Subject
Cannabis Retail

Recommendation
Be it resolved that Council hereby receive report number C2021-07 for information;
And that Council remain opted-out to permitting cannabis retail stores within the Town of Erin.

Background
On June 15th 2021 Council passed resolution #21-162, a motion to refer report number PD2021-16 “Cannabis Retail Store Opt In/Opt Out Report” back to staff to:

- Conduct public consultation and surveys to obtain the current public opinion on opting-in and;
- To report back to Council with a recommendation.

In accordance with Council direction, staff conducted a survey from July 1st to July 31st 2021 which was completed by 277 respondents and conducted a legislative review to evaluate any legislative changes with respect to cannabis retail. Upon completion, it is the recommendation of staff to continue to remain opted-out of permitting cannabis retail stores within the Town of Erin.

Discussion

Public Engagement

Council initially considered opting-in to permitting cannabis retail stores in 2018. An initial survey was released in the summer of 2018 receiving 601 responses. Survey results at the time concluded that approximately 47% of respondents were in favour of cannabis retail and 49% were in opposition. Per Council direction on June 15th 2021, a second survey was conducted receiving 277 respondents from July 1st to July 31st 2021. The survey results (attached as Appendix A to this report) provide that approximately 70% of respondents are strongly or somewhat in support of permitting
cannabis retail stores whereas approximately 27% of respondents are strongly or somewhat in opposition to permitting cannabis retail stores in Town. While survey results are a useful consideration in the overall staff recommendation, it is not used as a sole indicator in the formation of public policy. The Town of Erin consists of approximately 12 thousand residents and although the survey results indicate a 70% approval rate for the 2021 survey, staff are not changing their professional recommendation from 2018 for the following reasons:

- Staff were not able to obtain the current public opinion on opting-in as the sample size was limited with 277 respondents; and
- Staff consider a number of factors when making professional recommendations to Council:
  - The legislative environment and impacts of the policy recommendation (risk);
  - Impact on other policies passed by Council; in this case, the impact on the Growth Management Strategy;
  - The success of the evaluation stage of a policy decision; and
  - Staff’s ability to ensure enforcement.

**The Policy Development Process**

In accordance with best practice, the policy making process involves several key stages: identification of a problem or question, exploring options, analyzing impacts of different options, execution, and evaluation and enforcement once a decision has been made.

**Identification of a Problem of Question**

With respect to stage one, there has been the identification of a question; in this case it is to opt-in or opt-out of cannabis retail. In this stage staff assessed the importance of the question to our stakeholders – our residents, our business community etc. through a survey. While the aim is to obtain feedback on a policy question or issue, it is not best practice to determine policy outcomes on survey results alone.

**Exploring Policy Options**

With respect to the question there are two policy decisions for Council’s consideration: opt-in or continue to opt-out of cannabis retail. In this stage, staff considered the pros and cons of opting-in to cannabis retail, evaluated the legislative environment with respect to any changes in legislation and other factors as indicated below.

**Analysis – Impact and Risk**

*Pros to Opting-in:*
• Allowing cannabis retail stores could reduce the illegal sale of cannabis;
• Cannabis will be regulated by the AGCO through licensing;
• Potential economic development opportunities;
• AGCO undertakes compliance activities associated with sectors they regulate and conduct hearings which would be available to the Town should Council decide to opt-in;
• AGCO has established a zero-tolerance policy for any retailer who provides cannabis to anyone under the age of 19;
• Based on the current minimum locational requirements requiring a 150 metre buffer zone from public and private schools there are only a few locations that would qualify.

Cons to Opting-In

• Once opted in, the Town is not permitted to opt out;
• Under section 4(9) of the Cannabis License Act, should a store request a location in Town, the AGCO would initiate a public notice process where Council and the public would have an opportunity to provide comment. While the AGCO must consider these comments, there is no obligation to base its decision on any comments;
• There is no longer a financial incentive to opt-in as final funding payments were released in 2019;
• Council can pass additional criteria/guidelines for the AGCO to consider when approving stores, but again the AGCO is the final authority - this limits the Town and public’s influence on whether or not a store is approved in a given location;
• There are no guarantees to avoiding clustering of cannabis retail stores; and
• Cannabis retailing would be permitted where any retailing is permitted; there can’t be any exemptions.

When considering the legislative environment from 2018 there are two changes:

• In 2018, those municipalities who opted-in had access to additional funding.
• In 2020 Ontario scrapped its lottery system which limited the number of stores that could open. In March 2020 there were 52 cannabis retailers in Ontario and the number grew to 572 stores by March 2021 according to the most recent Ontario Cannabis Store (OCS) annual report.

While we know that some municipalities have had no issues with respect to enforcement or clustering, there have been some areas such as Toronto’s Kensington Market that has experienced clustering with seven shops located in less than a 350 metre stretch. While opting-in to cannabis retail could potentially create economic opportunities, staff can’t guarantee this as the market could become saturated.

While the public and Council can recommend proximity and density provisions to the AGCO, as mentioned above the AGCO is the final authority. Staff cannot guarantee that
clustering will not occur, and are re-iterating that Council and the public will have little say if this were to occur.

Other Environmental Factors

The Adoption of the Growth Management Strategy

Since 2018 Council has approved a Growth Management Strategy. The Town is expecting to experience significant growth in the coming years and from a planning perspective, approving an opt-in without being fully aware of where schools will be located, parks and changes in potential zoning, it could impact the Town’s planning process. Once the Town has a better idea of these items, the Town may be in a better position to consider the opting-in of cannabis retail.

Political Factors

While staff provide Council with recommendations, at the end of the day the decision to opt-in to cannabis retail is a political one. With the upcoming municipal election in 2022 Council may wish to postpone the decision to the new Council.

The Absence of Time Restrictions

In 2018 Council was under a time restriction to make a decision on the opting-in of cannabis retail. If no decision was made by January 22nd 2019, municipalities would be automatically opted in. In 2021, there is no pressure for Council to rush a decision.

Execution

If Council decides to remain opted-out of cannabis retail the policy remains status quo. If Council decides to opt-in, staff will notify the AGCO and take the necessary administrative steps to execute the decision of Council.

Evaluation

The purpose of the evaluation stage in the policy development process is to determine if the policy was implemented as intended and to understand its effectiveness. Typically there would be an opportunity for policy revisions to ensure that the policy can be altered for enhancement. It is staff’s opinion that the evaluation stage will be an obstacle for Council should the Town decide to opt-in; primarily because there is little Council, the public or staff can do to enhance effectiveness or make alterations to satisfy Council and the public should issues occur (clustering, enforcement, location limitations with respect to growth etc.) This is a result of the AGCO being the final authority and there being no weight to any criteria established by Council in the authorization of a cannabis retailers.
Enforcement

Enforcement with respect to adhering to cannabis retailing requirements would be done through the AGCO. Again, if Council or the public determines there are issues that need to be addressed, this will have to be rectified through the AGCO.

Summary

It is the recommendation of staff to remain opted-out of cannabis retail for the following reasons:

- Staff were not able to obtain the current public opinion on opting-in as the sample size was limited with 277 respondents; and
- Staff consider a number of factors when making professional recommendations to Council:
  - The legislative environment and impacts of the policy recommendation (risk);
  - Impact on other policies passed by Council; in this case, the impact on the Growth Management Strategy;
  - The success of the evaluation stage of a policy decision: As there is no provision in the Act that guarantee’s Council’s criteria and the public’s input on AGCO decisions, the success of evaluation stage will be impacted as the Town’s ability to make changes are minimal.
  - Staff’s ability to ensure enforcement.

Strategic Pillar
Service Excellence & Good Governance

Financial Impact
There are no financial implications associated with the proposed recommendation.

Conclusion
Be it resolved that Council hereby receive report number C2021-07 for information;
And that Council remain opted-out to permitting cannabis retail stores within the Town of Erin.

Attachments
Appendix A- Survey Results

Lisa Campion
Director

Nathan Hyde
Chief Administrative Officer