To Chair and Members
Committee of the Whole – Community Development

From Brian Hutchings
Chief Administrative Officer

1.0 Type of Report

Consent Item [ ]
Item For Consideration [X]

2.0 Topic Proposed Municipal Cannabis Retail Policy [Financial Impact - None]

3.0 Recommendation

A. THAT Report 2020-96 Proposed Municipal Cannabis Retail Policy [Financial Impact: None] BE RECEIVED; and

B. THAT Council APPROVE the Municipal Cannabis Retail Policy as outlined in Appendix “A” to report 2020-96 and that the By-law to adopt the Municipal Cannabis Retail Policy BE PRESENTED to Council for adoption; and

C. THAT staff BE DELEGATED the authority to respond to applications submitted to establish retail cannabis stores in Brantford, as outlined in the Municipal Cannabis Retail Policy.

4.0 Purpose and Overview
This Report provides Council with updated information related to the *Cannabis Licence Act, 2018* and includes a proposed Municipal Cannabis Retail Policy for Council’s consideration.

## 5.0 Background

In April 2017, the federal government introduced *Bill C-45, The Cannabis Act*, and *Bill C-46, An Act to Amend the Criminal Code*, outlining plans to legalize, regulate, and restrict access to cannabis in Canada. The Province of Ontario responded with corresponding legislation, the *Cannabis Control Act, 2017*, the *Ontario Cannabis Retail Corporation Act, 2017* (OCRCA, 2017), the *Cannabis Licence Act, 2018*, and *Bill 36 – Cannabis Statute Law Amendment Act, 2018*.

The legislation created a regulatory framework effective October 17, 2018 that allows Ontario residents who are 19 years of age or older to:

1. Purchase recreational cannabis online through the Ontario Cannabis Store
2. Possess up to 30 grams of cannabis
3. Grow up to four cannabis plants per household

On December 4, 2018 staff brought forward Report 2018-008 *Municipal Decision Regarding the Allowance of Retail Cannabis Stores in Brantford* which outlined the regulatory framework for the legalization of cannabis and licensing of retail cannabis stores. The report provided policy options for both “Opting In” and “Opting Out” of retail cannabis sales in Brantford. The report outlined how the Province had established set-back limits for retail cannabis stores, however municipalities had no further authority to restrict store locations.

On January 15, 2019, Council voted to ‘opt out’ of permitting legal cannabis stores to operate within the municipality and provided direction to engage with the Association of Municipalities of Ontario (AMO) and the Large Urban Mayor’s Caucus of Ontario (LUMCO) to advocate for greater municipal autonomy within the *Cannabis Licence Act, 2018*.

In August 2019, in partnership with LUMCO, the City developed a set of recommendations to improve the *Cannabis Licence Act, 2018*, and advocated for increased municipal discretion over the location and licensing of cannabis retail stores. To date, the Province has not amended the *Cannabis Licence Act, 2018* based on these recommendations.
City Council at its meeting held on January 28, 2020, adopted the following:

A. Pursuant to the Cannabis Licence Act, 2018, the prohibition on cannabis retail stores in the City of Brantford is HEREBY LIFTED; and that cannabis retail stores BE PERMITTED to locate within the City of Brantford, subject to applicable laws; and that the City Clerk is HEREBY DIRECTED to provide notice of this resolution to the Registrar (being the Registrar under the Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996), within three business days of the passage hereof; and

B. That staff BE DIRECTED to bring forward a Municipal Cannabis Retail Policy in order to ensure that the interests of the public are protected, and to ensure that municipal staff have appropriate delegated authority to respond to applications to establish cannabis retail stores in the City of Brantford.

This Report provides details on recent amendments to the Cannabis Licence Act, 2018, and outlines the proposed policy for cannabis retail stores within the City of Brantford.

6.0 Corporate Policy Context


7.0 Input From Other Sources

Building Services Department
Planning Department
Clerks Services Department
Legal and Real Estate Services Department

8.0 Analysis

8.1 Amendments to the Cannabis Licence Act – Ontario Regulation 468/18

On December 12, 2019, the Government of Ontario introduced amendments to Ontario Regulation 468/18 made under the Cannabis Licence Act, 2018. In an attempt to move towards an open market for
private cannabis retail, the temporary cap on the number of private cannabis stores in the Province and the pre-qualification requirements for prospective retailers would be eliminated. Additional amendments included:

- Increasing the ability of licensed producers to participate in the retail market and allowing them to open a store at one of their facilities. These changes enable more capital, experience and capacity to enter the market and will allow for legal stores to open faster.

- Phasing in limits on the number of authorized stores a licence holder can have, to ensure fair access for retailers while creating medium and long-term market certainty.

- Enabling retailers to sell additional cannabis-related items such as cannabis-related magazines and cookbooks.

As part of the new system for licensing cannabis retail stores, the Alcohol and Gaming Commission of Ontario (AGCO) began accepting operator licence applications from prospective retailers on January 6, 2020, followed by store authorization applications on March 2, 2020. Store authorizations from this open application process are expected to be issued beginning in April 2020, at an initial rate of approximately 20 per month.

Cannabis edibles, extracts, and topicals will gradually be available for purchase online and in bricks-and-mortar stores beginning in early 2020. Health Canada reviews the products that the licensed producer intends to sell.

On February 11, 2020, the Ministry of the Attorney General announced that it would be conducting consultations on cannabis consumption venues and special occasion permits for cannabis in Ontario. The

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1 [https://ocs.ca/blogs/whats-legal](https://ocs.ca/blogs/whats-legal)
Province is seeking feedback on whether to allow these and the rules and parameters guiding potential establishments and operation.

8.2 Impact on ‘Opt In’ Municipalities

Since the decision to allow retail cannabis in Ontario, the Province has authorized 75 retail cannabis stores. Due to the previously imposed lottery system and the pre-qualification requirements, the rollout of retail cannabis stores in Ontario has been slower than anticipated. A majority of the retail sellers who were awarded licences are not yet operational, and those that are operational currently, have been in operation for less than a year. As a result, there are no reliable measures of impact on economic development, public health, or crime as a result of ‘opting in’.

8.3 Proposed Municipal Retail Cannabis Policy

In response to Council direction, staff have developed the ‘Municipal Cannabis Retail Policy’ (Appendix A: Municipal Cannabis Retail Policy). This proposed policy would address significant local sensitive uses, and provides staff direction to respond to proposed retail cannabis sites within the City of Brantford. As noted above, a municipality does not have the authority to restrict where cannabis retail stores are located; however, this policy outlines the municipality’s preferred restrictions and how they will be communicated to the Province.

8.3.1 Sensitive Use Locations & Separation Distances

Within the *Cannabis Licence Act, 2018*, the Province identifies a 150 metre separation distance from public or private schools as defined in the *Education Act*.

LUMCO has recommended that the definition of sensitive use locations be expanded to include nursing homes and retirement

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homes. LUMCO also recommends a minimum separation distance of 500 metres between each licensed retail cannabis store as well as between a licensed cannabis store and any sensitive use locations, including but not limited to, daycares, colleges and universities, community centres, nursing homes, libraries, and actively programmed municipal parks.

Council endorsed the LUMCO recommendations including their criteria for sensitive use locations in a Resolution to Council on June 25, 2019. The Resolution stated:

*THAT the Association of Municipalities of Ontario (AMO) and the Premier of Ontario be advised that Brantford City Council ENDORSES the following Resolution adopted by LUMCO (Large Urban Mayors Caucus of Ontario) at its May 24, 2019 Meeting.*

Due to the geographical size of the City of Brantford, imposing a separation distance of 500 metres between a licensed retail cannabis store and any sensitive use locations would in effect create a prohibition of cannabis retail locations (see Appendix B: Potential Cannabis Retail Areas - Schools and Sensitive Uses 500 Metre Buffer).

As stated in the Municipal Cannabis Retail Policy, staff are recommending that the establishment of retail cannabis stores not be permitted within 150 metres of The Bell Homestead, Boys and Girls Club, community centres, day nurseries (licensed as of November 28, 2018), EarlyON Centres, libraries, nursing homes and retirement homes, programmed park facilities, public and private schools, and the YMCA as illustrated on the map attached (see Appendix C: Potential Cannabis Retail Areas – Schools and Sensitive Uses 150 Metre Buffer). In addition to the sensitive uses identified, the Municipal Cannabis Retail Policy recommends that retail cannabis stores should have a minimum separation distance of 150 metres from one another to prevent clustering.

### 8.3.2 Providing Comment to the AGCO

Despite the limited role in determining the location of retail stores, municipalities can use by-laws and policies to advise the AGCO on proposed cannabis retail applications. Municipalities can advise the AGCO on the following:
- how the property is zoned;
- whether the proposed retail location is in compliance with the legislated separation distances from sensitive use locations; and
- if there are other considerations the AGCO should take into account when issuing a store-front licence or placing condition(s) on its decision and licence, including if a proposed retail location does not meet the parameters of the City’s policy.

Upon receiving a store location authorization request, the AGCO would initiate a public notice process in which the municipality and the public would have 15 calendar days to provide comments to the Registrar.

The Municipal Cannabis Retail Policy (Appendix A) outlines how staff will respond to applications to establish retail cannabis stores.

Responsibility for weekly monitoring of the AGCO website, verifying compliance with the City’s policy, and providing notification to the Mayor and applicable Ward Councillors and the Registrar for the AGCO is proposed to reside within the Community Development Commission.

Planning Staff would be responsible for monitoring, on a weekly basis, the AGCO website in regard to applications for establishing retail cannabis stores in the City of Brantford.

Staff from the Building and Planning Departments would verify that the application is in conformity to Brantford’s Municipal Cannabis Retail Policy, specifically compliance with the Zoning By-law and the City’s separation distances. Planning Staff will also notify the Mayor and applicable Ward Councillors.

The Policy further outlines that the Director of Planning would be responsible for responding to applications and notifying the Registrar from the AGCO to whether or not an application is in compliance with the City of Brantford’s Municipal Cannabis Retail Policy. Alternatively, if the application is not in accordance with
the attached policy, the AGCO would be notified that the application is not considered to be in the Public Interest and it should be refused.

Planning staff would also report back to the Mayor and Ward Councillors in regard to the decision of the Registrar for the AGCO as it relates to each application for the establishment of a retail store for the sale of cannabis.

While there is no regulatory requirement for the AGCO to act on municipal input, it is reasonable that a Council could choose to set out any locally sensitive uses and communicate the expectations of the community when cannabis retail sites are proposed through the application process.

9.0 Financial Implications

None.

10.0 Conclusion

This report outlines the amendments that have been made to federal and provincial legislation impacting the use and sale of recreational cannabis. Staff have outlined the significance of adopting a municipal cannabis policy and the role the City will have in deciding the location of retail cannabis stores in Brantford.

Aaron Wallace, Director of Corporate Initiatives and Community Strategies

Brian Hutchings, Chief Administrative Officer

Aja Peterson, Manager of Corporate Initiatives

Attachments (if applicable):

Appendix A: Municipal Cannabis Retail Policy
Appendix B: Potential Cannabis Retail Areas - Schools and Sensitive Uses 500 Metre Buffer

Appendix C: Potential Cannabis Retail Areas – Schools and Sensitive Uses 150 Metre Buffer

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required [x] yes [ ] no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk [x] yes [ ] no

Is the necessary by-law or agreement being sent concurrently to Council? [x] yes [ ] no