



Special Meeting of Council Agenda

**Monday, January 21, 2019
7 p.m.**

**Council Chambers
Aurora Town Hall**



**Town of Aurora
Special Meeting of Council
Agenda**

Monday, January 21, 2019
7 p.m., Council Chambers

1. Approval of the Agenda

Recommended:

That the agenda as circulated by Legislative Services be approved.

2. Declarations of Pecuniary Interest and General Nature Thereof

3. Public Consultation

4. Consideration of Items Requiring Discussion

1. CS19-001 – Proposed Private Cannabis Retail Stores in Aurora

Recommended:

1. That Report No. CS19-001 be received for information.

5. Confirming By-law

Recommended:

That the following confirming by-law be enacted:

XXXX-19 Being a By-law to Confirm Actions by Council Resulting from a Special Meeting of Council on January 21, 2019.

6. Adjournment



**Town of Aurora
Council Report**

No. CS19-001

Subject: Proposed Private Cannabis Retail Stores in Aurora

Prepared by: Patricia De Sario, Town Solicitor

Department: Corporate Services

Date: January 21, 2019

Recommendation

- 1. That Report No. CS19-001 be received for information.**

Executive Summary

This report provides an overview of the legalization of recreational cannabis, information about the licensing and regulatory framework for private cannabis retail stores and further information for Council to consider in its decision of whether to opt-out and prohibit private cannabis retail stores within Aurora or whether to opt-in and permit private cannabis retail stores within Aurora. Council needs to decide by resolution by January 22, 2019.

- The Alcohol and Gaming Commission of Ontario (“AGCO”) will regulate private cannabis retail stores and will enforce the *Cannabis Licence Act, 2018* (the “Act”) through inspections and other means
- The Act specifically prohibits a municipality from enacting bylaws to license private cannabis retail stores or to designate them as a separate land use from any other permitted retail use within the municipality
- The Act and its regulation contain restrictions on where private cannabis retail stores may be located, what may be sold and how they may be operated
- If Council permits private cannabis retail stores, the AGCO will consider municipal and community input on the proposed location of the store
- Private cannabis retail stores bring a new sector of economic development opportunities to a municipality

- Increased funding will only be available to those municipalities that permit private cannabis retail stores
- If Council does not permit private cannabis retail stores, residents will still have access to cannabis through the Ontario Retail Corporation and other municipalities that permit private cannabis retail stores within their municipalities

Background

On October 17, 2018, the *Cannabis Control Act, 2018* came into effect which legalized the use and consumption of recreational cannabis in Ontario. Since legalization, residents over the age of 19 have been able to purchase legal cannabis online from the Ontario Cannabis Retail Corporation, being a corporation established under provincial legislation (the “Corporation”). At this time, the Corporation is the only corporation that has the exclusive right to sell recreational cannabis in Ontario.

Following the legalization of recreational cannabis, the provincial government announced that it will allow private cannabis retail stores commencing on April 1, 2019. As such, on November 14, 2018, the *Cannabis Licence Act, 2018* (the “Act”) and O.Reg 468/18 came into effect. The Act and the regulations sets out a licensing and regulatory framework for the private retail of recreational cannabis in Ontario and gives the Alcohol and Gaming Commission of Ontario (“AGCO”) the authority to license, regulate and enforce the sale of recreational cannabis through private retail stores.

The provincial government is ensuring that municipalities play a role in deciding whether to have private cannabis retail stores located within their municipality by permitting municipalities to opt out of having stores by January 22, 2019.

The purpose of this report is to provide information known to date to assist Council in deciding whether to permit private cannabis retail stores in Aurora. This report will not discuss the use and consumption of recreational cannabis, illegal storefronts or home cultivation of cannabis. Further reports will be brought before Council as the need arises.

Analysis

The AGCO will regulate private cannabis retail stores and will enforce the Act through inspections and other means.

The Act requires the following licences or authorizations in order for a person to own or operate a private cannabis retail store:

1. Retail operator licence – to be eligible, a person must be, among other things, at least 19 years of age, financially responsible and not convicted of or charged with an offence under federal or provincial legislation relating to cannabis. A person or organization must also not be associated with organized crime.
2. Retail store authorization – only the holder of a retail operator licence, or someone in the process of applying for such a licence, may apply for this authorization. They will only be given in those municipalities that have not opted out of having a private cannabis retail store. Someone may only hold 75 retail store authorizations.
3. Retail manager licence – required in order to supervise or manage employees or to oversee or co-ordinate the purchase and sale of cannabis, unless the individual already has a retail operator licence. All holders of licences and all employees of private cannabis retail stores must be at least the age of 19 and will be required to successfully complete training courses or programs approved by the AGCO board, which training would include the responsible sale of cannabis and record keeping requirements.

The above licences and authorizations are initially only valid for two years and then may be renewed for a further two or four years. They may only be held by those who applied for them (i.e. they are not transferrable). The AGCO may suspend or revoke any issued licences or authorizations where there is non-compliance with the Act. The AGCO must revoke a licence or authorization where the holder of a licence or authorization is convicted of contravening certain sections of the *Cannabis Control Act, 2018*, including the selling to a person under 19 years of age. Where a licence or authorization has been refused or revoked, the person cannot apply for another one for a two-year period.

In order to ensure compliance with the Act, the AGCO may employ or designate persons as inspectors to carry out inspections, whom may enter any place (except a dwelling) at any reasonable time to carry out an inspection. When conducting an

inspection, inspectors may examine records and anything else that is relevant to the inspection, take pictures and inquire into financial transactions. Further, the AGCO may appoint any person to be an investigator to determine whether there has been a non-compliance. The Act specifically deems police officers to be investigators. It is an offence, under the Act, to impede an inspection or investigation.

The Act specifically prohibits a municipality from enacting bylaws to license private cannabis retail stores or to designate them as a separate land use from any other permitted retail use within the municipality.

While the Town does not have the authority to license private cannabis retail stores or prohibit them as a land use, private cannabis retail stores are still required to comply with the Town's zoning by-law and the Official Plan in regard to zones and standards that apply to all retail stores (i.e. the store may only be located in a retail zone, it must comply with setbacks, etc.). In addition, the Building Code and Fire Code may apply if permits are required and where these codes do apply, the appropriate inspections would be required.

The Act and regulation contain some restrictions on where private retail cannabis stores may be located, what may be sold and how they may be operated.

Private cannabis retail stores must be stand-alone stores (i.e. they cannot be part of another store that sells other products) and shall not be located less than 150 metres from a school or a private school. The authorized cannabis retail seal must be displayed in a conspicuous place that is visible from the exterior of the public entrance and persons that appears to be under the age of 25 are not permitted to enter the store unless they provide identification. Also, there are restrictions on the promotion and display of cannabis products.

Private cannabis retail stores may operate between the hours of 9am and 11pm on any day. Only cannabis that was purchased directly from the Ontario Cannabis Retail Store, cannabis accessories and shopping bags may be sold. Cannabis cannot be sold or distributed to someone who is or appears to be intoxicated and all sales in a single visit may not exceed 30 grams. Lastly, private cannabis retail stores cannot sell to anyone online; online sales will continue to be permitted only through the Ontario Retail Cannabis Corporation.

If Council permits private cannabis retail stores, the AGCO will consider municipal and community input on the proposed location.

The AGCO is now accepting applications for a retail store authorization (since December 17, 2018). As part of the application process, the applicant is required to give notice of its application by posting a notice at the location of the proposed retail store location. Although the AGCO encourages the applicant to contact the municipality ahead of time, there is no legal obligation on the applicant to do so. In addition, the AGCO is not required to provide the municipality with notice. Instead, the AGCO will provide notice of its applications on its website and Town staff will be required to continuously monitor the website to be informed of any applications within the Town.

Within 15 calendar days after notice is given, the Town, the Region or any resident of the Town may make a written submission to the AGCO. Anonymous submissions will not be accepted. The submission is limited to whether the issuance of a retail store authorization for the specific location is in the public interest and for this purpose, matters of public interest pertain only to protecting public health and safety, protecting youth and restricting their access to cannabis and preventing illicit activities in relation to cannabis.

The restriction regarding the 150 metres setback from schools mentioned above does not apply to daycares or nurseries and colleges or universities. Further, there are no restrictions or setbacks set out in the Act that apply to other locations that are frequented by youth, such as Aurora's community centres, the Aurora Public Library, parks and open spaces, any group homes or addiction and counselling facilities. Lastly, the Act does not establish a separation distance between the stores themselves. Therefore, if Council decides to permit private cannabis retail stores, it is recommended that Council submit to the AGCO the above facilities as pre-approved sensitive areas as a matter of public interest, so that the AGCO may take these locations into consideration when reviewing the location of a proposed private cannabis retail store within Aurora. Having said that, it is unclear how much influence the AGCO will place on any comments received.

In addition, the 15-day time period does not allow enough time for staff to bring a report to Council in order for Council to consider the application. Therefore, if Council decides to permit private cannabis retail stores, it is recommended that Council delegate to staff the authority to make submissions to the AGCO within the 15-day time period based upon the pre-approved sensitive areas described above.

If Council decides to opt out of permitting private cannabis retail stores, any applications currently under review by the AGCO will automatically be refused.

Private cannabis retail stores would bring a new sector of economic development opportunities to the Town.

By permitting private cannabis retail stores, Council would be supporting small businesses and creating new jobs within the Town. There would also be additional consumers from other communities that may not have otherwise come to Aurora.

Increased funding will be available to those municipalities that permit private cannabis retail stores.

On November 20, 2018, the Ministry of Finance confirmed in a letter to the Association of Municipalities of Ontario (“AMO”) that the provincial government will provide \$40 million over two years through the Ontario Cannabis Legalization Implementation Fund (the “Fund”) as follows:

- In early January, \$15 million will be distributed amongst all municipalities on a per household basis, with each municipality receiving at least \$5,000.00 to support municipalities with implementation costs relating to the legalization of cannabis. As set out in more detail in the Financial Implications section of this report, the initial payment apportioned to the Town is \$26,324.00.
- After the January 22nd deadline, a further payment of \$15 million will be distributed so that:
 - any municipality that opts out will only receive a further \$5,000.00; and
 - any municipality that does not opt out will receive further funding on a per household basis, adjusted so that at least \$5,000.00 is provided to support the initial costs related to hosting private cannabis retail stores.
- Further, \$10 million will be set aside to address costs from unforeseen circumstances related to the legalization of recreational cannabis. This amount will be distributed with priority given to those municipalities that have not opted-out.

The Ministry has also stated that if Ontario’s portion of the federal excise duty on recreational cannabis over the first two years of legalization exceeds \$100 million, the province will provide 50 percent of the surplus only to municipalities that have not opted-out as of January 22, 2019. Therefore, any municipality that does not permit private cannabis retail stores will not receive this further funding.

The letter further states that the lower-tier and upper-tier municipalities will receive a 50/50 split of the total allocation. Therefore, while the decision is entirely Council's decision, any decision made will have an impact on the amount of funding received by the Region of York.

Whether or not a private cannabis retail store is located in Aurora, the municipality and the Region will have costs in regard to increased enforcement (which includes police, public health, by-law enforcement and court administration), increased response to public inquiries through Access Aurora, social media and other staff members, and costs incurred in developing by-laws and policies (including workplace policies).

If Council does not permit private cannabis retail stores, residents will still have access to cannabis through the provincial Corporation and other municipalities that permit private cannabis retail stores within their municipalities.

If Council prohibits private cannabis retail stores and one of the adjoining municipalities permits it, not only will residents still have access to the online provincial Corporation but they would also have access to a private cannabis retail store in close proximity to the Town's municipal border. If an adjoining municipality permits private cannabis retail stores, the Town would still have a private cannabis retail store in close proximity to it and yet it would not be able to comment on the proposed location, or, more importantly would not receive a share of the funding that will be given to municipalities who opt-in.

At the time of the writing of this report, most of the other local municipalities within York Region have not made a decision as to whether to permit or prohibit private cannabis retail stores, except for King Township, City of Markham and Town of Richmond Hill. The Councils from these municipalities have decided to opt-out and prohibit private cannabis retail stores. The others will be making a decision closer to the opt-out date. Further information on these decisions will be made available to Council in a further report prior to the January 21st Council meeting.

The AGCO will be keeping a list of the municipalities that have opted-out and opted-in and this list is publicly available on its website.

Advisory Committee Review

None.

Legal Considerations

The Act provides a municipality with the one-time opportunity to prohibit cannabis retail stores from being located in the municipality provided that a resolution is passed by January 22nd, 2019. The resolution must be forwarded to the AGCO by this date and the AGCO will provide written notification of receipt. If the resolution is not received by the AGCO by January 22nd, private cannabis retail stores, by default, will be permitted within the Town.

A municipality who chooses to prohibit stores by this date may, at any time, by resolution, lift the prohibition and permit stores to be located in the municipality. However, a decision to allow retail stores is final and cannot be reversed.

Financial Implications

In a letter dated November 26, 2018, the Town was advised that its first payment will be \$26,324.00, based upon 20,646 households (as per MPAC) with a funding amount of \$127.50 amount per 100 households. The Region of York will be receiving this same amount for its share of Aurora households.

The remaining amount of funding that the Town will receive will depend upon whether or not Council decides to permit private cannabis retail stores. If Council does not permit private cannabis retail stores within the Town or reconsiders and permits them at a later date, the second payment will be capped at \$5,000.00. In addition, the Town will not receive any share of the province's portion of all future federal excise duty on recreational cannabis, which is likely to be significant.

Any funding received out of the noted \$40 million that has been earmarked by the province for the cannabis legislation implementation must be used only to pay for implementation costs directly related to the legalization of cannabis, such as increased enforcement, increased response to public inquiries, increased fire and paramedic services and by-law or policy development. The Town and the Region may transfer any money that either receive between each other; however, it will be the Town's responsibility to ensure that the funds are used solely for the aforementioned purposes. The Town is required to keep and maintain all records relating to money received from the Fund and the Ministry of Finance may ask the Town to provide information to it.

It's unclear as to how much money or resources have been spent to date relating to the legalization of cannabis. However, a lot of time and resources have already been used

by staff to prepare for the legalization of cannabis, including some staff being part of a Region-wide working group and the implementation of communication tools, such as a website dedicated to cannabis information.

Communications Considerations

In order to solicit feedback from residents on their thoughts regarding private cannabis retail stores in Aurora, the staff is conducting an online consultation on PlaceSpeak. Residents are being asked to share their thoughts on private cannabis retail stores in Town. The online consultation is being promoted through social media, Aurora Matters and the Notice Board. The results of the consultation will be consolidated and shared with Council and the public in an additional report prior to the January 21st Council meeting.

Link to Strategic Plan

Enabling a diverse, creative and resilient economy by promoting economic opportunities that facilitate the growth of Aurora as a desirable place to do business and supporting small business and encouraging a more sustainable business environment.

Alternative(s) to the Recommendation

Depending upon Council's decision, proposed resolutions have been prepared and are attached to this report as Attachments 3 and 4.

Conclusions

Council needs to decide by January 22nd, 2019 as to whether they would like to permit private cannabis retail stores within the Town of Aurora. Ultimately, even if Council prohibits private cannabis retail stores, residents would still be able to purchase cannabis online from the provincial Corporation or in person from an adjoining municipality that permits private cannabis retail stores within its municipal boundaries. In addition, any funding provided by the province would be limited to a little over \$30,000.00 and the Town would not receive any share of the province's portion of future federal excise duty on recreational cannabis.

January 21, 2019

Page 10 of 10

Report No. CS19-001

Attachments

Attachment 1 – Location Map indicating possible cannabis retail zones

Attachment 2 – Letter from Ministry of Finance dated November 26, 2018, including Allocation Notice

Attachment 3 – Resolution to opt-out and prohibit private cannabis retail stores

Attachment 4 – Resolution to opt-in and permit private cannabis retail stores

Previous Reports

None.

Pre-submission Review

Acting Treasurer, Director of Corporate Services and Chief Administrative Officer

Departmental Approval

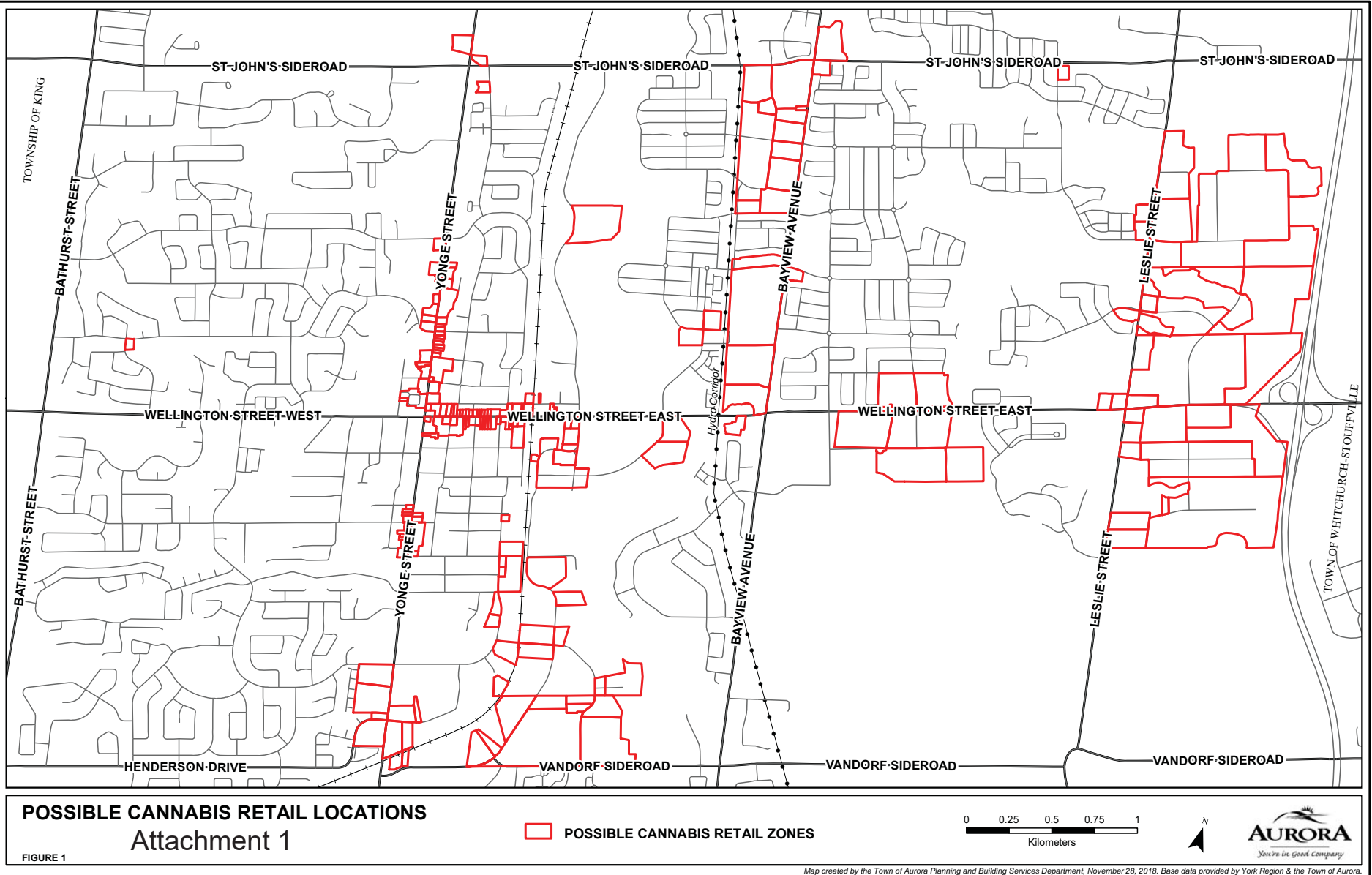


for: **Techa van Leeuwen**
Director
Corporate Services

Approved for Agenda



Doug Nadorozny
Chief Administrative Officer



Attachment 2

| | |
|---------------------------------|-----------------------------|
| Ministry of Finance | Ministère des Finances |
| Office of the Deputy Minister | Bureau du sous-ministre |
| Frost Building South, 7th Floor | Édifice Frost Sud 7e étage, |
| 7 Queen's Park Crescent | 7 Queen's Park Crescent |
| Toronto, ON M7A 1Y7 | Toronto, ON M7A 1Y7 |
| Tel (416) 325-0420 | Tél 416-325-0420 |
| Fax (416) 325-1595 | (416) 325-1595 |



November 26, 2018

Dear Treasurer:

Re: Ontario Cannabis Legalization Implementation Fund

In his November 20, 2018 letter to Heads of Council (elect), the Minister of Finance announced funding for all municipalities through the Ontario Cannabis Legalization Implementation Fund ("Fund"). This Fund will provide \$40 million in funding over two years to municipalities across Ontario to help with the implementation costs of recreational cannabis legalization.

This letter sets out the terms and conditions of receiving money under the Fund.

1. First Payment of Funds

For the first payment in January, the Province will distribute \$15 million of the Fund between all municipalities based on the following:

- 2018 MPAC Household numbers
- 50/50 split in household numbers between lower- and upper-tier municipalities
- Adjustments to provide at least \$5,000 to each municipality

Municipalities will receive a first payment in the amount set out in the attached allocation notice.

2. Second Payment of Funds

For the second payment, the Province will distribute \$15 million of the Fund between all municipalities based on the following:

- If a municipality has not opted-out of hosting private retail stores in accordance with *Cannabis Licence Act*, it will receive funding based on the 2018 MPAC household numbers, adjusted so that at least \$5,000 is provided to each municipality.

.../cont'd

- 2 -

- If a municipality has opted-out of hosting private retail stores in accordance with the *Cannabis Licence Act*, it will receive a maximum amount of \$5,000. Please note that if a municipality opts-out by January 22, 2019, and opts back in at a later date, that municipality will not be eligible for additional funding.

Municipalities will receive a second payment based on the above criteria. The Province will send an allocation notice to municipalities setting out the amount of the second payment by March 2019.

The amount of the Fund allocated to each municipality in Ontario will be posted at www.fin.gov.on.ca/en/budget/oclif/ in December.

3. Use of Funds

Municipalities must use the money they receive from the Fund solely for the purpose of paying for implementation costs directly related to the legalization of cannabis.

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 calls, correspondence)
- Increased paramedic services
- Increased fire services
- By-law / policy development (e.g., police, public health, workplace safety policy)

Municipalities must not use the money they receive from the Fund to pay for:

- Costs that have been, or will be, funded or reimbursed by any other government body, or third party
- Costs not related to cannabis legalization

4. Transfer of Funds Within Upper-Tier and Lower-Tier Municipalities

Upper-tier municipalities and lower-tier municipalities may transfer any money that they receive from the Fund between each other. Despite any transfer of money that may occur under this section, municipalities remain responsible for ensuring compliance with the terms and conditions of this letter with respect to the transferred money.

.../cont'd

- 3 -

5. Funding Assessment

To assess the impact of this funding, the Province has requested that the Association of Municipalities of Ontario and the City of Toronto work with the Ministry of Finance to establish a process by which a sample group of municipalities will provide information on use of funds and impact of funding. More information will be available as this process is developed.

If municipalities are asked to provide information on the use of the money received under the Fund and impact of such funding, they must provide the information requested, in a timely manner. As such, municipalities must keep and maintain all records relating to money received from the Fund.

In addition, the Province or any authorized representative or identified independent auditor, may request to review the records or conduct an audit in respect of the expenditure of money a municipality has received from the Fund.

If you have any further questions, please contact:

Cannabis Retail Implementation Project
Ministry of Finance
Email: OCLIF@ontario.ca

Yours sincerely,



Greg Orenszak
Deputy Minister

Attachment

- c. Paul Boniferno, Deputy Attorney General
Laurie LeBlanc, Deputy Minister of Municipal Affairs and Housing
Nicole Stewart, Executive Lead, Cannabis Retail Implementation Project
Allan Doheny, Assistant Deputy Minister, Provincial-Local Finance Division
Renu Kulendran, Ontario Legalization of Cannabis Secretariat, Ministry of
Attorney General

Kate Manson-Smith, Assistant Deputy Minister, Local Government and Planning
Policy Division, Ministry of Municipal Affairs and Housing
Pat Vanini, Executive Director, Association of Municipalities of Ontario

**Ontario Cannabis Legalization Implementation Fund
2018-19 First Payment - Allocation Notice**



**Town of Aurora
Region of York**

1946

The Ontario Cannabis Legalization Implementation Fund (OCLIF) is provided to municipalities to help with the implementation costs of recreational cannabis legalization.

| | |
|---------------------------|-----------------|
| Funding Allocation | \$26,324 |
|---------------------------|-----------------|

| | |
|---|-----------------|
| A Funding Amount based on Number of Households (A1 x A2 ÷ 100) | \$26,324 |
|---|-----------------|

| | |
|--------------------------------------|----------|
| 1. Number of Households | 20,646 |
| 2. Funding Amount per 100 Households | \$127.50 |

Notes and Data Sources

A - funding amount is rounded up to the nearest dollar.

A1 - household figures are based on the 2018 returned roll provided by the Municipal Property Assessment Corporation (MPAC).

A2 - represents the funding amount per 100 households for lower-tier municipalities.

Attachment 3

Proposed resolution to opt-out and prohibit private cannabis retail stores

1. That Report No. CS19-001 be received;
2. That Council of The Corporation of the Town of Aurora prohibits cannabis retail stores from being located within the Town of Aurora;
3. That the Town Clerk provide written notice and a copy of this resolution to the Registrar of the Alcohol and Gaming Commission of Ontario, in accordance with section 41(5) of the *Cannabis Licence Act, 2018*;
4. That the Chief Administrative Officer and the Treasurer, or its designate, be authorized to enter into any agreements in regard to intergovernmental funding relating to the implementation of cannabis; and
5. That a copy of this resolution be forwarded to the Region of York and all lower tier municipalities within York Region for their information.

Attachment 4

Proposed resolution to opt-in and permit private cannabis retail stores

1. That Report No. CS19-001 be received;
2. That Council of The Corporation of the Town of Aurora permits cannabis retail stores within the Town of Aurora;
3. That Council request the AGCO to consider the following restrictions as a matter of public interest when reviewing retail store authorization applications for proposed stores within the Town of Aurora:
 - a. That private cannabis retail stores not be permitted within 150 metres from daycares, nurseries, group homes or addiction and counselling facilities, the Aurora Community Centre, the Aurora Family Leisure Complex, the Stronach Aurora Recreation Complex, the Aurora Public Library and Town Hall;
 - b. That private cannabis retail stores not be permitted within 150 metres of each other.
4. That staff be authorized to review the Alcohol and Gaming Commissions of Ontario's proposed cannabis store locations and provide submissions within 15 days of notice of the application;
5. That the Town Clerk provide written notice and a copy of this resolution to the Registrar of the Alcohol and Gaming Commission of Ontario, in accordance with section 41(5) of the *Cannabis Licence Act, 2018*;
6. That the Chief Administrative Officer and the Treasurer, or its designate, be authorized to enter into any agreements in regard to intergovernmental funding relating to the implementation of cannabis; and
7. That a copy of this resolution be forwarded to the Region of York and all lower tier municipalities within York Region for their information.

The Corporation of The Town of Aurora

By-law Number XXXX-19

**Being a By-law to Confirm Actions by Council
Resulting from a Special Meeting of Council
on January 21, 2019.**

The Council of the Corporation of The Town of Aurora hereby enacts as follows:

1. That the actions by Council at its Special Meeting of Council held on January 21, 2019, in respect of each motion, resolution and other action passed and taken by the Council at the said meeting is, except where prior approval of the Ontario Municipal Board is required, hereby adopted, ratified and confirmed.
2. That the Mayor and the proper officers of the Town are hereby authorized and directed to do all things necessary to give effect to the said action or to obtain approvals where required and to execute all documents as may be necessary in that behalf and the Clerk is hereby authorized and directed to affix the corporate seal to all such documents.

Enacted by Town of Aurora Council this 21st day of January, 2019.

Tom Mrakas, Mayor

Michael de Rond, Town Clerk