated the authority to implement a “one-window” approach to coordinate the City’s input and responses on applications for retail store authorization received by the AGCO in Ottawa.

The proposed process will:

- Be based on Key Principles, including those circumstances triggering an objection to the proposed cannabis store.
- The Key Principles address issues related to public health and safety, protecting youth and restricting youth access to cannabis, and preventing illicit activities in relation to cannabis, all of which have been cited by the Province as the public interest issues that that AGCO must consider when reviewing a store authorization application. As a result, the Key Principles provide that issues such as limiting density of potential retail stores will be noted to the AGCO as this may help minimize harms related to increased access, particularly among youth and young adults. Similarly, comments will be provided to the AGCO where cannabis stores are proposed to locate close to areas where youth congregate as the Board of Health has noted that this may normalize cannabis use among youth. Creating buffer zones for retail locations from sensitive areas can help minimize harms related to illegal access among youth and young adults.
- As a best practice, require Ward Councillor concurrence in order to capture any specific issues with a given site. Ward Councillor input is recommended to recognize that the Key Principles may not adequately cover each instance. Ward Councillors will be invited to provide written input on the proposed store location within a short turnaround time in order to meet statutory deadlines and input by the Ward Councillor is voluntary. The City’s response to the AGCO will include

the Ward Councillor's comments, if any, including whether the Ward Councillor objects to the retail store and the reasons for such objections.

- Provide that if the General Manager of PIED is of the view that no objection to a store application is required but the Ward Councillor does not concur, the General Manager will submit the objection to the AGCO on the Ward Councillor's behalf, and the General Manager may subsequently seek further policy direction from the appropriate Committee of Council or Council, if the General Manager deems it necessary.
- Allow the General Manager of PIED to formally respond to the AGCO based on the above as well as the Key Principles noted below, within the 15-day timeline. For those applications for which there is no objection from either the General Manager of PIED or the affected Ward Councillor, or for which there is no relevant City input to provide, the General Manager may choose not to provide a response to the AGCO.
- Include posting on the City's website (Ottawa.ca) of all City of Ottawa comments and responses to the AGCO, subject to the *Municipal Freedom of Information and Protection of Privacy Act*. The posting of responses is recommended in order to foster transparency and accountability in decision-making under this delegated authority, and to ensure that information is accessible, in accordance with the requirements of the City's Accountability and Transparency Policy.

As the City will not be collecting input from the public during this process, information will be made available on the City's website on how members of the public can comment directly to the AGCO on store applications.

It should be understood that the proposed process goes beyond what the AGCO has indicated it will consider in its review of applications, but staff are mindful that the regulatory regime regarding legal recreational cannabis is simply the first step, and that it is highly probable that regulations will shift over time to respond any unintended consequences of each regime. The recommended City process will add to the City's data about the impact of legalization and the siting of retail stores over time and provide opportunities for evidence-based requests for additional regulatory changes or more regulatory authority.

The Mayor, in keeping with his statutory authority under subsections 225(c) and (c.1), is recommending that Council delegate him the authority to continue to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances

between such establishments, as described in this report.

City staff, specifically the City of Ottawa's Integrated Cannabis Legalization Steering Committee (ICLSC) and the Cannabis Legalization Operational Team (CLOT), will continue to monitor legislative and regulatory changes at all level of government and will develop appropriate measures as well as monitoring and reporting mechanisms to determine the impact of cannabis legalization on City services. It is recommended that staff report back to the appropriate Standing Committee of Council prior to Council's consideration of the 2020 Draft Operating and Capital Budgets with this information on impacts.

It is also expected that information sharing and knowledge exchange will continue among the members of the City's Cannabis Legalization Steering Committee and Operational Teams. This will be helpful as more experience is gained in implementing the new cannabis laws and regulations at all levels of government, and in anticipation of further regulations being issued in the area of cannabis retail or emerging areas such as cannabis edibles. Specifically, the following work will continue:

- Ongoing outreach and knowledge exchange on the evolution of cannabis regulations (including edible cannabis products) will continue through the Association of Municipalities of Ontario (AMO), the City of Toronto, and Ottawa Public Health. As-needed communications and consultations will also occur with the Ottawa Police Service in respect of any related enforcement consequences of cannabis legalization having an impact on the City, particularly in respect of municipal law enforcement officers. These activities will occur in part through the continuing participation of the General Manager of Emergency and Protective Services in the AMO Reference Group on Cannabis Legalization, in order to assess the municipal impacts of cannabis legalization and to identify common priorities.
- Staff will closely monitor communications and outreach activities provided by the AGCO in respect of retail store regulations particularly. It is expected, for example, that the AGCO will continue to publish information on store regulations and standards in order to inform both potential retail operators as well as municipalities and the public.
- The City's Cannabis Legalization Steering Committee and Operational Teams will be available to address any cross-corporate issues resulting from cannabis legalization. As those internal networks are already established and include

representation from City Departments, Ottawa Public Health and Ottawa Police Service, as well as Ottawa Community Housing, continued cooperation will occur on cannabis issues such as updating internal and public-facing communications, implementing changes to any response mechanisms for cannabis-related calls or requests for information, updating staff training, policies and procedures as required, and outreach to the AGCO as required.

It is also anticipated that two cannabis-related by-law projects will begin in early 2019, specifically a review of the Zoning By-law to establish regulations for legal cannabis production, cultivation and processing uses, and a review of the City's smoking-related by-laws in light of cannabis legalization and related changes to the *Smoke-Free Ontario Act, 2017*.

The City of Ottawa's Integrated Cannabis Legalization Steering Committee (ICLSC) coordinates and oversees the City's activities in response to and preparation for cannabis legalization on October 17, 2018. Chaired by the General Manager of Emergency and Protective Services (EPS), the ICLSC is comprised of representatives from key City departments as well as Ottawa Public Health, Ottawa Police Service, and Ottawa Community Housing, in order to ensure both City-wide and cross-partnership exchange of knowledge and information sharing, coordination of response activities, and internal reviews of policies and procedures related to cannabis legalization with the public health and safety of Ottawa residents, businesses and visitors in mind. The Cannabis Legalization Operational Team (CLOT) reports to the ICLSC, and is responsible for establishing and implementing a coordinated cross-departmental framework necessary to implement City responses to cannabis legalization as well as review of necessary policies and procedures.

BACKGROUND

Since October 17, 2018, access to and use of recreational cannabis is permitted for adults of legal age in Canada, subject to a number of restrictions. The legalization of this formerly illegal product was brought forward to achieve a number of public policy goals: namely, and in broad terms, to protect the health of young people and enhance public awareness of the health risks of cannabis, to deter illegal markets, to provide access to a quality-controlled supply of cannabis for consumers, and to reduce the burden on the criminal justice system in relation to cannabis.

The regulatory regimes for cannabis legalization developed by both the federal and Ontario governments have been designed to support those public policy goals. As such, both the federal and Ontario governments have already put in place strict regulatory regimes governing all aspects of legal recreational cannabis, and staff anticipates there will be more regulations to come over time.

Given the tightly-controlled federal and provincial framework in Ontario, local municipalities have been given very few additional regulatory powers at this point in time. That said, both the fact of the introduction of the legal recreational use of cannabis across the country and the new regulations supporting this change will have an impact on the work the City of Ottawa conducts across its service areas. Staff across City departments have been working with staff from Ottawa Public Health, the Ottawa Police Service and Ottawa Community Housing to ensure that the City is well prepared to address the anticipated impact of this change in the environment.

A high-level summary of the federal and provincial regulations is provided in this section of the report, with more detailed information included in the supporting documents. In addition, staff is providing an overview of the work it has done to date on this file, including references to the work done by both the Ottawa Board of Health and the Ottawa Police Service Board and in response to Council directions.

Federal Framework for Recreational Cannabis

On June 21, 2018, the Government of Canada enacted the *Cannabis Act* to create a new recreational cannabis framework that controls and regulates its production, distribution, sale and possession. The Federal framework was designed to achieve the following goals:

- protect the health of young persons by restricting their access to cannabis and prohibiting inducements to use cannabis,
- create a legal production regime,
- deter illicit activities,
- provide access to a quality-controlled supply of cannabis,
- reduce the burden on the criminal justice system in relation to cannabis, and
- enhance public awareness of the health risks associated with cannabis use (Section 1, *Cannabis Act*).

Access to recreational cannabis is restricted, and the following key provisions apply:

- only authorized entities may sell cannabis
- it remains illegal for unauthorized individuals or entities to sell cannabis to anyone, including to persons under 18 years of age

- penalties related to the illegal possession, production, distribution and sale of cannabis have been established under the *Cannabis Act* and range from tickets with fines up to a maximum penalty of 14 years imprisonment
- new offences are in place for driving with a blood drug concentration over the prescribed limits within two hours of driving
- there are strict controls for the production, marketing, packaging and display of recreational cannabis, including specific prohibitions against any promotion that is appealing to youth, requirements for plain packaging, and requirements that cannabis sales displays not be visible to youth.

Key provisions of the *Cannabis Act* and the Cannabis Regulations pertaining to distribution, selling, production, impaired driving, and other aspects of recreational cannabis, are set out in Document 1, attached.

Edible cannabis products are not currently legal for sale in Canada. Health Canada has advised that cannabis edibles will be approved for sale under federal rules approximately one year after the *Cannabis Act* came into force, namely on or about October 17, 2019. It is expected that information will be made available as these regulations are developed, and that consultations will take place to inform their development.

It should be noted that medical cannabis will continue to be regulated by a separate federally-administered regime. Individuals having a medical authorization can apply to purchase medical cannabis directly from federally-licensed sellers and receive the product in the mail. Alternatively, patients can apply to Health Canada to produce a limited amount of cannabis for their own medical purposes or receive authorization to designate someone to produce it for them. These individuals will also be able to purchase cannabis from authorized provincial or territorial retailers of recreational cannabis or through authorized online sales.

Under the Federal Framework, provinces and territories have been given authority to enact rules for recreational cannabis related to age and quantity restrictions, as well as distribution and sales, and places of consumption, within their jurisdictions. The effect of this authority is that each province or territory can make its own rules regarding these specific aspects of recreational cannabis, and provincial/territorial rules can be more restrictive but not more lenient than the Federal rules. For example, the federal *Cannabis Act* has established 18 years as the “base line” minimum legal age to buy

and possess recreational cannabis, while some provinces and territories such as Ontario raised the legal age to 19. A summary of provincial/territorial approaches to recreational cannabis within their jurisdictions is included in Document 2, attached.

Provincial and territorial authority extends to the ability to set out the role of municipal governments, if any, with respect to recreational cannabis use. Such rules will vary in each jurisdiction where a municipal role has been defined. For example, it is specifically noted that in Ontario, the powers of municipal government to enact business licensing by-laws and to pass land use by-laws in respect of future private cannabis retail stores have been removed by the Province of Ontario, as described further in this report.

Ontario's Legal Cannabis Framework

In August 2018, the newly-elected Government of Ontario announced its approach for a provincial cannabis legalization framework, stating that its regime would

“have a well-regulated, well-enforced system that will focus on protecting children and youth, ensuring road safety, and fighting the illegal market” (Backgrounder, Ontario Minister of Finance, August 13, 2018).

The key component of the provincial cannabis framework is the Ontario *Cannabis Statute Law Amendment Act, 2018* (former “Bill 36”), which received Royal Assent on October 17th, 2018. While details of Ontario’s recreational cannabis regulations found in the *Cannabis Control Act, 2018*, as well as the creation and legal status of the Ontario Cannabis Store, are set out in Document 3, in brief, the statute both created new laws and amended existing ones to establish the following regulations:

- prohibits the sale of recreational cannabis by anyone other than the government-run Ontario Cannabis Store (or “OCS”) for online sales (as of October 17, 2018), or a private cannabis retailer duly licensed by the AGCO (beginning in April 2019);
- prohibits the purchase of cannabis from any source other than the OCS or a cannabis retailer duly licensed by the AGCO, beginning in April 2019;
- establishes 19 as the legal age for the purchase, possession and consumption and cultivation of cannabis in Ontario, and prohibits the sale and distribution of cannabis to any person younger than 19 years;

- prohibits driving a vehicle or boat when cannabis is present and allows police officer to search the vehicle or boat if there are reasonable grounds to believe that this prohibition is contravened;
- prohibits the sale or distribution of cannabis to anyone who is intoxicated; and
- prohibits a landlord from knowingly permitting premises to be used for the illegal sale or distribution of cannabis.

There are further restrictions where and how an individual of legal age can consume recreational cannabis, including **not** being able to smoke or vape cannabis in:

- indoor common areas in condos, apartment buildings and university/college residences;
- enclosed public places and enclosed work places;
- schools and places where children gather;
- at school, on school grounds, and all public areas within 20m of these grounds;
- on children's playgrounds and public areas within 20m of playgrounds;
- in child care centres, or where an early years program is provided;
- in places where home child care is provided — even if children aren't present;
- Hospitals, hospices, care homes and other facilities or within 9m from the entrance or exit of hospitals (public/private), psychiatric facilities, long-term care homes, independent health facilities;
- on outdoor grounds of hospitals (public/private) and psychiatric facilities;
- in non-controlled areas in long-term care homes, certain retirement homes, provincially-funded supportive housing, designated psychiatric or veterans' facilities, and residential hospices;
- in publicly-owned sport fields (not including golf courses), nearby spectator areas and public areas within 20m of these areas;
- in a vehicle or boat that is being driven or is at risk of being put into motion;
- in restaurants and on bar patios and public areas within 9m of a patio;
- in reserved seating areas at outdoor sports and entertainment locations; or

- on grounds of community recreational facilities, and public areas within 20m of those grounds.

Retail Sale of Recreational Cannabis in Ontario

As noted by Finance Minister, The Honourable Vic Fedeli, on October 17, 2018, one of the ways Ontario is “combat[ting] the illegal market ... [is] by providing consumers with a compelling retail alternative”.

As noted above, the government-run OCS is the only legal source of recreational cannabis in Ontario at this time, and OCS can only sell cannabis to consumers through online sales. The OCS will also be the only legal distributor for wholesale cannabis to legally licensed retailers in the province.

Online Sales

For online cannabis sales, the Province requires the OCS to:

- sell only to individuals 19 years of age or older;
- 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 sold by 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.

Retail Stores

The Province of Ontario has created a legislative framework that will allow recreational cannabis to be sold in private cannabis retail stores, within strict guidelines, in Ontario beginning on April 1, 2019. As noted by Minister Fedeli in his October 17th statement, it is the Government’s belief that “a licensed private retail store system for cannabis... will foster healthy competition to better combat the illegal market and build a safe, reliable retail system where public safety is paramount.”

Under the new *Cannabis Licence Act, 2018*, the AGCO will be solely responsible for administering, licensing and regulating private cannabis retail stores in Ontario,

including approving their locations. The AGCO's decisions are final. Detailed information about the AGCO's authorities under the *Cannabis Licence Act, 2018*, are provided in Document 3, attached.

In addition to the other regulatory restrictions on recreational cannabis use, there are many additional regulations in place for private retail cannabis stores. Key provisions are briefly described below.

First, all private retail stores must be licensed by the AGCO. The AGCO Registrar will have the authority to issue three classes of permissions for private cannabis retail, namely:

- a retail operator licence;
- a retail store authorization for specific cannabis retail stores; and
- a cannabis retail manager licence, for those individual fulfilling specific functions within the operations of the retail store.

The Registrar has the authority to impose conditions on licenses issued in each of these categories. As well:

- The sale or transfer of licenses between holders will not be allowed.
- Ontario has established ownership concentration limits for private retailers whereby an individual or a corporation (and its affiliates) cannot hold more than 75 retail store authorizations.
- The AGCO will be responsible for enforcing licensed private cannabis retail stores, whereas Police will enforce both the federal and provincial cannabis legislation, including the presence of illegal cannabis dispensaries, illegal possession and distribution, and drug-impaired driving.

The Cannabis Licence Act, 2018 and Regulation establish the following rules for issuance of licenses and store authorizations by the AGCO Registrar:

- Prior to issuance of a license/authorization, an applicant's financial history and past conduct will be reviewed to confirm that the applicant will be financially responsible, will carry on the business lawfully, and is not carrying on activities that are in contravention of provincial or federal cannabis laws, among other things.
- Similar reviews of the applicant's landlord, as well as the owner of the premises, the applicant's mortgagee or anyone having an interest in the assets of the retail store may also occur.

- No stores will be authorized for locations within 150 m of schools (elementary and secondary).
- An applicant is not eligible for a retail store authorization for the following reasons, among others:
 - the applicant has been charged or convicted of a cannabis offence under provincial or federal cannabis legislation
 - the premises, equipment or facilities of the retail cannabis store do not comply with the *Cannabis Licence Act, 2018*, its regulation or any standards and requirements under it
 - the Registrar is satisfied that the applicant will not exercise sufficient control over the cannabis retail store.

The Province of Ontario has also established the following rules for private cannabis store operators:

- No cannabis or cannabis-related products will be visible from the street.
- Minors will be prohibited from entering the store.
- Only in-person, on-site transactions for recreational cannabis are permitted. No other type of purchase is allowed (e.g. online) (Section 20).
- Only cannabis legally obtained from the Ontario Cannabis Retail Corporation may be sold in a cannabis retail store (Section 19). Cannabis from other sources is prohibited.
- All sales must be recorded (Section 22).
- A maximum of 30 grams of dried cannabis or an equivalent amount of other authorized forms of cannabis may be sold to an individual in a single visit (Section 21).
- Only individuals 19 years of age or older may be employed at the store (Section 23).
- Cannabis cannot be sold to an intoxicated person (Subsection 7(5)).
- The retailer cannot sell cannabis at a price that is lower than the price prescribed by the Province (Subsection 7(3), Regulation).
- Authorized retailers will need to display an official Ontario Cannabis Retailer Seal.

- Stores may be open from 9 am to 11pm on any day. (Section 17, Regulation).

Provincial legislation creates additional law enforcement tools for the regulation of cannabis stores that are licensed under this regime, including the ability for police to close a store involved in illegal activities. Offences for non-compliance by licensees of cannabis retail stores have been established for matters such as illegal sales and distribution. The Act provides for fines up to \$100,000 or imprisonment of up to one year for individuals, while corporations face fines up to \$250,000, with increased fines for continuing offences.

Public Notice and Comment Period for Retail Cannabis Store Sites

Pursuant to Subsection 4(6) and (7) of the *Cannabis Licence Act, 2018*, the AGCO Registrar will provide public notification of a pending application for a retail store authorization:

- by posting it on the proposed store site (a sign);
- by posting it on the AGCO website; or
- in another manner that the Registrar considers appropriate.

Members of the public and municipalities will have 15 calendar days to provide comments in writing to the Registrar as to whether the requested store authorization is in the public interest, having regard to the needs and wishes of the municipality. The term “public interest” is defined in Regulation 468/18 as meaning: protecting public health and safety, protecting youth and restricting access to cannabis, and preventing illicit activities in relation to cannabis.

The AGCO has noted that it will not provide specific notification to affected municipalities that an application for a retail store authorization has been received for a location within the municipality, but that they will be posted on AGCO’s website.

Pursuant to Section 4(11), the Registrar must consider the submissions of the municipality and the public in making its decision to grant or refuse the store authorization. It is recommended that a review and response process be implemented based on certain criteria, noted below, to allow staff to provide comments to the AGCO on applications for store authorizations in Ottawa.

Role of Municipalities related to Cannabis Legalization

Under the *Cannabis Licence 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;
- There is no authority for municipal councils to pass by-laws to create buffer zones or define specific land uses affecting cannabis retail stores, and there is no planning mechanism available to introduce separation distances for cannabis retail stores; and
- There is no ability for the municipality to limit the number of cannabis retail stores within its boundaries and there be no cap on the number of store authorizations issued in a municipality or across the province.

These provisions are explained further below. It should be noted that the previous provincial government had put in place legislation that would see cannabis sold through a government-owned retail storefront model, and there was no additional role for municipalities beyond being ‘consulted’ on sites under that regulatory regime.

No additional regulation through business licencing or zoning by-laws

The Province of Ontario has explicitly prohibited municipal councils from regulating private cannabis retail stores through traditional municipal business licencing and zoning powers. Section 42(1) of the *Cannabis Licence Act, 2018*, has removed the ability for a municipal council to pass a business licensing by-law under the *Municipal Act, 2001* in respect of both provincially licensed cannabis retail stores specifically and cannabis sales generally.

In addition, Section 42(2) of the Act removes the ability for municipal councils to pass a by-law under the *Planning Act* to create specific land use regulations for cannabis retail stores, with the result being that municipalities cannot pass any land use by-laws that distinguish between stores that sell cannabis and those that do not.

Cannabis Retail can be categorized as a “retail store” but cannot be distinguished from any other type of retail store land use. It would be a permitted use in any location that allows retail store uses, and therefore subject to any conditions of use provided in the

zone, subzone, or site-specific exceptions. A list of zones where 'retail store' is a permitted use is attached as Document 6.

Although the Province has removed the ability to regulate cannabis retail under s.34 of the *Planning Act* as a specific use, cannabis retail may still be subject to the zoning by-law requirements pertaining to retail store use. A number of zones and subzones have conditional uses associated with a retail store, including the types of products it may retail (examples include laundromat, florist etc.) where it may be located (examples include basement, ground floor etc.) and how big it may be (examples include cumulative GFA, total size cap etc.).

Staff interpret s.42(2) of the *Cannabis Licence Act, 2018*, as not limiting the ability for the Zoning By-law to regulate with additional refinement what uses are permitted as a retail store so long as the intent of the zoning by-law is not to seek to limit cannabis sales. Therefore, in the case of a conditional use retail store, that establishment would not be prohibited from obtaining a license for the sale of cannabis, but any subsequent sales would need to occur in the context of retail sales on that location as described in the Zoning By-law.

As there is no opportunity for the Zoning By-law to directly regulate cannabis sales or put in place any zoning mechanisms that would serve to regulate the location of cannabis sales, no changes to the Zoning By-law can be made in this regard.

No ability to set additional buffer zone from schools/separation distances

There is no authority for municipal councils to pass by-laws to create additional buffer zones or specific land uses affecting cannabis retail stores, and there is no planning mechanism available to introduce separation distances for cannabis retail stores. It will be solely within the Province's jurisdiction to implement buffer zones and to decide on the distance in question. At present, the Act and Regulation only prescribe a 150m buffer zone in respect of schools as defined under the *Education Act* (elementary and secondary public and private schools).

No cap on number of store authorizations:

The AGCO has stated that there will be 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 between 500 to 1000 private cannabis stores would open in Ontario once the retail regime was in force.

Impact of Recreational Cannabis Legalization on Municipal Services and Provincial Funding

As noted, the legalization of recreational cannabis is expected to have impacts on municipal services beyond that of private retail stores.

For example, while the impact of the legalization of recreational cannabis continues to be evaluated, it is expected that on-going efforts will be required from By-law and Regulatory Services (BLRS) for both proactive and reactive enforcement of cannabis-related regulations, including smoking on City property (e.g. parks, beaches, City facilities), on school or hospital property, on restaurant/bar patios, and other locations.

Designated by-law officers within BLRS enforce the *Smoke Free Ontario Act, 2017* (on behalf of the Board of Health and funded in the Board of Health's annual budget) in respect of prohibited places of consumption for both tobacco and cannabis, in addition to applicable City smoke-free regulations. Based on experience with new smoking-related regulations, demand for enforcement is higher at the outset of the implementation of the rules, but gradually declines over several years, and plateaus to about 500 requests for service annually. Smoking of cannabis may result in additional complaints given that it is an new area that brings with it a change in societal norms and expectations. Enforcement efforts will be required regardless of whether private cannabis retail stores are allowed to operate within Ottawa.

As well, while the impact of the legalization of recreational cannabis on other municipal services is still being assessed, cannabis-related legislative requirements and regulatory changes are anticipated to require additional work by municipal staff. For example, cannabis-related amendments to the *Long-Term Care Home Act* and the Ontario Fire Code regarding cannabis may impact these services and will need to be evaluated. Other City services such as Ottawa Paramedic Services may also be impacted if calls increase or internal changes to existing policies, procedures, and additional training, are required. The future legalization of cannabis edibles may also impact these services if increased calls for service and requests for information are experienced and further internal training and policy amendments are required.

As well, it is expected that the Ottawa Police Service, governed by the Ottawa Police Services Board, and Ottawa Public Health, governed by the Ottawa Board of Health (both services being funded or partly funded by the City of Ottawa), will have additional impacts.

Specifically, while the enforcement of licensed, private cannabis retail stores – in municipalities that choose to allow them – will fall to the AGCO, it is expected that the enforcement of illegal (non-licensed) cannabis dispensaries will fall to police services. The enforcement of crimes related to cannabis under the Federal and Provincial cannabis laws, such as illegal cannabis sales, possession or distribution, illegal cannabis dispensaries, and drug-impaired driving, will also be within the jurisdiction of police services.

As well, the Board of Health, based on recommendations from the Medical Officer of Health, has already identified a need for increased public education about the health risks of cannabis use, particularly for youth. With the rationale more thoroughly outlined in Document 7, the Board has adopted a four-point plan related to cannabis legalization, which includes disseminating a locally-developed health campaign, building capacity of those who work with youth, strengthening early identification and access to treatment for those with problematic substance use; reducing exposure to second-hand smoke and vape; and undertaking surveillance. The Board has asked the provincial and federal governments to:

- Consider developing a comprehensive public education framework, which includes prevention, to address and prevent cannabis-impaired driving, with a focus on groups at higher risk of harm, such as youth; and
- Undertake public education and education for intermediaries providing cannabis on the health effects associated with using different forms of cannabis across the lifespan.

These new efforts are expected to add financial pressures to municipalities and, in recognition of that impact, the Government of Ontario has committed funds to municipalities to assist with the cost of municipal services involved in the implementation of recreational cannabis, under certain conditions.

In August 2018, the current provincial government announced a \$40-million funding envelope over two years to help Ontario municipalities with implementation costs related to the legalization of cannabis.

On November 21, 2018, the Ontario Minister of Finance confirmed \$40 million in funding for municipalities during the first two years following the legalization of recreational cannabis to support the transition to and management of legal cannabis, and to assist with incremental costs for service demands such as enforcement and other costs as described above.

In a November 20, 2018 letter to the Association of Municipalities of Ontario, the Minister of Finance indicated that the Ontario Cannabis Legalization Implementation Fund (OCLIF) will be distributed as follows:

- There will be a first payment of \$15 million in early January 2019 to all municipalities on a per household basis (with a minimum payment of \$5,000) to help pay for planned legalization activities.
- A second payment of \$15 million will be distributed after the January 22, 2019 deadline for municipalities to opt-out of cannabis retail storefronts (discussed in the next section), as follows:
 - Municipalities that have not opted-out as of January 22, 2019 will receive funding on a per household basis (again, with a minimum \$5,000 payment) to support initial costs related to hosting retail storefronts; and
 - Municipalities that have opted-out will each receive a second \$5,000 only.
- The Province is setting aside the remaining \$10 million of municipal funding to address costs for unforeseen circumstances related to the legalization of recreational cannabis, and priority will be given to those municipalities that have not opted out.

In addition, if the Province of Ontario's portion of the revenue from recreational cannabis exceeds \$100-million in the first two years of legalization, the Province will provide 50 per cent of the surplus to be divided only amongst municipalities that have opted-in to the private cannabis retail store regime.

Municipalities will be required to use the provincial funds to offset costs that are directly relate to the legalization of recreational cannabis. The Provinces has stated that examples of permitted costs include increased enforcement (e.g. police, public health and by-law enforcement, court administration, litigation); increased response to public inquiries (e.g. 311); increased paramedic and fire services; and by-law/policy development (e.g. police, public health, workplace safety).

The Opt-Out Option for Municipalities

While municipalities cannot opt out of the legalization of recreational cannabis, Section 41 of the *Cannabis Licence Act, 2018*, provides that municipal councils may pass a resolution no later than January 22, 2019, to opt-out of having private cannabis retail stores located within their municipal borders.

The opt-out provisions in s. 41 of the *Cannabis License Act, 2018* state that:

- If a municipal council opts-out of hosting cannabis retail stores by January 22, 2019, the AGCO will not process any applications for cannabis retail licenses or authorizations for that municipality.
- A municipality that opts out by January 22, 2019 can only reverse this decision once. This reversal is final and cannot be reversed again (Section 41(3)).
- If a municipal council does not pass an opt-out resolution by January 22, 2019, private cannabis retail stores will automatically be able to apply to the AGCO authorizations to operate within that municipality. As a result, a municipal council's silence on this issue will have the automatic effect of "opting-in".
- There is no authority for a municipal council to opt-out at a later date once cannabis stores have been allowed. A municipality's decision to allow private cannabis stores (i.e. "opting-in") is final and cannot be reversed by subsequent councils.

Again, as described above, opting-out of cannabis retail will affect the amount of provincial cannabis funding received by a municipality.

The City of Ottawa's Integrated Cannabis Legalization Steering Committee, Board of Health and Ottawa Police Services Board

Work of the City of Ottawa's Cannabis Legalization Steering Committee and Cannabis Legalization Operational Team

The City of Ottawa's Integrated Cannabis Legalization Steering Committee (ICLSC) was established in October 2017 to coordinate and oversee the City's activities in response to and preparation for cannabis legalization on October 17, 2018. Chaired by the General Manager of Emergency and Protective Services (EPS), the ICLSC is comprised of representatives from key City departments as well as Ottawa Public Health, Ottawa Police Service, and Ottawa Community Housing, in order to ensure both City-wide and cross-partnership exchange of knowledge and information sharing, coordination of response activities, and internal reviews of policies and procedures related to cannabis legalization with the public health and safety of Ottawa residents, businesses and visitors in mind.

The Cannabis Legalization Operational Team (CLOT) was established on April 17, 2018. Reporting to the ICLSC, it is responsible for establishing and implementing a coordinated cross-departmental framework necessary to implement City responses to cannabis legalization as well as review of necessary policies and procedures.

Key activities of these groups included:

- Monitoring and review of key legislative, regulatory and other documents of the Federal and Provincial government in terms of cannabis legalization, including distribution and sales
- Reviewing and sharing of information on the Province of Ontario funding model for municipalities to offset municipal costs in cannabis implementation
- Setting up processes for the tracking the costs of City departments to implement and respond to cannabis legalization
- Creation of a response matrix for the City response agencies for service calls and requests for information, recognizing each agency's area of particular responsibility
- Preparation of a City of Ottawa landing page to provide timely and updated information to the public on cannabis legalization, including key information on Federal and Provincial rules
- Internal review of key City of Ottawa Polices in the key areas such as fitness for work, staff training and staff readiness for legalization
- Creation of cannabis-specific public-facing communications tools to ensure timely and accurate information to the public on various subjects relating to cannabis
- Review and preparation for potential areas of new or amended City by-laws in the areas of places of consumption and zoning for recreational cannabis cultivation and production.

Much of the above-noted work is ongoing and evolving as more experience is gained in cannabis implementation, and as further information becomes available from the Province of Ontario and the AGCO.

It is noted that the above-noted work supported the General Manager of EPS in his outreach activities through the Association of Municipalities of Ontario and the City of Toronto to present issues of municipal concern to the Province of Ontario in terms of the private cannabis retail regime. The issues presented, through AMO, to the Province of Ontario included the lack of municipal powers to regulate cannabis retail stores, the inability to specifically zone or regulate for cannabis store location, the short timelines in which to provide local input to the AGCO on applications for store authorizations, and issues related to the distribution of provincial funding to offset municipal costs on cannabis implementation. Additional discussions have also

occurred on enforcement responsibilities of police, OPP and the AGCO of both illicit dispensaries and licensed stores (once they are established).

Board of Health for the City of Ottawa Health Unit

The Board of Health for the City of Ottawa Health Unit (BOH), within its public health mandate under the *Health Protection and Promotion Act*, has been actively involved in considering public health issues related to cannabis legalization. The BOH has specifically considered reports on cannabis legalization and related issues on June 19 and September 18, 2017, and on February 5, April 15 and November 17, 2018. As part of its work in this area, the BOH, through the Medical Officer of Health, has made submissions to the Federal and Provincial governments on cannabis legalization and more recently, the framework for retail cannabis in Ontario. Specific submissions made to the Government of Canada regarding cannabis regulations addressed requirements for plain packaging, guidelines and education for safe home cultivation, and research on THC levels, among other recommendations.

It is noted that the BOH has also adopted and emphasized a public health approach to cannabis legalization based on the following key elements:

- Investments in health assessment, surveillance and research;
- Investments for health promotion/prevention activities;
- Sufficient health protection; and
- Supports early identification and treatment.

In addition, through the Medical Officer of Health, the BOH has made submissions to the Province of Ontario during its consultation periods on recommended restrictions for retail establishments for the protection of public health and safety, including recommended limits on density and number of retail locations based on population, implementation of buffer zones between cannabis retail establishments and sensitive areas such as parks and community centres, staff training for cannabis store employees, as well as consideration for creating a balance with retail stores to reduce access to the illegal cannabis market while also preventing over-availability and increased consumption of cannabis.

Additional information from the Medical Officer of Health regarding cannabis retail stores, including evidence and information available from the regulation of alcohol and tobacco sales, is available in Document 7. This information addresses, among other things, the potential harms associated with normalizing the use of cannabis and promoting unhealthy behavior, the issue of providing greater access resulting in greater

consumption, and the potential for increased health and social harms. In addition, the Medical Officer of Health provides information in the Discussion section below on the potential consumer protection benefits of access to safe and quality controlled cannabis,

Ottawa Police Service Board

The Ottawa Police Service Board has received two reports on cannabis legalization and implementation, on February 26, 2018 and on October 1, 2018, and has been represented on the City of Ottawa's Cannabis Legalization Steering Committee and Operational Team through Ottawa Police Service (OPS) representatives.

These presentations have highlighted the work of the OPS related to cannabis legalization, which has focused on readiness for the impact of legislative changes related to cannabis enforcement, in order to ensure public safety, including addressing impaired driving, training of front line staff and civilian members, enforcing illegal cannabis dispensaries (stores), and addressing complaints to the public and calls for service. With respect to the OPS's work regarding training specifically, the OPS has noted the training of both drug recognition experts as well as standardized Field Sobriety Test officers, in addition to training of civilian members on the applicable legislation as it relates to impaired driving, police authorities, search and seizure, and other relevant aspects of the cannabis legalization framework.

Representatives from OPS have also worked closely with the City of Ottawa to prepare for the implementation of legalized cannabis, both prior to and following legalization day on October 17, 2018. This work has occurred through the above-noted City groups as well as directly with affected City departments as required, and work has included preparation of information for the public on cannabis legalization, developing a response matrix to ensure efficient triage of calls for information and service requests both before and after October 17th, knowledge exchange and sharing of information, and a collaborative review of applicable Federal and Provincial cannabis legislation. It is anticipated that continued collaboration between the OPS and affected City Departments will occur as required, and will include knowledge exchange and coordination of resources as further developments occur in legislation, regulations and approaches at all levels of government.

In the context of its membership on the City's Cannabis Legalization Steering Committee and Operational Team, OPS representatives have provided specific advice on the consequences of opting-out of Provincial private cannabis retail regime, and this advice is found in the Discussion section below.

Response to City Council Directions to Staff of August 29, 2018

On August 29, 2018, City Council issued the following Direction to Staff:

Given the significance of the recent changes to the retail sales model for cannabis announced by the Ontario Government on August 13, the public commitment by the Province to consult with the Association of Municipalities of Ontario, and the City of Toronto, in addition to other stakeholders, on the new model, and the government's intention to provide a one-time window under which municipalities can consider opting-out of permitting physical cannabis retail stores within their boundaries, which is expected to occur very shortly after the next Council takes office, and the government's further statement to AMO that they intend to move quickly to enable private retail stores for the sale of cannabis, I am directing staff to take all the necessary steps to prepare the new Council to respond to the anticipated legislation, including as follows:

- That, on the understanding that timelines are expected to be short, staff be directed to prepare options that could include an on-line survey and other public consultation outreach approaches that could be used to gather feedback in a timely manner for the new Council's consideration, if feasible, based on the provincial legislation; and
- To submit feedback to the Ontario government during the consultations on the new retail model, including on potential zoning, enforcement tools, licensing and similar issues that impact the appropriate siting of cannabis stores in the City of Ottawa; and
- That staff reach out to the new Provincial Government, AMO, Ottawa Public Health, and the City of Toronto to identify any opportunities for a common approach to municipalities' ability to zone for retail cannabis locations, especially regarding separation distances;
- To prepare an analysis of the implications of any proposed "opt-out" option for municipalities to determine whether this is feasible, operationally possible and enforceable for the City of Ottawa, and including any relevant information regarding cannabis sale locations in or near the City of Gatineau through Québec's Société Québécoise du Cannabis (SQDC); and
- To ensure that the work plan of the City's Integrated Cannabis Legalization Steering Committee reflects not only what is needed to be done to prepare the City for legalization on October 17th, but to provide Council and the public with the information required to meet the municipality's obligations and options for privatized commercial cannabis sales under the legislation once it is known; and

- That staff undertake an analysis of the powers the City has under the current *Planning Act* to zone cannabis manufacturing and storefront locations in the report to the new Council for their consideration.

In response, staff have undertaken the following:

- As directed, staff examined options for public input opportunities to gather feedback on potential private cannabis retail stores in Ottawa, for Council's consideration. Two public input opportunities for launched as a result: an online-survey on Ottawa.ca, and public opinion polling through an external contractor. These occurred over a two-week period, taking into consideration the compressed timelines available. The public input received as a result is summarized in the Discussion section below and in Documents 4 and 5, attached.
- With respect to both the provision of feedback to the Ontario government on the private retail model in relation to municipal zoning and licensing powers, as well as the outreach to the Association of Municipalities of Ontario (AMO), the Provincial Government, the City of Toronto and Ottawa Public Health, as directed by Council on August 29th, the General Manager of Emergency and Protective Services participated in the AMO Reference Group on Cannabis Legalization. This group was established in the spring of 2018 and has been active since that time. The group brings together municipalities from across Ontario to assess the municipal impacts of cannabis legalization and to identify common priorities. As part of this group, the General Manager of Emergency and Protective Services participated in discussions with Ontario's Attorney General and Minister of Finance and has provided feedback related to legal powers for municipalities and planning considerations in collaboration with AMO.
- The City of Toronto was also contacted to discuss common interests related to the provincial framework for private retail cannabis and to identify contacts for future collaboration, as required. Ottawa Public Health has been engaged on preparations for legal recreational cannabis from the outset, is a member of the City's Integrated Cannabis Legalization Team and is a contributing partner to this report.
- With respect to the Council direction to analyze the implications of the "opt-out" option including economic development, as well as the direction to analyze municipal planning powers relating to cannabis retail, this information is provided

in the throughout this report, and particularly in the Discussion section below. Input from members of the City's Cannabis Legalization Steering Committee and Operational Team were involved in the analysis and preparation of these options.

- Finally, with respect to the Council direction relating to the City's Integrated Cannabis Legalization Steering Committee, it is noted that:
- Both the Integrated Cannabis Implementation Steering Committee and the Operational Team were actively engaged in preparing for legalization of cannabis on October 17th. These efforts included but were not limited to the launching of a cannabis information page on Ottawa.ca as well as the preparation of cannabis-specific knowledge-based articles for 3-1-1 operators to ensure that any inquiries from the public could be appropriately answered, and if necessary, be re-directed for response or action.
- In addition, the Ottawa Police Service, Ottawa Paramedic Service, Transit Services, By-law and Regulatory Services, Ottawa Fire Service and Ottawa Community Housing prepared and coordinated responses to anticipated cannabis-related complaints and calls for service resulting from legalization.
- Other City services and departments represented on the Operation Team were involved in ensuring departmental readiness, including policy and procedure review as necessary and production of both internal and external communications.
- The Operational Team continues to meet as required to ensure ongoing knowledge and information exchange and to coordinate ongoing implementation activities as needed.
- On October 11, 2018, the City Clerk and Solicitor provided a memo to Members of Council containing an update on the Province's cannabis legislation and relevant background.
- Finally, members of the Cannabis Legalization Steering Committee and Operational Team have been involved in preparation of this report to outline options for the private cannabis retail store regime.

Summary

The sections above provide an overview of the substantial federal and provincial regulations governing the legalization of recreational cannabis, as well as staff work to date on this file.

Given that the deadline for a municipal decision on 'opting out' of having retail cannabis storefronts within the City of Ottawa's boundaries is January 22, 2019, and given that the January Council meeting is traditionally held in the last week of January, and late December and early January are not times when public consultations are traditionally held, staff, in consultation with the Mayor, is recommending that this report be addressed by City Council, sitting as Committee of the Whole and receiving public delegations, on December 13, 2018.

DISCUSSION

Access to recreational cannabis became legal across Canada on October 17, 2018, subject to all the restrictions imposed by the Federal and Provincial governments outlined in the previous section of this report. This means that recreational cannabis will be used in the City of Ottawa whether or not privately operated cannabis retail stores are also present, and this will have direct impacts on City services, also as described in the previous section. However, as this report will be published seven weeks from the date of legalization, staff does not yet have data that quantifies the expected impact beyond noting that there has not been a noticeable increase in either calls for information or by-law complaints in these early days.

The issue that Council must deal with before January 22, 2019 is whether the City of Ottawa will refuse to allow retail cannabis storefronts within its borders. As noted in the previous section, Council can only prohibit such storefronts by way of a formal resolution to opt-out of the provincially-regulated private retail model –a failure to say no by way of Council motion is an automatic yes to those stores.

In analyzing Council's options in response to the August 29, 2018 directions, staff looked at the anticipated outcomes as they relate primarily to public health and safety, consumer protection and economic development and gave regard to the stated goals of the legalization framework, particularly with respect to protecting youth and reducing the illegal market, all while keeping in mind the public input received.

As outlined in more detail later in this report, and summarized in Documents 4 and 5, the public opinion polling conducted in response to Council direction indicates that 53% of Ottawa residents support the legalization of recreational cannabis, while 38%

oppose and 9% are undecided or preferred not to answer. This fundamental difference in belief was reflected in subsequent responses regarding whether Ottawa should permit or refuse retail storefronts – 78% of those supporting legalization support allowing retail stores while 83% of those opposed to legalization are against allowing retail stores.

Also of note are the results of the City's online survey on this issue. Residents had an opportunity to express their views related to private cannabis retail stores from October 24 to November 7th through a City survey posted on ottawa.ca and available at Client Service Centres. The online survey received more than 23,800 responses during the two-week period – nearly 16,000 of which were Ottawa residents -- setting a new record for resident responses to an Emergency and Protective Services Department-led consultation. This is a high level of engagement for any City process. As a measure of comparison, the consultation undertaken for the Vehicle-for-Hire By-law received approximately 7,000 responses in a 30-day period. Of the 15,888 Ottawa residents who responded to the online survey, 12,626 support the legalization of recreational cannabis, while 2924 oppose legalization. 12,136 respondents support allowing retail stores for recreational cannabis and 3261 oppose allowing them.

After reviewing all of the information available, as summarized below, staff is recommending that City Council agree to have private cannabis retail stores in Ottawa – that is, that City Council not “opt out” of the provincial regulatory regime, for the following reasons:

- the anticipated negative consequences of allowing the illicit cannabis market to flourish if there is an absence of a legal retail option for recreational cannabis users;
- the potential economic development opportunities and impacts of having private retail cannabis stores in Ottawa;
- the related public health benefits related to the quality of legal cannabis product and the education and support that can be provided at the point of sale in a retail store model; and
- the public input received in favour of having cannabis retail stores, and for cannabis consumers in particular, in favour of shopping at retail stores.

In addition to these reasons, staff again note the municipal reality that recreational cannabis is legal and therefore is present in the community, and there will be a loss of provincial funding to assist the City in offsetting the related costs for cannabis legalization, as described in the Background section of this report. As Ottawa is the

second largest municipality in Ontario, it could expect to also receive the second largest allocation from the Ontario Cannabis Legalization Implementation Fund.

As well, should Council decide in favour of the staff recommendation, this report also recommends a City process that will allow the City, with the concurrence of the Ward Councillor, to respond to the AGCO on retail store applications in Ottawa within the statutory 15 calendar day commenting window, in particular notifying the AGCO where there are local considerations regarding a site that staff and/or the Ward Councillor believe would work as intended in the community, particularly in regards to public health and safety.

Anticipated Consequences of Opting-Out of Private Cannabis Retail Stores:

Staff recommend against opting-out of cannabis retail stores for the reasons outlined below.

Anticipated Black-Market and Crime-Related Consequences of Opting-Out

The Ottawa Police Service Board was represented on the City's Integrated Cannabis Legalization Steering Committee and on the Operational Team through Ottawa Police Service (OPS) representatives.

The information provided below outlines the recommendation to the City of Ottawa regarding its decision on the provincial cannabis retail model, based on internal consultations with the Cannabis Implementation Team, the Drug Unit, the Intelligence Unit, and OPS Legal and Executive Command.

This perspective is based on the following assumptions:

1. *Regulatory Enforcement:* if the retail model is adopted, the AGCO will be responsible for responding to licensing, inspection and enforcement of all regulations concerning each licensed retail storefront.
2. *Enforcement on Illicit Retail Storefronts:* Criminal Intelligence Service of Ontario (CISO) and Ontario Provincial Police (OPP) will be responsible for enforcement and investigations related to illicit retail storefront.
3. *Impacts on OPS:* AGCO, CISO and OPP will require support from the OPS.
4. The City is aware of experiences, impacts and opportunities encountered by other jurisdictions within the City Services' scope.

Staff advises that Ottawa has been a proven and successful market for those wanting to purchase cannabis from a retail storefront. Throughout 2016, 2017 and 2018, the OPS laid 465 *Criminal Code* charges relating directly to illicit storefronts, indoor and outdoor grow operations, and extraction labs. During this same three-year period, OPS has initiated criminal investigations into 26 illicit storefronts.

There have been 12-18 illicit and illegal retail storefronts selling cannabis in Ottawa for the past two (2) years. It is widely recognized that the enforcement tools available were not effective in the prosecution of these businesses, and the retail storefront would simply open soon after the investigation was completed (as the profits from an average illicit storefront range from \$6,000-\$10,000 per day).

Investigations of illicit storefronts show that many were owned and operated by individuals that are members of organized crime groups, and that the profits were providing direct funding for organized crime activities. These storefronts also offered a means to traffic other illegal drugs such as cocaine and opiates. Money laundering, extortion, harassment and threats were all practiced by organized crime groups surrounding these storefronts.

In 2017 and 2018, the OPS has investigated numerous criminal offences directly related to illicit storefronts including, but not limited to: firearms possession; firearms discharge; robbery; kidnapping; forcible confinement; assault with weapon; and break and enters.

The cannabis supply for the illicit storefronts operating in Ottawa was primarily obtained from two sources: the first source is a large-scale illegal outdoor grow operation or, in some cases, an indoor hydroponic farm (there were 21 investigations directly focused on these grow operations in Ottawa throughout 2016/2017/2018); and the second source is from individual criminals that have been issued licenses to grow medical cannabis and, in turn, illegally traffic the cannabis to the illicit storefront (many of whom have associations to organized crime groups).

Research on Denver, Colorado and other American jurisdictions that have experienced legalization of cannabis shows that, despite regulated legal storefronts in certain counties, illegal cannabis sources and criminal activities continue to flourish and provide a source of cannabis for those consumers located in counties where cannabis storefronts are not permitted. Much of this supply is sourced to plants grown and harvested legally at residences, and then transported and sold illegally for profit.

The legal storefronts themselves are frequently inspected and highly-regulated, and owners are extremely compliant with all regulations. These businesses are contributing members of the business community, and the taxes earned from their operations contribute directly to funding municipal services with a focus on schools and youth

programs. City services and law enforcement agencies have made substantial commitments to supporting the regulatory function as well as a focused enforcement effort on illegal cannabis operations and, in turn, benefit from the tax revenues. That said, the enforcement pressures these jurisdictions experienced are based on the fact that home growers and extraction lab "chemists" are producing cannabis and cannabis products in order to supply areas that do not have legal access to cannabis.

An example of this type of activity recently occurred in the Durham region within one week of legalization in Canada, where two individuals made attempts to extract cannabis concentrate through a "butane" process that resulted in a serious explosion at their residence.

Staff also anticipate a tactic by illicit growers and organized crime distributors to undercut legal market pricing (as seen in the United States) to maintain the demand and supply of illicit cannabis outside of the regulated market.

Summary

Cannabis is now a legal yet highly regulated substance. Through legalization, it has been the Government's intention to reduce and eliminate organized crime profits, and limit the availability of cannabis to youth. The public demand for cannabis has been proven in Ottawa. The sources for cannabis are either legal through government-regulated sources, or illegal, through illicit storefronts, criminal traffickers, or criminal on-line traffickers. The Provincial Cannabis Retail Model provides a safe and regulated source of cannabis that does not support organized crime and limits exposure to youth at the retail level.

While staff acknowledge that, if the City adopts the Provincial Cannabis Retail Model there is no guarantee that the associated crimes prevalent with illicit storefronts will not continue, law enforcement intelligence experts believe that organized crime profits and their related crimes will be reduced by adopting the Provincial cannabis retail model for legal storefronts. It is for this reason the OPS is recommending that the City adopt the Provincial cannabis retail model.

Economic Development Opportunities and Considerations

The legalization of recreational cannabis brings into play a completely new sector to Canada's formal economy. Though projections of users and sales vary depending on the source, it is anticipated that the market will be sizeable. It is also anticipated that the market will exhibit growth over time as Canadians begin to participate as legal consumers. Like every product on the market, the economics of the cannabis industry will ultimately depend on price, supply, and demand.

In 2016, the Parliamentary Budget Office (PBO), which delivers independent analyses to Parliament on trends in the Canadian economy, projected that 2018 national cannabis expenditures, both legal and illegal, will be between \$4.2 billion and \$6.2 billion.

Other analyses anticipate different or larger national markets.

For example, Deloitte estimates that the national cannabis market for medical, legal and illegal products will generate up to \$7.17 billion in sales in 2019, of which \$4.34 billion will be from the legal market. They also forecast that consumption through legal channels will rise up to 35 percent as new consumers offset current consumers who choose not to transition to the legal market.

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 for recreational use. This, they estimate, will be greater than the amount of spirits sold in Canada and close to the amount of national wine sales.

One of the most recent statistics, released by Statistics Canada in October of this year as part of the latest National Cannabis Survey, showed that 4.6 million Canadians used cannabis in the third quarter of 2018.

While these numbers give an overall sense of the national market and its potential growth, translating and quantitatively interpreting the implications of these figures and predictions down to municipal levels is a challenging task. Given the illegal nature of the market to date, much of the data available is imperfect, making it difficult to quantify the market with certainty.

With a local data set unavailable, a review of PBO estimates and current data from Statistics Canada allows for very high-level ranges and projections to be inferred for Ottawa based upon proportional populations.

In 2019, it is estimated that Ottawa could have between 87,000 and 162,000 consumers of cannabis. These consumers could generate annual legal sales in the range of \$50 million to \$200 million and could support 34 to 69 cannabis retail stores throughout the city.

Projections and forecasts aside, it is generally agreed that the legalization of cannabis will result in new jobs, new opportunities for business, new revenues for all levels of government, and the onset of innovation and new technologies.

Should the City decide to opt-out of hosting cannabis retail stores in Ottawa, there are a number of economic implications that could occur. These implications range from limited purchasing options resulting in a loss of direct impacts and new jobs as well as

a strong black market, to unrealized indirect impacts. They also include potential negative effects on Ottawa's brand as a place for new business opportunities and innovation.

At the outset, the rejection of retail sales of cannabis in Ottawa will translate into limited purchasing options for residents. The only legal sources of purchase will be online through the OCS or through the retail outlets of neighbouring Ontario and Quebec municipalities. Purchases made in neighbouring municipalities and online will mean that any direct benefits, namely the total amount of expenditures directly attributed to local retail sales in Ottawa, will be either unrealized or exported outside the city.

This will also mean that any new jobs that would have directly accompanied retail stores in Ottawa will not materialize or will occur elsewhere in neighbouring municipalities.

Specific to Gatineau, it is difficult to assess at this time what will happen if Ottawa opts - out of hosting retail outlets. Presumably, Ottawa residents will take their legal purchases to nearby Gatineau should cannabis not be readily available in the City; however, various factors including the number of retail outlets, product supply and quality, as well as price will influence such consumer decisions. La Société québécoise du cannabis (SQDC), a subsidiary of the province's liquor control board, manages the sale of cannabis in Québec through both an online store and retail outlets. At present, the closest store to Gatineau is in Mirabel, which is 140km away. The SQDC reports that it has been working with the Ville de Gatineau to open up to three locations in the Outaouais, one of which could be operational as early as the beginning of 2019. If these outlets and any future outlets do not meet needs of Gatineau consumers, they could transfer their purchases and spending outside the region to either other locations in Quebec or Ottawa, if Ottawa does not opt-out of hosting outlets. Younger Gatineau consumers may also take purchases outside to Ottawa if the current age of legal consumption of 18 years is increased to 21 years in Quebec. The new Québec provincial government indicated that they would do so during their recent election campaign; however, to date, no corresponding legislation has been announced or introduced.

Potential Unrealized Indirect Economic Impacts

Beyond limited purchasing options, unrealized direct impacts, the absence of new job opportunities and a black market, the restriction of retail sales of cannabis in Ottawa could also result in a number of unrealized indirect economic impacts.

Indirect economic impacts occur in industries that interact with, and supply, a primary industry. In the case of retail cannabis, indirect impacts include, for example, money spent on security services, building upgrades, professional services like legal,

accounting and e-commerce, commercial leases, and tourism. If the City chooses to opt-out of permitting the sale of retail cannabis, indirect impacts to Ottawa's economy would not be fully realized in the legal market.

While it is estimated that the tourism industry, also known as "cannabis tourism", will not be as large as those seen in states like Colorado where legalization was exclusive to that region, it is believed that there will be heightened demand for retail and commercial space in Ontario. This is largely because the province is encouraging as much small business participation as possible through a licensing structure that limits producer retail licences to a single license but provides for a market concentration limit of 75 stores per operator. A recent estimate shared by the Deputy Attorney General of Ontario suggests there could be between 500 to 1,000 legal retail outlets in Ontario. Proportionally this could result in approximately 34 to 69 lost outlets for Ottawa should the City chose to opt out.

Additionally, opting out could also mean that many of Ottawa's main streets or Business Improvement Areas may not see increased foot traffic or additional consumers drawn to their areas which could have occurred if retail cannabis stores opened in new locations or filled current vacant properties. Conversely, cannabis retail may not be wanted as it may not align with, and complement, the existing nature of stores on main streets, offsetting this benefit.

Lastly, the rejection of cannabis sales in Ottawa could have a negative effect on the city's brand as a place where entrepreneurs are welcome and a place where small business and industry can grow. Furthermore, it might also suggest that Ottawa is not open to new economic opportunities and innovation, particularly as it relates to the development of new technologies related to the cannabis industry. Over the past several years, Ottawa has shed its brand as a sleepy government town; however, this could be seen as reaffirmed if the sale of cannabis is not permitted.

As legalization becomes normalized and more data becomes available in the legal market, cities will be able to more accurately determine how cannabis sales, whether online or at retail locations, affect the local economy.

Consumer Protection

If the City opts out of hosting cannabis retail in Ottawa, then limited purchasing options for residents could potentially translate into a market where supply cannot meet local demand for readily and easily available cannabis. In such a case, local consumers may choose to turn to the illicit market. Local consumers may also turn to the illegal market if they have concerns with online purchasing privacy or if they simply want in-person service and product knowledge firsthand.

The Medical Officer of Health advises that Ottawa residents who choose to use cannabis could have less risk to their health with access to legal products, which include approved labeling (i.e. clearly stated THC levels) and are subject to the Government of Canada's Good Production Practices. These Practices include product testing for microbial and chemical contaminants among other requirements to ensure product quality and safety. A survey conducted by Deloitte found that current and likely cannabis consumers expect to purchase the majority of their products at physical retail locations.ⁱ Currently in Ontario, residents can legally purchase cannabis online from the Ontario Cannabis Store (OCS); however, consumers have noted early challenges with the system (i.e. privacy, poor delivery service, lack of stock). The choice about online purchase as compared to offline, are influenced by consumer engagement; response time, tangibility, human interaction, personalization and overall customer experience.ⁱⁱ ⁱⁱⁱ Consequently, should the online store not meet consumers demand and no legal retail stores are present, consumers may choose to purchase cannabis from other sources (i.e. illegal dispensaries or the black market). As illegal dispensaries are not subject to practices that ensure product quality, safety, and evidence-based product information, residents may be at risk of consuming unregulated and unsafe product.

In a 2017 EKOS public opinion poll, it was determined that there are misconceptions about the health effects of cannabis.^{iv} To address these misconceptions, OPH has undertaken a health promotion campaign about the harms associated with cannabis use and promoting low-risk cannabis use. In addition, the Board of Health recommended that all employees of a cannabis retailer should be required to complete a mandatory employee training program, which would include relevant health information, such as the effects of cannabis use, consumer information (product details and method of use), responsible use, as well as measures to prevent youth access and promote social responsibility. While the OCS website includes a wealth of evidence-based information, clients have noted that there is limited ability to speak directly with an OCS employee.

It is noted that public input received through the research conducted by Ekos and through the City's online survey indicates a preference for purchasing cannabis in a retail store as opposed to the OCS online platform (Documents 4 and 5). Respondents in these cases cited the following as some of the reasons for preferring retail stores over online ordering: better service and less delay, and impediments of the online service such as having to use a credit card and leaving identifying information for online purchases. In addition, the Ekos research noted that irrespective of the views of respondents about legalization or whether stores should be allowed in Ottawa, the large majority of residents agree that it will be easier to acquire legally (by of-age consumers) in a retail model, enabling cannabis consumers to more easily obtain the products they want. The Ekos survey further indicates that eight in ten residents expect that consumers will continue to purchase through the black market if a retail option is

not available.

The existence of a strong black market makes it difficult to regulate the supply and circulation of safe and legal cannabis as well as reduce the consumption by young people, all federal objectives of legalization. Additionally, the black market does not fully capitalize on private sector incentives of efficiency, product quality, and profits.

Concerns about the operations and customer service provided by the OCS online service have also been raised. The Office of the Ombudsman of Ontario announced on October 31, 2018, that it received over 1,000 complaints from OCS customers since its launch on October 18, 2018. Based on information available on the Ombudsman's website and through media reports, it appears that most complaints about the OCS involved delivery delays potentially due to lack of available product, lack of communication with customers, billing problems, and instances where customer orders were either cancelled without consent or conversely where customers wishing to cancel orders could not do so.

The confidentiality of personal information of customers collected by the OCS has been called into question. A privacy breach occurred on November 1st when the personal information of approximately 4,500 OCS customers had been accessed by an unauthorized party, allegedly through a Canada Post package-tracking tool. The OCS has reported that it is working with the Information and Privacy Commissioner of Ontario and Canada Post to notify affected customers and address this situation. It is noted that the OCS, as a provincial institution, is subject to provincial access and privacy legislation.

Consumers of recreational cannabis, which is now a legal product, want access to retail storefronts and the AGCO has a highly regulated regime to provide those storefronts to those consumers while still protecting youth.

Recreational cannabis is a legal product that, like alcohol and tobacco, has negative health effects. The Medical Officer of Health notes that there is a need to balance residents' access to legal and safe products and evidence-based information at point of sale with ensuring that increasing access does not lead to normalizing use of cannabis and increasing health harms associated with cannabis use. Research indicates that this balance can be achieved by implementing evidence-based regulations for retail outlets, as previously recommended to the provincial government. Should these regulations be put in place, then harms to the public's health may be reduced. It is her opinion that the current AGCO regulations do not include all of the desired public health considerations, specifically establishing limits on density and number of retail locations and establishing buffer zones in addition to those around schools to also include recreation and community centres, public parks and alcohol or tobacco retailers. To reflect those additional concerns, staff are proposing later in this report that these

additional considerations be included by the City when determining whether to send a letter to the AGCO expressing opposition to a specific application.

Public Polling and Public Input on Retail Cannabis Stores in Ottawa

Residents had an opportunity to express their views related to private cannabis retail stores from October 24 to November 7, 2018 through two methods: (1) a City survey posted on ottawa.ca and available at Client Service Centres, and (2) public opinion research commissioned through Ekos Research Associates Inc., in the form of a randomized telephone survey.

In both cases, a majority of respondents expressed support for retail cannabis stores within the City. In the case of the public opinion research conducted by Ekos, a slight majority of respondents were in favour of cannabis stores, whereas a clear majority of those who responded to the City's online survey were in favour. Of those who intend to purchase cannabis in the future, the majority prefer to do so in a retail store. A summary of the results of these public input exercises is described below.

In respect of the online survey on Ottawa.ca, the City received more than 23,800 responses during this two-week period. This high level of engagement indicated to staff the importance many residents place on this issue. A detailed analysis of public input received through the City's online survey is appended to this report as Document 5.

In addition, staff commissioned public opinion research through Ekos. This random telephone survey provides a citywide measurement of resident opinion, accurate to $\pm 3.5\%$, 19 times out of 20. A full report on survey methodology and outcomes is appended to this report as Document 4.

Ekos Research Highlights

- 53% of residents support the federal government's decision to legalise cannabis for recreational use, whereas 38% remain opposed.
- 48% of residents support private retail cannabis stores in Ottawa versus 43% opposed. Overall, support is consistent among urban, suburban and rural residents.
- One in eight Ottawa residents expect to purchase cannabis within the next year.
- Eight in ten cannabis users prefer to purchase through retail.
- Eight in ten residents agree that if the City does not permit retail cannabis people will continue to purchase through the black market.

City Survey Highlights

- More than 12,000 residents responded in support of retail cannabis. Approximately 3,000 residents expressed opposition.
- More than 7,900 residents indicated they would purchase cannabis within the next year. Approximately 5,600 indicated that they did not plan to purchase cannabis and approximately 2,100 indicated that they were uncertain or preferred not to disclose.

Retail Stores Preferred: Proponents of retail cannabis indicate that this option provides better service and accessibility over the Ontario Cannabis Store website. Many respondents indicated that cannabis is now legal and should be treated no differently than tobacco or alcohol. The safety, convenience, immediacy and privacy afforded by retail cannabis purchases are seen as key factors in reducing black market participation. Proponents expect that reducing the black market will result in a corresponding reduction in youth access while also growing the local economy.

Opponents of retail cannabis stores are particularly concerned about youth access, which will not be permitted by the AGCO. Opponents are also concerned about the influence retail stores may have in normalizing cannabis use and promoting unhealthy behaviour. Opponents are further concerned about the perceived negative impacts cannabis stores may bring to their neighbourhood, including nuisance, crime and the possible displacement of other forms of retail.

Eight in ten respondents reported a belief that that if cannabis retail stores did not exist, cannabis consumers would continue to use illegal dispensaries (Ekos report, Document 4). Three quarters of respondents also reported that cannabis stores would provide consumers with a wider array of legal choices. Two thirds of respondents further reported to Ekos that a local retail market for recreational cannabis will create jobs and benefit Ottawa's economy. In addition, as stated above in this report, the Ekos research noted that irrespective of the views of respondents about legalization or whether stores should be allowed in Ottawa, the large majority of residents agree that it will be easier to acquire cannabis legally (by of-age consumers) in a retail model, enabling cannabis consumers to more easily obtain the products they want.

Notifying the Alcohol and Gaming Commission of Ontario that the City of Ottawa will Permit Cannabis Retail Stores

While the Ontario legislative framework only allows municipalities to 'opt out' of the cannabis retail storefront regime, such that municipalities are automatically considered 'opted in' unless they say no, AGCO staff indicated in a webinar on November 27, 2018

(in which many City staff participated) that municipalities could send a letter from their City Clerk, Mayor or City Manager/Chief Administrative Officer indicating their willingness to permit such stores. Given that retail storefronts can be operating effective April 1, 2019, this gives prospective operators time to find a suitable location and meet their regulatory obligations.

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 the City Clerk and Solicitor to notify the AGCO that the City of Ottawa will permit private cannabis retail stores.

However, staff are mindful of the fact that the current AGCO regulatory regime does not take into account local context and local communities. As noted above, there is no authority for municipal councils to regulate the locations of cannabis retail stores, nor to restrict their numbers. The City does have the right under the legislation to provide comment to applications for storefronts, as does the public. The comments must be provided within 15 calendar days and this commenting window presents the only opportunity for municipalities to provide local input to the AGCO on potential store sites/locations.

Because of the short turnaround times, staff is recommending that the City develop a process to provide those comments. Its recommendations are outlined below.

It should be understood that the proposed process goes beyond what the AGCO has indicated it will consider in its review of applications, but staff are mindful that the regulatory regime regarding legal recreational cannabis is simply the first step, and that it is highly probable that regulations will shift over time to respond any unintended consequences of each regime. The City process below will add to the City's data about the impact of legalization and the siting of retail stores over time and provide opportunities for evidence-based requests for additional regulatory changes or more regulatory authority.

Proposed review and response criteria and process for AGCO notices

Under the Act and Regulation 468/18, the 15-day notice period functions as follows:

- Public notice must be provided of an application for a potential 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 that 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.
- The AGCO shall not issue a retail store authorization that is not in the public interest, having regard to the needs and wishes of the residents of the municipality.

The legislation provides that the AGCO must reject applications that are not in the “public interest”, which has been defined in s. 10 of Regulation 468 as meaning:

- (1) protecting public health and safety,
- (2) protecting youth and restricting their access to cannabis, and
- (3) preventing illicit activities in relation to cannabis.

Proposed Approach:

Staff recommend that the City of Ottawa avail itself of the opportunity to provide local input to the AGCO on potential cannabis stores in Ottawa during this 15 day commenting window. Communicating local concerns and providing input to the AGCO will ensure that the AGCO has the opportunity to take note of municipal considerations in the retail approval process. However, as noted above, given the compressed timelines for response, staff are recommending a process for submitting comments that is based on Council-approved key principles and delegation to staff, as noted below.

Delegation to GM of PIED: Staff recommend that the General Manager of PIED (or an authorized representative) be authorized to implement a “one-window” approach to coordinate the City’s input and responses on applications for retail store authorization received by the AGCO in Ottawa.

Circulation and Response Process:

The proposed process to be implemented by the GM of PIED will:

- Be based on the Key Principles noted below, including those circumstances triggering an objection to the proposed cannabis store.
- As a best practice, require Ward Councillor concurrence in order to capture any specific issues with a given site. Ward Councillor input is recommended to recognize that the Key Principles noted below may not adequately cover each instance. Ward Councillors will be invited to provide written input on the proposed store location within a short turnaround time in order to meet statutory deadlines and input by the Ward Councillor is voluntary. The City’s response to the AGCO will include the Ward Councillor’s comments, if any, including whether

the Ward Councillor objects to the retail store and the reasons for such objections.

- Provide that if the General Manager of PIED is of the view that no objection to a store application is required but the Ward Councillor does not concur, the General Manager will submit the objection to the AGCO on the ward councillor's behalf, and the General Manager may subsequently seek further policy direction from the appropriate Committee of Council or Council, if the General Manager deems it necessary.
- Allow the General Manager of PIED to formally respond to the AGCO based on the above as well as the Key Principles noted below, within the 15-day timeline. For those applications for which there is no objection from either the GM of PIED or the affected Ward Councillor, or for which there is no relevant City input to provide, the GM may choose not to provide a response to the AGCO.
- Include posting on the City's website (Ottawa.ca) of all City of Ottawa comments and responses to the AGCO, subject to the *Municipal Freedom of Information and Protection of Privacy Act*. The posting of responses is recommended in order to foster transparency and accountability in decision-making under this delegated authority, and to ensure that information is accessible, in accordance with the requirements of the City's Accountability and Transparency Policy.
- As the City will not be collecting input from the public during this process, information will be made available on the City's website on how members of the public can comment directly to the AGCO on store applications.

Key Principles and Outcomes:

Staff recommend that Council approve the following Key Principles on which the General Manager of PIED will base the City of Ottawa's comments to the AGCO on particular cannabis store applications. These principles address local issues of importance and the areas of "public interest" that the AGCO must consider when reviewing cannabis retail store applications in Ottawa.

The Key Principles take into consideration the public input received on cannabis retail stores through public opinion research and through the City's online survey. The public input exercises revealed that one in eight Ottawa residents expect to purchase cannabis within the next year. Of those who intend to purchase cannabis, there is a marked preference for doing so through a private cannabis retail store for reasons including a perception of increased privacy, a wider array of legal products, and a

superior, convenient and more expedient customer experience. As a result, it is expected that cannabis retail stores in Ottawa will be frequented and therefore their services are important to Ottawa residents.

In addition, the public input indicates that while overall a majority of residents support cannabis retail stores in Ottawa, concerns do exist among opponents about the influence retail stores may have in normalizing cannabis use and promoting unhealthy behaviour. Opponents are also concerned about the perceived negative impacts cannabis stores may bring to their neighbourhood, including nuisance, crime and the possible displacement of other forms of retail. As a result, it is important to note these concerns and build them into the Key Principles that will form the basis of the City's comments to the AGCO.

In addition, as stated above in this report, the Ekos research noted that irrespective of the views of respondents about legalization or whether stores should be allowed in Ottawa, the large majority of residents agree that it will be easier for of-age consumers to acquire cannabis legally in a retail model, enabling cannabis consumers to more easily obtain the products they want.

It is expected that through these comments, local concerns about potential locations and siting of future cannabis stores in Ottawa communities may be clearly communicated to the AGCO.

Key Principles - Retail Store Authorization Applications

Principle	Outcome/Rationale
<p>Principle 1 – Prevention of Clustering: AGCO should establish a 150m Separation Distance from other Licensed Cannabis Retail Stores (distance to be measured from the property line).</p>	<p>City will automatically object to any application that results in cannabis retail stores located within 150 m of each other.</p> <p>Rationale:</p> <ul style="list-style-type: none"> • The City has concerns with respect to public health and safety, protecting youth and restricting their access to cannabis, and preventing illicit activities in relation to cannabis. • The Board of Health has noted concerns that excessive clustering and geographic concentration of cannabis retail outlets may encourage undesirable health outcomes similar to those seen with alcohol and tobacco retailing, and that limiting density of retail locations can help minimize harms related to increased access particularly among youth and young adults. • As a new market and retail opportunity, the City notes that other cities across Canada with a private retail model have seen high demand to establish new retail outlets and that these wish to locate preferentially in certain desirable geographic areas. Such a concentration may have detrimental impacts on the opportunity for other forms of retail to occur, may overly

	<p>burden particular neighbourhoods with these stores, and may adversely impact the diversity and healthy mix of commercial areas and streets.</p> <p>A 150m separation would provide a distance equivalent to one standard city block between outlets, providing opportunity for market competition and public access to a diversity of options for cannabis retail, while also encouraging geographic dispersal to occur and not unduly creating a potential “neighbourhood monopoly” situation for a “first-in” retail licensee.</p>
<p>Principle 2 – Separation from Sensitive Sites AGCO should establish a 150m separation distance between cannabis retail stores and any identified publicly owned and/or operated community facility analogous to a school, such as recreational facilities, community centres, libraries and public parks, with distance to be measured from the property line.</p>	<p>City will automatically object to any application that will result in the establishment of a cannabis retail store within 150 m of the specified sites</p> <p>Rationale:</p> <ul style="list-style-type: none"> • The City has concerns with respect to public health and safety, protecting youth and restricting their access to cannabis, and preventing illicit activities in relation to cannabis. • This separation distance is consistent with the Provincial separation distance set out in the regulation for cannabis retail from schools. • Publicly owned and/or operated community facilities cater to the larger community and serve as

	<p>community focal points frequented by youth and other groups to support their participation in community life in the same manner that schools support community activity.</p> <ul style="list-style-type: none"> • The Board of Health has noted that cannabis retail outlets close to areas where youth congregate may normalize cannabis use among youth, and that creating buffer zones for retail locations from sensitive areas can help minimize harms related to illegal increased access particularly among youth and young adults
<p>Principle 3 – Cannabis Stores Only In Zones Where Retail Use Is Principal Use: AGCO should restrict cannabis retail stores to zones of a commercial focus where a retail-type use is indicated as a principal use in the Zoning By-law. The following zones are noted as being of a commercial focus permitting retail to occur as a principal use:</p> <p>AM – Arterial Mainstreet GM – General Mixed Use MC – Mixed-Use Centre MD – Mixed-Use Downtown TD – Transit-Oriented Development TM – Traditional Mainstreet RC – Rural Commercial VM – Village Mixed-Use Zone</p> <p>LC (Local commercial) zones are not included as these are typically located</p>	<p>City will automatically object to any application that results in the establishment of a cannabis retail store in a zone where a retail use is <u>not</u> a principal use. This would include a cannabis retail store in a Local Commercial (LC) zone</p> <p>City will automatically object to a cannabis retail store that is proposed to establish in a retail store that is a non-conforming use, whether it is legal or otherwise.</p> <p>City will automatically object to any application that results in the establishment of a cannabis retail store that does not meet the requirements, including definitions, and size limitations and other performance standards for retail uses of the City’s Zoning By-law, Official Plan, or other planning documents.</p> <p>Rationale:</p>

<p>within residential communities intended to provide for local commercial uses to serve an immediate residential area. These locations are not considered appropriate for cannabis retail.</p> <p>Require compliance with the Zoning By-law and Official Plan: The AGCO should require that all cannabis retail stores comply with the Zoning By-law and other municipal planning documents, including definitions and conditions of use.</p>	<ul style="list-style-type: none"> • The City has concerns with respect to public health and safety, protecting youth and restricting their access to cannabis, and preventing illicit activities in relation to cannabis. • The Zoning By-law sets out uses permitted to occur across the City, with regard for the context and intent for how those uses will serve the community. • Commercial retail uses are permitted to occur in certain geographic locations that have ability to reasonably accommodate the traffic and land use impacts associated with a commercial focus, and have the services and infrastructure available, and sets out conditions for these uses to provide for compatibility. • Cannabis retail is a specialized service/product, with particular Provincial regulatory and security requirements. Establishment of cannabis retail stores is encouraged in areas where the Zoning By-law has established a commercial focus, and where the intent is to provide for commercial retail opportunities that serve a broad market, provided that these are in conformance with zoning by-law requirements. • Areas of the City where retail is intended to serve a primarily residential market (such as local commercial zones) or where retail is secondary or accessory to another use, are not appropriate for cannabis retail.
<p>Principle 4 – Additional Local Issues to be Noted</p>	<p>City recommends that the AGCO consider any additional local issues not captured by</p>

	<p>the above pertaining to: protecting public health and safety, protecting youth and restricting their access to cannabis, and preventing illicit activities in relation to cannabis.</p> <p>The City recommends that the AGCO have regard to and take into consideration location concerns that may be expressed to the AGCO through comments made by health and/or treatment providers including operators of shelters, group homes, addiction, counselling or other independently managed health services, as applicable and relevant where the cannabis retail store is proposed within 150 m of such establishments.</p> <p>The GM of PIED is authorized to provide any necessary and relevant information to the AGCO in support of the City's comments, including maps.</p>
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Next Steps:

Further to Recommendation 2d, City staff will continue to monitor legislative and regulatory changes at all level of government and will develop appropriate measures as well as monitoring and reporting mechanisms to determine the impact of cannabis legalization on City services. It is recommended that staff report back to the appropriate Standing Committee of Council prior to Council's consideration of the 2020 Draft Operating and Capital Budgets with this information on impacts.

It is also expected that information sharing and knowledge exchange will continue among the members of the City's Integrated Cannabis Legalization Steering Committee and Operational Teams. This will be helpful as the City and its partners gain more experience in implementing the new cannabis laws and regulations at all levels of government, and in anticipation of further regulations being issued in the area of cannabis retail or emerging areas such as cannabis edibles. Specifically, the following work will continue:

- Ongoing outreach and knowledge exchange on the evolution of cannabis regulations (including edible cannabis products) will continue through the Association of

Municipalities of Ontario (AMO), the City of Toronto, and Ottawa Public Health. As-deeded communications and consultations will also occur with the Ottawa Police Service in respect of any related enforcement consequences of cannabis legalization having an impact on the City, particularly in respect of municipal law enforcement officers. These activities will occur in part through the continuing participation of the General Manager of Emergency and Protective Services in the AMO Reference Group on Cannabis Legalization, which includes municipalities from across Ontario, in order to assess the municipal impacts of cannabis legalization and to identify common priorities.

- Staff will closely monitor communications and outreach activities provided by the AGCO in respect of retail store regulations particularly. It is expected, for example, that the AGCO will continue to publish information on store regulations and standards in order to inform both potential retail operators as well as municipalities and members of the public.
- The City's Integrated Cannabis Legalization Steering Committee and Operational Teams will stand ready to address any cross-corporate issues resulting from cannabis legalization. As those internal networks are already established and include representation from City Departments, Ottawa Public Health and Ottawa Police Service, as well as Ottawa Community Housing, continued cooperation will occur on cannabis issues such as updating internal and public-facing communications, implementing changes to any response mechanisms for cannabis-related calls or requests for information, updating staff training, policies and procedures as required, and outreach to the AGCO as required.

Two by-law related projects are anticipated for early 2019, as follows:

A review of the Zoning By-law and other applicable municipal development controls to establish regulations for legal Cannabis Production, Cultivation and Processing Uses to occur under the Cannabis Act

Cannabis production is regulated by Health Canada through a licensing regime. This includes cultivation (standard cultivation, micro-cultivation, industrial hemp, nursery) and processing (standard processing, micro processing). Federal legislation provides that license-holders must ensure compliance with all applicable federal, provincial/territorial and municipal legislation, including workplace health and safety, as well as fire, building codes and zoning by-laws. Pre-licensing requirements include a "notice to local authorities" (municipal government, local fire authority, local police)."

Currently s. 97 of Zoning By-law 2008-250 permits Medical Cannabis Production Facilities to occur in an indoor context and in designated industrial locations, subject to distance separation from sensitive uses. As Cannabis production facilities are federally

regulated, there is an opportunity for the City of Ottawa to regulate their location and place conditions on use as appropriate, through s.34 powers in the *Planning Act*.

Regulation of Cannabis Production through the Zoning By-law:

There will be a need to update Section 97 to provide opportunity for commercial production of cannabis, in conformity with the *Cannabis Act*. Planning Staff suggest that a city-initiated zoning by-law amendment be considered to provide for land use regulation and direction for the occurrence of commercial cultivation within the City. This could include an expansion of applicable definitions to include federally licensed facilities used for the cultivation or processing (among other uses) of cannabis or cannabis-based products and to include commercial cannabis production as well as medical production. Other amendments may be contemplated, including but not limited to clarification of appropriate zones for cannabis production.

Zoning control of Micro-Production, Cultivation & Processing:

The land use impacts from a Standard License holder for production, cultivation and processing are of a scale that may create impacts to adjacent land uses through noise, traffic, security requirements and other aspects involved in an industrial-type establishment. Facilities involved in medical marijuana production are subject to the Zoning By-law, and would generally trigger Site Plan Control to manage their site impacts as any other large format enterprise is required to do.

The case for regulating cannabis activities occurring through Micro-Licensing is less clear. Annual processing/cultivation of the equivalent of 600 kilograms of dried cannabis and a cultivation surface area not exceeding 200 square metres is the threshold for differentiation between a micro or standard federal license.

Planning Staff, through the Zoning By-law amendment study for cannabis production, will include consideration for establishments seeking permission to operate through the Micro-Licensing framework, and establish regulations, if deemed necessary.

A review of the City's smoking-related by-laws in light of cannabis legalization and amendments to the *Smoke-Free Ontario Act, 2017*.

Staff will be reviewing the City's regulatory by-laws that include smoking or smoking-related restrictions and prohibitions in order to determine whether amendments are required in light of the legalization of recreational cannabis, and of the recent amendments to the provincial *Smoke-Free Ontario Act, 2017* (SFOA). It is expected that any recommendations regarding required amendments to these by-laws will be brought forward to the appropriate Standing Committee and Council early in 2019.

Currently, the City's *Parks and Facilities By-law* (2004-276, as amended) prohibits anyone from smoking any substance (including tobacco and cannabis) in any City of Ottawa park (including playgrounds and sports fields), on beaches, as well as in the outdoor areas of any City community and recreation centres and buildings, including walkways. However, other City by-laws regulating smoking in City buildings, public places and workplaces, among other areas, were enacted at different times for different purposes. As a result, the by-laws do not address cannabis directly and each address tobacco and smoking in a slightly different manner.

On October 17, 2018, the Province of Ontario amended the SFOA to permit smoking and vaping of cannabis in the same places as smoking and vaping tobacco – namely within private dwellings (subject to individual rules imposed by the property owner or condominium board, for example), and in certain public places such as on sidewalks and roadways. It is noted that smoking and vaping of tobacco and cannabis is prohibited in enclosed workplaces and public places, schools, indoor common areas of apartment buildings, condominiums, and universities and colleges, childcare centres, hospital grounds, and near the entrances of certain buildings or facilities, among other places. It is also noted that the SFOA provides that municipal by-laws may also restrict places of consumption.

Staff will undertake a review of these by-laws to determine whether harmonization of language and approach is required, particularly in respect of recreational cannabis. This harmonization review will also take into account the recent amendments to the SFOA to determine whether the City's by-law prohibitions and restrictions should be amended. In line with by-law review best practices adopted at the City, this exercise will include among other things a jurisdictional review and an opportunity for public engagement and input.

Delegating Authority to the Mayor to Advocate for Additional Municipal Authority

The Mayor, in keeping with his statutory authority under subsections 225(c) and (c.1) of the *Municipal Act, 2001*, is recommending that Council delegate him the authority to continue to advocate with the Ontario government for greater municipal planning authority over private cannabis retail stores, including but not limited to the right to increase separation distances between such establishments, as described in this report.

RURAL IMPLICATIONS

Cannabis retail sales may occur in a rural context through licenses issued by the Province, and may occur in any land use where a retail-type activity would generally

occur. The municipality does not have the authority to regulate this activity through zoning or municipal business licensing as noted above.

Cannabis production in the rural area may be regulated by a municipality and is currently regulated in Ottawa by s.97 of the Zoning By-law, restricted to production for medical purposes. However, the Federal *Cannabis Act* provides opportunity for cultivation of commercial cannabis to occur outdoors, as well as indoors. As such, there will be a desire to seek opportunity for cannabis crop cultivation, production and processing to occur in a rural and agricultural context, in addition to the industrial context as is currently regulated by s.97 of the Zoning By-law. It is also of note that the *Cannabis Licence Act, 2018* provides the opportunity for a producer to obtain a retail license on the same premises.

CONSULTATION

As directed by Council and as noted above, opportunities for public input into private cannabis retail stores was provided through an on-line survey and public opinion polling conducted by Ekos Research Associates.

Consultation with the OPS and OPH was undertaken with respect to the provincial private retail model and the consequences of opting-out, as noted above.

LEGAL IMPLICATIONS

There are limited legal implications associated with the Recommendations set out in the Report.

By operation of the *Cannabis Licence Act, 2018*, Council has three options with respect to licensed private cannabis retail stores, as follows:

(1) Should Council accept the staff recommendation to direct the City Clerk and Solicitor to notify the Alcohol and Gaming Commission of Ontario (AGCO) that the City of Ottawa will permit private cannabis retail stores, private cannabis retail stores would be permitted to be located in Ottawa, subject to the licensing process overseen by the AGCO, as described in this report. While notification to the AGCO under this option is not a legal requirement, the within report speaks to the advantages of providing clarity on the City's position. The AGCO has indicated its openness to receiving such notifications from "opt-in" municipalities.

(2) Should Council do nothing with respect to the location of such stores, the legislative consequence is that the Act deems, as of January 22, 2019, the City's position to be that it will permit such stores in Ottawa, again subject to the licensing process overseen by the AGCO, as described in this report.

It is noted that by operation of Section 41 of the *Cannabis Licence Act, 2018*, a consequence of both Options (1) and (2), described above, is that Council is not permitted, at a later date, to change its position or to “opt-out” of permitting the location of private cannabis retail stores in the city.

(3) Should Council resolve to “opt-out” from permitting private cannabis retail stores to locate in Ottawa, a resolution of Council is required and written notice of same must be delivered to the ACGO within 3 days following the passing of the resolution, and in any event, by no later than midnight on January 22, 2019. This is the only option under the Act for the municipality to prohibit licensed private cannabis retail stores from being located within the city. Subsection 41(3) of the *Cannabis License Act, 2018*, provides that a municipality that chooses to opt-out of allowing cannabis retail stores may revisit that decision only once by way of another resolution to “opt-in”. The Act provides that such a reversal is however a one-time option and cannot be reversed again. As a result, if a municipality opts-out of allowing cannabis retail stores initially, it can only opt-in afterwards once, and such decision to opt-in is then final.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications arising out of the recommendations of this report.

FINANCIAL IMPLICATIONS

With respect to Recommendation 2 of this report, the General Manager of Planning, Infrastructure and Economic Development (PIED) will develop a process and identify the staff and technical resources required to submit the City of Ottawa’s formal response to a cannabis retail authorization application to the Alcohol and Gaming Commission of Ontario (AGCO). In addition, as part of next steps in the City’s response to cannabis implementation generally, PIED as well as the Emergency and Protective Services Department and other City Services/Departments will measure and track the impact of the legalization of cannabis on their programs and services, including the need for additional resources, and report back to the appropriate Standing Committee prior to Council’s consideration of the 2020 Draft Operating and Capital Budgets. It is noted that funding for cannabis implementation received from the Province of Ontario, as described above in this report, can be applied to address municipal implementation costs that directly relate to recreational cannabis, as advised by the Ontario Minister of Finance. These costs include increased enforcement by police and by-laws, communications requirements such as responses to public inquiries, increased calls for paramedic and fire services, and internal work for by-law

and policy development in areas of enforcement, public health and workplace safety, among other directly affected areas.

ACCESSIBILITY IMPACTS

There are no accessibility impacts arising out of the recommendations of this report.

TERM OF COUNCIL PRIORITIES

The staff recommendation that private cannabis retail stores be allowed align with the City's strategic priorities for economic prosperity and health and caring communities.

SUPPORTING DOCUMENTATION

Document 1 – Federal Framework – Key Provisions

Document 2 – Summary of Provincial Cannabis Legalization Models

Document 3 - Province of Ontario's Cannabis Rules, the OCS, and Cannabis Licencing Regime – Key Provisions

Document 4 – Ekos Research Associates Report

Document 5 – Public Input on Retail Cannabis (City Survey)

Document 6 – List of Zones – Retail Permitted

Document 7 – Public Health Implications from MOH

DISPOSITION

Should City Council resolve to opt-out of private cannabis retail sales in the City of Ottawa, the City Clerk and Solicitor shall forward decision to Province of Ontario (AGCO) no later than January 22, 2019.

ⁱ Deloitte (2018) A society in transition, an industry ready to bloom- 2018 Cannabis Report

ⁱⁱ American Marketing Association (2017) Online: Retail must evolve the customer experience to survive <https://www.ama.org/publications/eNewsletters/Marketing-News-Weekly/Pages/online-or-offline-retail-marketers-should-favor-speed-to-action.aspx>

ⁱⁱⁱ Grewal D., Levy M. Kumar V., (2009) Customer Experience Management in Retailing: An organizing framework Journal of retailing 85 (1, 2009) 1-14

^{iv} EKOS Research Associates Inc. (January 2018). Survey of Ottawa Residents of Health Risks of Cannabis. Unpublished Internal Document, Ottawa Public Health.