



The Corporation of the Town of Milton

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| Report To: | Council |
| From: | Meaghen Reid, Director, Legislative & Legal Services/Deputy Clerk |
| Date: | October 28, 2019 |
| Report No: | CORS-065-19 |
| Subject: | Retail Cannabis Stores - Update |
| Recommendation: | <p>That Council adopts an opt-in position with respect to retail cannabis stores;</p> <p>That staff be directed to inform the Alcohol and Gaming Commission of Ontario (AGCO) that retail cannabis stores are permitted to operate within the Town of Milton; and</p> <p>That Council adopts the Retail Cannabis Store Policy Statement, attached as Appendix A to Staff Report CORS-065-19; and</p> <p>That the Town Clerk or designate be delegated authority to make written submissions to the Registrar under the Cannabis Licence Act, 2018, in accordance with the Retail Cannabis Store Policy Statement.</p> |

EXECUTIVE SUMMARY

The federal government passed the *Cannabis Act*, legalizing recreational cannabis on October 17, 2018. The provincial government passed legislation in 2018 to implement a system for cannabis retail as of April 1, 2019 and confirmed that the AGCO would be the regulator for privately run retail cannabis stores in Ontario.

Under provincial legislation, municipal governments had a one-time opportunity to “opt out” and prohibit cannabis retail stores from being located in the municipality by January 22, 2019. At its meeting on December 17, 2018, Town Council passed a resolution to adopt an initial opt-out position for retail cannabis stores in the Town of Milton and directed staff to report back to Council to reconsider opting-out no later than December 2019. The purpose of that direction was to give staff time to gather more information with respect to implementation and assess the impacts of cannabis retail stores.

Since Council adopted its resolution to “opt-out” of retail cannabis stores, there have been no changes to the provincial regulations for cannabis retail in Ontario. The AGCO has



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EXECUTIVE SUMMARY

conducted two lotteries for cannabis retail licenses, with 12 cannabis retail stores allocated for the GTA Region (which includes the Town of Milton).

Following a review of the regulations, public survey results and comments from Halton Region Police Service Chief, staff do not see a public policy reason to continue to opt out of the retail sale of a legal product and therefore recommend opting-in to allow retail cannabis sales in the Town of Milton.

As part of Council's opting-in to retail cannabis stores, a policy statement is recommended, in order to ensure the timely submission of comments regarding public interest to the AGCO during the 15 day public notice period for a retail cannabis store application.

REPORT

Background

The federal government passed the *Cannabis Act*, legalizing recreational cannabis on October 17, 2018. This Act established the legislative framework for cannabis in Canada and set rules for the production, distribution, sale and possession of cannabis.

The provincial government passed legislation in 2018 to implement a system for cannabis retail as of April 1, 2019 and confirmed that the AGCO would be the regulator for privately run retail cannabis stores in Ontario. Under provincial legislation, municipal governments had a one-time opportunity to "opt out" and prohibit cannabis retail stores from being located in the municipality by January 22, 2019.

Council received Staff Report ES-018-18 at the December 17, 2018 Council Meeting with respect to a "Cannabis Update and Retail Stores Direction". Subsequent to discussion, Council passed the following resolution:

1. THAT Council adopt an initial opt-out position with respect to retail cannabis stores.
2. THAT Council direct the Town Clerk to notify the Alcohol and Gaming Commission of Ontario Registrar prior to January 22, 2019 of Council's decision to opt out of permitting retail cannabis stores in the Town of Milton.
3. THAT staff be directed to report back to Council to reconsider opting-out once more complete information becomes available, but no later than December 2019.
4. THAT notwithstanding reconsideration rules in the Town's procedure by-law, a simple majority be required to make a final decision on opting in or opting out.



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Discussion

Cannabis Retail Stores - Current Context

Currently, the AGCO website at www.agco.ca provides a listing of 337 out of 444 Ontario municipalities (76%) that have opted in to permit retail cannabis stores within their municipalities and 76 Ontario municipalities (17%) that have opted out of permitting the retail of cannabis within their municipalities. Within Halton Region, the City of Burlington and the Town of Halton Hills have opted in to permit retail cannabis stores, while the Town of Oakville has opted out.

The Town of Milton is part of the AGCO's "GTA Region," which also includes the rest of the municipalities in Halton Region, as well as the municipalities within Durham Region, York Region and Peel Region.

The AGCO announced its first lottery allocation on January 11, 2019 for the first 25 cannabis stores. Of the first 25 stores, 6 were located within the GTA Region. On August 20, 2019, the AGCO announced its second lottery allocation for an additional 42 retail stores, allowing retail stores to operate in municipalities with less than 50,000 people. Of these 42 stores, set to open October 2019 as part of the second lottery allocation, 6 stores are to be located within the GTA Region. Thus far, the AGCO lottery process has resulted in the allocation of 12 cannabis retail stores within the GTA Region, including 2 locations within the City of Burlington.

The following provisions remain in place since the enactment of the *Cannabis Control Act, 2017*, the *Cannabis Licence Act 2018* and O. Reg. 468/16:

- Municipalities that have opted in to permit cannabis retail stores in their municipality do not have a role in determining retail store locations or licences, as licence applications are received, reviewed and issued by the AGCO.
- Municipalities do not have the ability to control cannabis retail stores through business licensing or specialized zoning.
- A cannabis retail store cannot be located near a school or private school, as defined in the *Education Act*, if the proposed retail store is less than 150 metres away from the property line of the school or private schools.
- Municipalities that chose to opt out can opt back in at any time—but once they are in, they may no longer opt out.

Density limits have not been set in the regulation and, as such, there are no limits or caps on the number of stores within a municipality. To date, no distance requirements have been set in the regulation that defines how close cannabis stores can locate to one another within a municipality.



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Public Notice - Commenting to AGCO

While municipalities do not have the ability to control cannabis retail stores through business licensing or specialized zoning if they choose to opt-in to permit retail cannabis stores, municipalities are able to provide submissions during the public notice period for retail stores.

When a licensed operator submits a request for a store location to be authorized, the AGCO requires the applicant to follow a public notice process. A public notice will be posted on the AGCO website and a placard must be displayed at the proposed retail store location for a 15 day period. Local residents and municipalities will have 15 days to provide written submissions to the AGCO with respect to the application. The AGCO Registrar will consider concerns raised in the matter of public interest pertaining to: protecting public health and safety, protecting youth and restricting their access to cannabis and protecting illicit activities in relation to cannabis when making its final decision to grant approval for a location. Comments to the AGCO during the public notice process are limited to the municipality and the residents who live within the municipality where the application has been submitted for a retail cannabis store.

AGCO has reported that, as of August 2019, municipalities have submitted 16 of 168 submissions as part of the public notice for proposed cannabis stores, while an average of 7.4 submissions are typically received for each proposed cannabis store. The AGCO has communicated that it continues to partner and engage with police services and public health units.

Cannabis Retail Policy Statement

Many municipalities that have opted-in to permit retail cannabis stores, including the City of Burlington and the Town of Halton Hills, have adopted a policy statement regarding retail cannabis stores. Such statements identify areas within the public interest in order to provide direction to staff for the submission of timely comments to AGCO within the 15-day window during the public notice process. For example, a policy statement could identify specific uses (such as municipal parks, libraries, community centres, etc) and support distance restrictions between these uses and a retail cannabis store location.

Based on a review of municipal retail cannabis store policy statements and the feedback from the recent online survey (discussed below), staff would recommend the adoption of a Retail Cannabis Store Policy Statement as part of the opting-in position to permit retail cannabis stores in Milton.

A recommended policy is attached in Appendix A to this report and is summarized as follows: In addition to schools, as defined by the Education Act, a Cannabis Retail Store should strive to maintain a minimum 150 metre buffer distance from the following sensitive land uses:



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- Properties designed to serve youth, such as: parks, pools and splash pads, recreation centres, libraries and arenas;
- Registered child care facilities;
- Facilities for social services, including but not limited to addiction treatment, hospitals and mental health.

Note: The 150 metre buffer distance is consistent with the provincial standard applied to schools as defined by the Education Act. For stand-alone facilities, the measurement is from the property line.

The recommended policy also includes preference for a buffer distance of 500 metres between retail cannabis store locations in order to avoid clustering within permitted zones.

In addition, the recommended policy includes provisions for staff to include comments on land use planning, the Ontario Building Code requirements and the Ontario Fire Code requirements within submissions to the AGCO.

Building and Planning Considerations

As previously reported to Council in December 2018, should a licensed, authorized retailer be required to construct or alter a building in order to create the retail space, they will be required to obtain a building permit under the Ontario Building Code Act. These spaces will be classified as Group E (mercantile) under the Ontario Building Code (OBC) and will be required to adhere to the construction and safety requirements of the OBC in order to establish and occupy the premises.

Separate from the retail sales decision through this report, Planning staff are reviewing planning policies and regulations relating to the land use implications of the legal production and processing of cannabis. A separate report will be brought forward to Council in the near future.

Enforcement

Complaints received by the Municipal Law Enforcement Unit will be redirected to the appropriate external agencies. As outlined in the previous report to Council, Milton's Municipal Law Enforcement Unit does not anticipate a role in enforcing legal cannabis-related retail sales.

Halton Police Services Chief Stephen Tanner has provided the following comment, for inclusion in this report:

“From a law-enforcement perspective, I personally would have preferred the decriminalization of cannabis as opposed to the legalization of it. However, it has been legalized, and one benefit of retail stores may possibly be the reduction in the amount of cannabis that is produced and supplied by organized crime groups.



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Those groups will continue to supply cannabis and a variety of illegal/illicit drugs. Cannabis produced/supplied by the government would arguably be safer for consumption than otherwise produced drugs which may include a variety of substances or other drugs and materials.”

As discussed in previous report ES-018-18, the recreational use of cannabis continues to be regulated through the *Cannabis Control Act* and the *Smoke Free Ontario Act*. The *Smoke Free Ontario Act* is enforced by the Halton Public Health Department. Halton Regional Police continue to enforce matters related to illegal sale of cannabis, drug impaired driving and youth in possession of cannabis.

Consultation

The Town engaged with the public using an online survey, giving the community an opportunity to provide input about the future of cannabis retail stores in Milton. The survey, hosted on LetsTalkMilton.ca, was open from September 23, 2019 to October 7, 2019. To encourage participation, the survey was promoted on social media, the Town’s website, and in the Milton Champion.

As part of this public consultation, the following survey questions were asked:

1. Do you expect to purchase cannabis for recreational use in the next 12 months?
2. Do you support or oppose having cannabis stores in the Town of Milton?
3. If you were to purchase cannabis, would you prefer to purchase it online or at a retail store?
4. What, if any, factors would you like the Town of Milton to consider when commenting on the location of retail cannabis stores?
5. Do you have any other comments you would like to share regarding cannabis retail stores in Milton?

The survey results show that 57.4 per cent of respondents support having cannabis stores in the Town of Milton and 41.1 per cent of respondents oppose having cannabis stores in Milton.

With regard to Question #5, respondents provided comments about retail cannabis stores relating to :

- proximity to schools, libraries, community, centres and other public spaces;
- potential impacts for youth;
- property value impacts;
- crime and potential illegal supply of cannabis;
- convenience;
- preference for similar locations as LCBO stores;
- economic development and employment opportunities.

A summary of the survey question results is attached in Appendix B.



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CAO Approval
Andrew M. Siltala
Acting Chief Administrative Officer

Appendix A – Report CORS-065-19 Town of Milton Cannabis Retail Policy Statement

The Purpose of the Town of Milton Cannabis Retail Policy Statement is to be used as the primary guideline in providing comments to the Ontario Alcohol and Gaming Commission (AGCO) in response to applications for privately operated cannabis retail stores within the municipality.

The Policy was established to address broader **public interest** in the evaluation of applications for a cannabis retail store authorization within the Town of Milton.

Public interest is defined under the *Cannabis License Act 2018* as:

1. Protecting public health and safety,
 2. Protecting youth and restricting their access to cannabis,
 3. Protecting illicit activities in relation to cannabis
1. Provincial Legislated distance buffers:
150 metres from schools (as defined by the Education Act)
 2. Community Preferences for Cannabis Retail Stores and Sensitive Activities:
 1. In addition to schools, as defined by the Education Act, a Cannabis Retail Store should strive to maintain a minimum 150 metre buffer distance from the following sensitive land uses:
 - Properties designed to serve youth, such as: parks, pools and splash pads, recreation centres, libraries and arenas;
 - Registered child care facilities;
 - Facilities for social services, including but not limited to addiction treatment, hospitals and mental health.

The 150 metre buffer distance is consistent with the provincial standard applied to schools as defined by the Education Act. Also consistent with the provincial regulations is how the 150 metre buffer distance for stand-alone or shared facility will be measured. For stand-alone facilities the measurement is from the property line. For shared facilities the measurement is taken from the boundary of any space occupied by the school within the building.
 2. Cannabis retail stores should strive to maintain 500 metre buffer distance from any other retail cannabis store to avoid clustering within permitted zones.
 3. Municipal Requirements, as outlined under Applicable Law:
 1. **Land Use Planning:** The provincial licensing process does not remove the requirement to comply with the Zoning By-law and other Municipal Planning documents.

2. **Ontario Building Code:** Permit requirements for any change of use and/or construction apply.
3. **The Fire Code:** Compliance is mandatory.

4. Procedure and Implementation

Town Staff will review a proposed location for sensitive uses as well as identify any unknown additional circumstances that need to be considered at the time of becoming aware of a new application for a Cannabis Retail Store.

Given the short 15-day timeline provided by the AGCO to comment on proposed retail cannabis stores, one staff person will be designated to be responsible to liaise with other Town departments, identify any localized conditions or concerns and provide comment on behalf of the municipality to the AGCO within the 15- day commenting period.

Survey Report

23 September 2019 - 07 October 2019

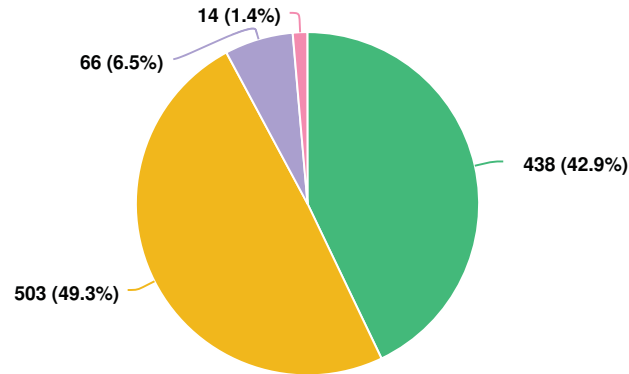
Cannabis retail stores in Milton

PROJECT: Cannabis retail stores in Milton

Let's Talk Milton



Q1 Do you expect to purchase cannabis for recreational use in the next 12 months?

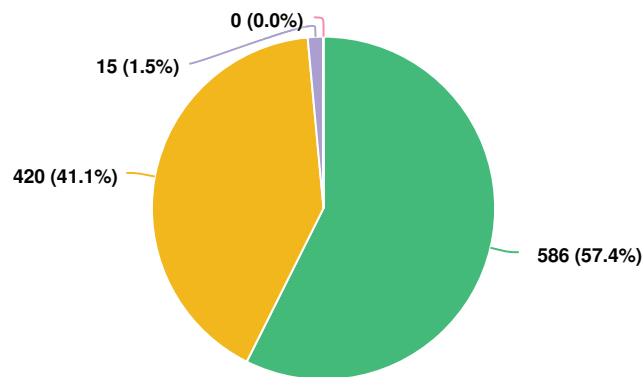


Question options

- Yes
- No
- Undecided
- Prefer not to say

(1021 responses, 0 skipped)

Q2 Do you support or oppose having cannabis retail stores in the Town of Milton?

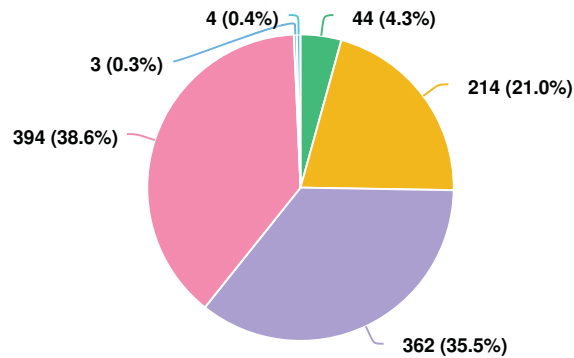


Question options

- Support
- Oppose
- Undecided
- Prefer not to say

(1021 responses, 0 skipped)

Q3 If you were to purchase cannabis, would you prefer to purchase it online or at a retail store?

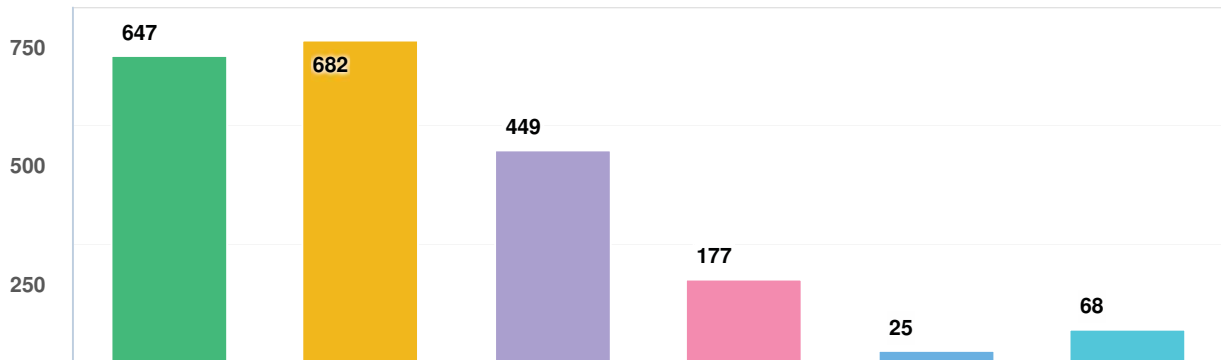


Question options

- Online
- Retail store
- I want the option to do both
- I do not intend to buy cannabis
- Undecided
- Prefer not to say

(1021 responses, 0 skipped)

Q4 What, if any, factors would you like the Town of Milton to consider when commenting on the location of retail cannabis stor...



Question options

- Safety and security
- Location in proximity to sensitive areas and facilities such as parks, daycare centres, addiction treatment facilities, etc.
- Crime
- No factors
- Unsure
- Other

(1021 responses, 0 skipped)