

University of Windsor

## Scholarship at UWindsor

---

Major Papers

Theses, Dissertations, and Major Papers

---

May 2022

# Provincial Cannabis Legislation, Regulation, and Licensing: Its Effectiveness and Impacts on Municipalities in Ontario

Rami Farag

University of Windsor, faragr@uwindsor.ca

Follow this and additional works at: <https://scholar.uwindsor.ca/major-papers>



Part of the [Comparative Politics Commons](#), [Other Public Affairs](#), [Public Policy and Public Administration Commons](#), [Policy Design, Analysis, and Evaluation Commons](#), [Public Administration Commons](#), and the [Public Policy Commons](#)

---

### Recommended Citation

Farag, Rami, "Provincial Cannabis Legislation, Regulation, and Licensing: Its Effectiveness and Impacts on Municipalities in Ontario" (2022). *Major Papers*. 211.

<https://scholar.uwindsor.ca/major-papers/211>

This Internship Paper is brought to you for free and open access by the Theses, Dissertations, and Major Papers at Scholarship at UWindsor. It has been accepted for inclusion in Major Papers by an authorized administrator of Scholarship at UWindsor. For more information, please contact [scholarship@uwindsor.ca](mailto:scholarship@uwindsor.ca).

**Provincial Cannabis Legislation, Regulation, and Licensing:**

**Its Effectiveness and Impacts on Municipalities in Ontario**

By

**Rami Farag**

An Internship Paper  
Submitted to the Faculty of Graduate Studies  
through the Department of Political Science  
in Partial Fulfillment of the Requirements for  
the Degree of Master of Arts  
at the University of Windsor

Windsor, Ontario, Canada

2022

© 2022 Rami Farag

**Provincial Cannabis Legislation, Regulation, and Licensing:**

**Its Effectiveness and Impacts on Municipalities in Ontario**

by

**Rami Farag**

APPROVED BY:

---

L. Miljan  
Department of Political Science

---

J. Sutcliffe, Advisor  
Department of Political Science

April 20, 2022

## DECLARATION OF ORIGINALITY

I hereby certify that I am the sole author of this thesis and that no part of this thesis has been published or submitted for publication.

I certify that, to the best of my knowledge, my thesis does not infringe upon anyone's copyright nor violate any proprietary rights and that any ideas, techniques, quotations, or any other material from the work of other people included in my thesis, published or otherwise, are fully acknowledged in accordance with the standard referencing practices. Furthermore, to the extent that I have included copyrighted material that surpasses the bounds of fair dealing within the meaning of the Canada Copyright Act, I certify that I have obtained a written permission from the copyright owner(s) to include such material(s) in my thesis and have included copies of such copyright clearances to my appendix.

I declare that this is a true copy of my thesis, including any final revisions, as approved by my thesis committee and the Graduate Studies office, and that this thesis has not been submitted for a higher degree to any other University or Institution.

## ABSTRACT

The legalization of cannabis has been a controversial topic within the last two decades in many developed states. The legalization brought medicinal benefits, economic opportunity, and a projected decrease in organized crime. It has, however, also prompted new challenges for different levels of government. In Canada, legalization was a federal decision that was then regulated by provincial governments. However, local governments were on the receiving end of both federal and provincial legislation and regulations that often restricted municipal autonomy with respect to cannabis.

This paper aims to provide a better understanding of the legal and regulatory framework of retail cannabis in Ontario and to contribute to other long-term studies with respect to this matter. Through case studies of the Town of Tecumseh and the Municipality of Lakeshore, it focuses on dissecting the role of municipal governments in the Canadian example of cannabis legalization and regulation. It finds that the downloading of federal policy and provincial regulation has kept municipalities in a subservient state.

## DEDICATION

I dedicate this work to my family: Nabil, Amal, and Nardeen Farag for their unconditional love, support, and patience throughout my academic career. I dedicate this to all my relatives for their motivation and belief in my abilities. I also dedicate this to my home country, Egypt, and its people. Finally, to my fellow cohort, I dedicate this work to you.

## ACKNOWLEDGEMENTS

First and foremost, I would like to praise and thank God, the Almighty; for he has granted me countless blessings, opportunities, and guidance during my time as a student and in authoring this work.

I would also like to acknowledge all the faculty and staff of the Department of Political Science from the years 2016 to 2022; your hard work and dedication to academia has made a personal impact on me and is greatly appreciated. Thank you, Dr. J. Sutcliffe, for your incredible leadership and supervision of this project, it would not have been possible without your valuable insight, cooperation, and contribution. You have provided me with powerful advice prior to and during my time as a graduate student. A special thank you to Dr. R. Major for your continuous motivation and unyielding support throughout my undergraduate and graduate studies. Your seminars have taught me invaluable information about Indigenous history and nation-building; thank you. A special thank you to Dr. L. Miljan; first, for your guidance, encouragement, and invaluable lectures on policy-writing and research; second, for taking on the role of the second reader to this project. It was a substantial opportunity to work alongside yourself as a Graduate Teaching Assistant.

Finally, a special thank you to Dr. E. Maltseva, for your graduate seminar *Collective Action & Contentious Politics* and for your continuous mentorship to me as a student.

I acknowledge and thank Laura Moy, the Clerk of the Town of Tecumseh, for providing me with the opportunity to explore the possibilities of municipal service during my time as an Intern.

Finally, thank you to all else who have provided me with moral encouragement and support throughout my studies and beyond.

## TABLE OF CONTENTS

DECLARATION OF ORIGINALITY.....	iii
ABSTRACT .....	iv
DEDICATION.....	v
ACKNOWLEDGEMENTS.....	vi
LIST OF APPENDICES .....	ix
<b>Chapter One: Introduction – Federal Cannabis Legalization and Provincial Regulation</b>	<b>1</b>
Cannabis Legalization in the Canadian Federation .....	1
Provincial Legislation as a Response to Federal Legalization.....	3
<b>Chapter Two: Literature Review – Cannabis Regulations and Theoretical Frameworks</b>	<b>6</b>
Cannabis Legalization and Local Government Officials.....	6
Presumed Efficacy of Cannabis Regulation and Control .....	8
Over-Arching Policy Framework in Cannabis Legalization .....	11
<b>Chapter Three: Methodology</b> .....	<b>15</b>
<b>Chapter Four: Provincial Regulation and its Impact on the Municipal Role</b> .....	<b>17</b>
Provincial Structure and Regulation.....	17
Provincial Licensing Process Under the AGCO .....	18
The Role and Input of Public Health Units .....	19
Fiscal Challenges.....	20
Town of Tecumseh .....	21
Opt-In Discourse and Rationale in the Town of Tecumseh .....	22
The AGCO and the Town of Tecumseh Post Opt-In .....	24
Municipality of Lakeshore .....	25
Opt-In Discourse and Rationale in the Municipality of Lakeshore .....	26
The AGCO and the Municipality of Lakeshore Post Opt-In .....	28
Inter-Municipal Geopolitical Effects of Cannabis Opt-In.....	30
<b>Chapter Five: Analysis and Conclusion – Outcomes of Ontario’s Unilateral Approach</b>	<b>32</b>

Analysis of Ontario’s Approach – A Unilateral Free-Market .....	32
Conclusion .....	34
REFERENCES/BIBLIOGRAPHY .....	36
APPENDICES .....	42
Appendix 1 .....	42
Appendix 2 .....	42
Appendix 3 .....	43
Appendix 4 .....	43
Appendix 5 .....	44
VITA AUCTORIS.....	45

## LIST OF APPENDICES

Appendix 1 – Retail Cannabis Store Locations in the Town of Tecumseh; Page 41

Appendix 2 – Outline of a Commercial Plaza Hosting a Retail Cannabis Store in the Municipality of Lakeshore; Page 41

Appendix 3 – Outline of the Short Distance Between a Retail Cannabis Store and a Commercial School in the Municipality of Lakeshore; Page 42

Appendix 4 – Outline of the Short Distance Between a Retail Cannabis Store and a Commercial School in the Municipality of Lakeshore; Page 42

Appendix 5 – Outline of the Close Proximity Between a Retail Cannabis Store Within the Municipality of Lakeshore, and the Border of the Town of Tecumseh; Page 43

# **Chapter One: Introduction – Federal Cannabis Legalization and Provincial Regulation**

Following many years of study, debate, and contention on the decriminalization of soft drugs such as sleeping pills, sedatives, and cannabis; many states began tackling this contended topic (Government of Netherlands 2017). Over time, many democratic states began decriminalizing, legalizing, and eventually commercializing drugs such as cannabis. One of the most prominent on this list is the Netherlands, which has taken this approach to cannabis as early as 1976 (Korf 2001). Many other European and Western states have since followed suit and currently allow the use and sales of cannabis along with other soft drugs within their jurisdictions.

## **Cannabis Legalization in the Canadian Federation**

On October 17, 2018, cannabis became legal in Canada (Government of Canada 2021). Following multiple years of studies and public debate, the federal government decided to finally allow public, non-medical, recreational access to cannabis. This official decision was taken after Bill C-45, later known as the *Cannabis Act 2018*, passed both the House and the Senate, receiving its royal assent on June 21, 2018 (Senate of Canada 2018). According to the Government of Canada, The *Cannabis Act 2018* “creates a strict framework for controlling the production, distribution, sale, and possession of cannabis across Canada” (Government of Canada 2021). Furthermore, the legalization of cannabis, or marihuana; as is referred to in the *Cannabis Act 2018*, opened new doors for investment, agriculture, and most importantly room for debate on how it must be regulated and sold in different parts of the country.

To begin, we must understand that the process of legalization and regulation of such substances is not a one-time event. For example, the Netherlands continues to amend regulations and restrictions on cannabis and its use since the 1970s and till today (Korf 2001). Moreover, the

topic of the legalization of cannabis is studied across many different disciplines and areas of study which makes it particularly complex, steadily developing, and unpredictable. In 2018, the Government of Canada assertively communicated its intended goals behind passing the *Cannabis Act 2018*. First, the legalization of cannabis would make the industry more controlled, therefore keeping cannabis out of the hands of the youth (Government of Canada 2021). This is a sound goal since Canadian youth rank first for cannabis use among 43 countries and regions across Europe and North America, “with one-third of youth (regardless of gender) having tried cannabis at least once by age 15” (Drug Free Kids Canada). It is also estimated that the rate of cannabis use in Canada is two times higher among youth and young adults than adults (Drug Free Kids Canada). Moreover, one of every six youth who consumes cannabis will develop a cannabis use disorder which may later yield to more complex habits (Drug Free Kids Canada).

Second, the government claimed that the legalization of cannabis would keep profits out of the pockets of criminals (Government of Canada 2021). Minimizing the role of the illicit cannabis market was and continues to be a topic of debate within many governments. Increasing access to legal and safe cannabis will increase the government’s share of the market, and thus the tax revenue it collects, and simultaneously reduce the size of the illegal market (also known as the illicit market). According to data from Statistics Canada, “in the first three quarters of 2018 (before legalization), the cannabis black market in Canada accounted for approximately \$3.8 billion in retail sales” (Public Safety Canada 2020). Thus, it was a priority for the government to shrink the illicit market. Third, the government argued that the legalization of cannabis would protect public health and safety by allowing adults access to legal cannabis (Government of Canada 2021). This goal communicates and highlights minimizing illegal and criminal interactions involving the exchange of cannabis and other substances; it is a presumably safer option to buy cannabis from a licensed retailer than from an illicit seller. All three goals continue

to act as the centerpiece of the *Cannabis Act 2018*; however, their accomplishment is no longer directly tied to the federal government but has rather been passed on to other levels of government. How have these goals then been communicated and acted on? To whom was the responsibility of compliance and regulation relayed?

### **Provincial Legislation as a Response to Federal Legalization**

The same day that the Government of Canada passed the *Cannabis Act 2018*, the Government of Ontario passed Bill 36 which amended the *Cannabis Control Act 2017* (Government of Ontario). Like the federal legislation, the *Cannabis Control Act 2017* had its own goals that were implemented and outlined in the act. The newly introduced law would put in place age limits to restrict the sale of recreational cannabis to youths under the age of 19, it would also put quantitative limits on possession; however, most importantly, it would also spark the contemporary debate on storefront dispensaries and how they ought to be regulated (Government of Ontario). This then led to the speedy formation and introduction of a formal licensing model that would serve as the regulatory framework for private storefront cannabis retailing in Ontario.

Further, Schedule 2 of Bill 36 enacted the *Cannabis Licence Act 2018* which formalized and commoditized cannabis in its many forms. More importantly, this act also established the Alcohol and Gaming Commission of Ontario (AGCO) as the sole provincial regulator for cannabis storefronts within Ontario (Government of Ontario). Moreover, the *Cannabis Licence Act 2018* outlined the role of municipalities in relation to recreational cannabis which steadily passed down the strains of its legalization further onto them (Government of Ontario). The *Cannabis Licence Act 2018* outlines retail recreational cannabis sales in municipalities and on reserves (Government of Ontario). As outlined by the enacted *Cannabis Licence Act 2018*, the AGCO is legislated to authorize, license, and regulate the sale of cannabis in private retail

environments and outlets across Ontario (Alcohol and Gaming Commission of Ontario 2018). With regards to municipalities, they may choose whether to allow recreational retail cannabis stores within their jurisdictions and choose to have more bylaws to implement additional restrictions on smoking and vaping. However, under the *Cannabis Licence Act 2018* and by the powers delegated to the AGCO, municipalities may not create their own licensing system respecting the sale of cannabis; municipalities may also not pass any bylaws that would distinguish cannabis retail stores from any other kinds of stores with regards to zoning (Alcohol and Gaming Commission of Ontario 2018). Following a set deadline of January 22, 2019, municipalities that were interested in allowing retail cannabis sales within their jurisdictions would indicate so to the AGCO; however, once they have agreed to allow retail cannabis sales or have ‘opted-in’ they may not reverse their decision as they will have relinquished their powers to the AGCO under the *Cannabis Licence Act 2018* (Government of Ontario). On the other hand, municipalities that have chosen to not allow retail cannabis sales or ‘opted-out’ have the option of reversing their decision (Alcohol and Gaming Commission of Ontario 2018). Furthermore, once a municipality has opted-in they may only provide feedback on a prospective licensee during a short, fifteen-day period (Alcohol and Gaming Commission of Ontario 2018). The feedback of the public along with that of the respective municipality is then either accepted or rejected by the AGCO (2018). Nonetheless, as suggested by the Association of Municipalities of Ontario (AMO) (2018), many municipalities also took to develop policy statements through which they intend to gain support from their local public and the AGCO. However, these statements often contradict many of the regulations that are relinquished by municipalities following their choice to allow for cannabis retail (Government of Ontario). An example of such includes the subtle attempt by municipalities to introduce their own zoning rules which prohibit cannabis stores from operating in ‘sensitive areas’ that are not outlined in the *Cannabis Licence Act 2018*; such as daycares,

mental health facilities, and public parks (Government of Ontario). Thus, we have arrived at the core struggle between the Government of Ontario and its creatures – the municipalities – centered around the continuous municipal relinquishment of power and influence. With respect to cannabis, municipalities have often found themselves powerless vis-à-vis their provincial counterpart.

The structure put in place by the AGCO (2018), delegated by the Government of Ontario, was intended to provide a “safe, responsible, and lawful sale of recreational cannabis” with a focus on “effective regulation and services that are fair, responsive, and in the broader public interest.” However, the minimization of local governments is counter-productive and often not in the public interest. During the rest of this paper, I will provide a theoretical framework along with a case study that focuses on how municipalities interacted and reacted to such regulations and policies. What options did municipalities adopt and take after having opted-in? Does the current structure damage the broader public interest in Ontario?

Following the enactment of the *Cannabis Licence Act 2018*, the AGCO was left to ‘deal’ with municipalities of different priorities, sizes, budgets, and interests. The main goal of this paper is to examine the involvement of municipalities in the legalization, regulation, and licensing processes. The paper will do so by studying the effects of provincial legislation on municipalities and their reaction to it. The paper examines the general case of Windsor-Essex County and the specific case studies of the Town of Tecumseh and the Municipality of Lakeshore; examining their reaction to the provincial regulation of recreational cannabis and by studying its effects on the said municipalities. This will be done by analyzing municipal government reports, policies, and political actions. However, before we begin, we must first review literature and other previous studies that are relevant to the topic of cannabis legalization and its regional regulation.

## **Chapter Two: Literature Review – Cannabis Regulations and Theoretical Frameworks**

The cannabis discourse has triggered new political, social, and medical studies that provided support for its legalization across the world. The topic continues to be studied and as a result, different countries and regions adopted different forms of cannabis legalization and legislation. In the case of cannabis, the focus is on recreational cannabis and its retail sale.

To begin, the underlying issue behind municipal incapacity and provincial disregard especially with respect to the regulation of cannabis should be outlined. Canada’s constitution accounts only for one federal government and multiple provincial governments (Kristin 2021). Under Section 92(8) of the *Constitution Act 1867*, provincial governments and their legislatures are responsible for creating and eliminating municipal governments at their will: making municipalities the ‘creatures of the province’ lacking federal recognition, compensation, and sovereignty (Sancton 2015).

### **Cannabis Legalization and Local Government Officials**

As this paper outlines the interaction between local governments and their provincial counterparts, it is important to highlight literature that dissects this interaction in all its positives and negatives. How much power do municipalities in Ontario possess with respect to their provincial counterparts? The provincial and municipal relationship in Ontario continues to be widely debated by law and policymakers, authors, and politicians; one of many is Carlo Fanelli, who authored a report on how provincial public policy affects municipalities. Fanelli (2014) argues that Ontario municipalities have been under immense pressure from the Government of Ontario in many different aspects that are mostly political. Municipalities of Ontario or the ‘creatures’ of the province are at a constant disadvantage because of “decades of successive

federal and provincial funding cuts” that have undermined their abilities and most importantly their power to act and react (Fanelli 2014). Moreover, these cuts have also been coupled with the intensive downloading of many provincial programs and initiatives since the late 1990s; municipalities are then left to find budgets, solutions, and rationale for their participation (Fanelli 2014). As a result, Fanelli (2014) refers to the current state of Ontario municipalities as ‘dilapidated’; as they are continuously scattering to find new revenue, cut costs, while simultaneously searching for growth.

Fiscal and other struggles within the provincial-municipal relationship in Ontario continued to mount for years which led to the current situation. Similar to Fanelli’s (2014) argument, Côté, and Fenn (2014) state that the provincial-municipal relationship is approaching an inflection point which leaves the latter dilapidated; politically and financially exhausted. The authors demonstrate that this state of inflection in Ontario’s provincial-municipal relations is due to three different reasons: 1) “Growing recognition of the role cities and metropolitan regions play as centres of growth and national prosperity; 2) Increasing complexity in the provincial-municipal relationship; 3) Emergence of threats to the fiscal health of Ontario municipalities” (Côté and Fenn 2014). The provincial regulation of cannabis has further pushed this relationship towards inflection, especially with regards to its fiscal agreements. The authors assert that to reverse this inflection and to better the provincial-municipal relationship in Ontario, the provincial government “should shift its role from one of “funder” to “enabler” (Côté and Fenn 2014). The Government of Ontario has long acted as a bank or funder vis-à-vis its municipalities. Once they receive funds, however, municipalities are often powerless in choosing how they are used (Côté and Fenn 2014). Côté and Fenn argue that the province should shift its attention to “policy objectives, targets, and desired outcomes while enabling municipal partners by providing flexibility in operational policy and program design to identify a local solution” (2014, Page 52). This paper argues that municipalities

should be federally recognized and granted more formal powers under the constitution. However, the difficulty of a transition of power is that municipalities will have to solely assume and find solutions to their local challenges in their many forms (Côté and Fenn 2014). While the rapid or sudden withdrawal of provinces may negatively affect municipalities, the increase in political and fiscal power will enable them to adjust and therefore handle their local disputes uniquely as they arise. Finally, this increase in power will also grant municipal councils, local communities, and other municipal-based agencies power in distinctively transforming their jurisdiction as they wish.

### **Presumed Efficacy of Cannabis Regulation and Control**

The contemporary vulnerability of Ontario municipalities because of the current state of the provincial-municipal relationship was also outlined by many authors such as Jonathan P. Caulkins and Michelle L. Kilborn (2019) who mentioned the many challenges faced on the local level specifically with respect to cannabis legalization and regulation. The authors argue that municipalities are often not ready to adopt many major changes, such as cannabis legalization and other ‘downloaded’ projects on behalf of the provincial government (Caulkins and Kilborn 2019). The results of their research found that while public health and safety was a priority for many governments, such as the Canadian and Ontario Governments, they were often in conflict with the free-enterprise and hybrid structure that was put in place (Caulkins and Kilborn 2019). Moreover, this current structure deepens the struggle for power between provincial and municipal governments as well as private stakeholders with an interest in cannabis retail.

The structure for legalizing cannabis in Ontario provides room for government taxation, safer products, and a projected minimization of the illicit market. These goals and many more “are usually tackled by state/provincial level policymakers who are generalists, not experts in substance misuse” (Caulkins and Kilborn 2019). Such policies are usually studied at the federal

level and later downloaded as they are to the local and municipal levels. Like Fanelli, Caulkins and Kilborn (2018) question the overlaying structure of municipal-provincial relations while simultaneously questioning the regulation of cannabis and its goals. Furthermore, the argument that the legalization of cannabis will reduce harmful use while simultaneously shrinking the black market is contradictory according to the authors (Caulkins and Kilborn 2019). The twinning of both goals is problematic and often leads to no solution. As they state, “we get to choose the kind of drug problem we have (larger black markets or greater levels of harmful use)”, indicating that cannabis cannot be entirely safe and harmless (Caulkins and Kilborn 2019). The rise of a legal market will evidently shrink the illegal market (and its dangers); however, it will not eradicate the drug problem as cannabis will still be prevalent, and now legal (Caulkins and Kilborn 2019). A regulatory framework such as that of the Government of Ontario may be set up with good intentions, however, that alone does not limit the introduction of consequences; especially with a free-enterprise market that is set up to maximize revenue and consumption (Caulkins and Kilborn 2019). Another pressure that is placed on municipal governments is the lack of policy or decision realization. In the example of cannabis, data and other statistics are collected at the national/provincial levels “without adequate sample size to produce spatially disaggregated estimates” which disserves local governments in gauging the effects of their policy and strategic planning with respect to cannabis (Caulkins and Kilborn 2019).

With the many apparent negatives surrounding the municipal-provincial relations on the topic of cannabis legalization and regulation, the intended rationale behind the adoption of Ontario’s cannabis regulations and its goals was merely sound, or so at least in theory. In contention with Caulkins and Kilborn’s argument, the Government of Ontario continued coupling the goals of reducing harmful use while also shrinking the role of the black market. In their argument, Michael Amlung, and James Mackillop (2018) examine the idea of exchangeability

between legal, government-regulated cannabis and illicit cannabis. Proving that the availability of legal cannabis can indeed realize two of the three goals established by the *Cannabis Act 2018*: 1) keeping the profits out of the hands of criminals and the protection of public health and safety by 2) allowing adult access to legal cannabis (Government of Canada 2021). Through their study, Amlung, and Mackillop (2018) found that the introduction of legal cannabis into the market indeed disrupts and reduces illegal purchases, contributing to the overall reduction of potential harms associated with the illicit market; however, this is tied directly to pricing patterns. Through the examination of price elasticity, it was found that legal cannabis can replace illicit cannabis if the price is the same or only slightly higher (~\$10-\$12/g) (Amlung and Mackillop 2018). This, explains the rationale behind the monopolization of supply in Ontario through the Ontario Cannabis Store (OCS), which continues to be the sole supplier of cannabis in the province (Watson et al. 2019). The establishment of the OCS is crucial in allowing the Government of Ontario control over the minimum prices of cannabis within the province, guaranteeing the competitiveness of the legal market. Moreover, according to an OCS Insight Report, the legal market continues to battle and directly compete with the pricing of the illicit market. In fact, by the fourth quarter of 2020, the OCS (2021) maintained the lowest price for a gram of dried cannabis flower in all of Ontario at \$6.17; compared to private retail stores and illicit sellers which were at \$8.87 and \$9.59 respectively. As a result, and as predicted by Amlung and Mackillop (2018), the lowering of prices by the OCS has indeed reduced the role of the illicit market. The negative relationship saw the tremendous growth of the legal market from 25.1% in the first quarter of 2020 to 43.1% by the third quarter of the same year; a growth of 18% in less than a year (Ontario Cannabis Store 2021). The establishment of such a hybrid structure grants the Government of Ontario leverage over the pricing, creating continuous competition with the illicit market and therefore shrinking it. While according to Caulkins and Kilborn, the harmful use

of cannabis can never be eliminated even if it was legalized and regulated, at least municipalities can benefit from a significant decrease in illicit sales and marketing, which may in return, decrease the overall spending on enforcement and contribute to safer local, municipal communities. This suggests the presumed safety and ‘harmless’ use of cannabis as a result of the statistically significant shrinking of the illicit market in the province as a benefit to municipalities.

### **Over-Arching Policy Framework in Cannabis Legalization**

With regards to current regulation, critical analysis is essential to continue gauging how it could be improved and be more effective in achieving its goals. Chelsea L. Shover and Keith Humphreys (2020) provide direct policy recommendations that are relevant to the state of cannabis today. These policies include: 1) Do not have a medical marijuana system that is not truly medical; 2) Protect science, regulation, and public health from corporate influence; 3) Cap the potency of cannabis products; 4) Price may be the most effective lever to promote public health; 5) Look beyond reducing marijuana possession arrests; 6) Facilitate rigorous research (Shover and Humphreys 2020). For the purpose of this paper, we will exclusively analyze policies two and four since they are most relevant to the regulations present in Ontario today.

To begin, the second recommendation states that science, regulation, and public health should be protected from corporate influence (Shover and Humphreys 2020). Initially, the Government of Ontario intended to somewhat maintain a safeguard on the industry by creating the OCS to become the sole seller of cannabis in the province. The transition from a Liberal to a Progressive Conservative Government in 2018, however, interrupted the original plan of a complete government monopoly on supply and retail (Watson et al. 2019). Shortly after their election, the Progressive Conservative Government retracted the role of the OCS to become an oversight body that is authorized to sell cannabis online and supply prospective private retailers

(Watson et al. 2019). This slowly enacted Ontario’s hybrid retail model for recreational cannabis and introduced private stakeholders (Watson et al. 2019). According to Caulkins and Kilborn (2018), the free-enterprise structure of recreational cannabis retail offsets the effectiveness of other government regulations and policies that were once positive. In Quebec, similar to Ontario, youths (ages 15-24) account for the highest percentage of use in the province at 72.7% (Watson et al. 2019). Thus, once the federal *Cannabis Act 2018* came into effect, the Government of Quebec took a not-for-profit approach in order to curb the problem of youth access and to protect public health (Watson et al. 2019). Once cannabis was legalized at the federal level, Quebec passed the *Cannabis Regulation Act 2018* (Watson et al. 2019). This enacted and established the all-new Société Québécoise du Cannabis (SQDC). Similar to the OCS, the SQDC is the sole cannabis in-store and online retailer in Quebec (Watson et al. 2019). Further, Quebec’s Minister of Health and Social Services also distinguished that the commercialization of cannabis would be “incompatible with a public health framework” (Watson et al. 2019). By monopolizing the market, the Government of Quebec “protected science, regulation, and public health from corporate influence” as argued by both Shover and Humphreys (2020). The Government of Quebec’s approach significantly decreased cannabis use among teens from 11.8% in 2019 to 10.9% in 2020, a statistic that continues to trend downwards (Rotermann 2020).

On the other hand, the hybrid system that currently exists in Ontario allows for free-enterprise, commercialized, and for-profit recreational cannabis that is indeed counterproductive as it is based on increasing sales and therefore increasing consumption. Today, Ontario has the highest share of recreational sales nationally at 29% compared to Quebec’s 18% (Ontario Cannabis Store 2021). Moreover, Ontario hosts more than 572 licensed cannabis stores, which grants private stakeholders power and influence (Ontario Cannabis Store 2021). This often leads to the establishment of corporate retail chains with some having upwards of 25 stores across the

province (Ontario Cannabis Store 2021). The hybrid system then reveals its weaknesses in the face of protecting public health from private interests. While the system managed to increase the number of legal sales, therefore, decreasing those that are illegal, it has failed to shield local governments and communities from the prospective dangers of the commercialization and privatization of cannabis (Ontario Cannabis Store 2021).

The fourth recommendation: “price may be the most effective lever to promote public health”; is of utmost importance as it addresses a core component behind the legalization of cannabis (Shover and Humphreys 2020). Shover and Humphreys (2020) argue that government control over pricing is essential in maintaining a healthy market and shrinking the illicit market even further. As argued by Amlung and Mackillop (2018), legal cannabis can indeed replace illicit cannabis providing the price is affordable and not more than (~\$10-\$12/g). It is evident that the hybrid structure that is currently in Ontario has been successful in continuing to lower the price of cannabis to less than \$6.17/g for the dried flower (Ontario Cannabis Store 2021). However, in their policy suggestion, Shover and Humphreys (2020) suggested the implementation of a health tax that would deter the possible overconsumption of cannabis. Health taxes have been proven to effectively reduce consumption of “tobacco, alcohol, and sugar-sweetened beverages” (Shover and Humphreys 2020). Most notably, raising taxes on alcohol has been particularly effective in reducing “serious harms including death and injury due to motor vehicle accidents” (Shover and Humphreys 2020). Moreover, they also recommended a serious study of a minimum unit pricing that would be tied to a gram of cannabis; or a floor price under which it should not be sold in hopes to deter over-consumption (Shover and Humphreys 2020). This could be beneficial to Ontario and public health in local communities since it will provide a minimum price to ensure that cannabis, as a commodity, does not become too cheap and easy to access (Shover and Humphreys 2020). While these suggestions may yield success in Ontario, the

presence of private stakeholders may make the process more contentious (Shover and Humphreys 2020). However, such measures and taxes can easily be added in a monopolized system that grants absolute power to the provincial government, such as that of Quebec. Instead of empowering municipalities to become more flexible in introducing retail cannabis, the Government of Ontario has chosen to relinquish its powers to private stakeholders that would, in turn, search for maximum revenue with minimal consideration for local community safety and public health.

The ideas presented within the policies can serve as our policy and theoretical framework that aids in our understanding of the topic of cannabis legalization, regulation, and its interaction with municipalities. We can then gather that the current provincial structure in Ontario is a disservice to both municipalities and their local communities. The twinning of many goals such as the elimination of the illicit market and its relation to the reduction of ‘harmful’ use of cannabis has been proven to be problematic and counterproductive. Nonetheless, the Ontario Government was successful in legitimately minimizing the role of the illicit market. However, power was slowly transitioned over to private stakeholders who opened more than 570 retail stores across Ontario’s municipalities with little to no input from local officials and public (Ontario Cannabis Store 2021). Therefore, the burden placed on municipalities continues to compound as a result of their lack of power to control licensing and zoning. The following sections of the paper will use two case studies to examine the issues raised regarding cannabis legalization and the role of municipal governments. We intend to highlight the role of municipalities in the regulation and licensing of recreational cannabis stores in Ontario through the application of our understanding of the topic thus far.

## **Chapter Three: Methodology**

The main goal of this paper is to examine the involvement of municipalities in the legalization, regulation, and licensing processes of cannabis. The paper will do so by studying the effects of provincial legislation on municipalities and their reaction to it. Thus, we will utilize different research methods to obtain information that is relevant to our study and analysis. Throughout this paper, we will conduct a comparative study focused primarily on the Town of Tecumseh and the Municipality of Lakeshore. We have chosen to study these two municipalities since they are both smaller municipalities that neighbour one another and are similar in many aspects but have adopted slightly different approaches to cannabis post opt-in. It is also the intention that we focus on such smaller scale municipalities as they are often not heavily studied in literature as opposed to larger scale municipalities. Further, we will compare the approaches and responses taken by the two local governments under Ontario's cannabis regulatory structure. We will accomplish this by conducting a qualitative study using secondary sources and recent grey literature. In addition, this paper will also study how each municipality may have impacted the other's public opinion and political decision-making.

The multi-governance structure of cannabis laws and regulations places an immense pressure on municipalities to act and react to new provincial downloads. As a result, this paper will focus predominantly on municipal response and strategic planning with respect to cannabis since its federal legalization in 2018. To capture the municipal response, this paper will utilize a wide range of publicly available government documents of all levels: federal, provincial, and municipal. With regards to municipalities, we will refer to by-laws, policy statements, reports to council, and any form of public documents that concerns cannabis, its regulation, and its

recreational sale. Finally, this paper will refer to different reports, presentations, and other relevant documents by the Government of Ontario, the AGCO, and the OCS.

## **Chapter Four: Provincial Regulation and Its Impact on the Municipal Role**

As mentioned throughout Chapter Two, the tension between provinces and municipalities, at least in the case of Ontario, is not recent but is a result of decades of undermining and downloading of responsibilities and projects. This chapter will introduce and dissect current regulations in Ontario with respect to municipalities and how these regulations have reduced local autonomy vis-à-vis cannabis.

### **Provincial Structure and Regulation**

The enactment of the *Cannabis Licence Act 2018* formalized the relationship between municipalities and the Government of Ontario with respect to cannabis. The Act provides a licensing framework entrenched within a larger legislative framework governing the recreational sale of cannabis within the province (Government of Ontario). The Act also established the AGCO to be the sole regulator and licensor for cannabis storefronts within Ontario. However, the main complication that the AGCO presents to municipalities is the lack of restrictions placed on recreational retail cannabis stores especially with respect to zoning.

The AGCO (2021) outlines that for a retail cannabis store license to be accepted, the prospective location must not be less than 150 meters away from a school or private school. While this is beneficial to eradicate youth use of cannabis through reducing store exposure, it may not be a sufficient distance to accomplish this goal. Moreover, the AGCO does not establish any other zoning restrictions on retail cannabis stores and prohibits municipalities from doing so either. Further on this point, the density and the location of such stores are also the root of concern for many municipalities across the province. Municipalities, through policy statements, argue that retail cannabis stores should not be located near other areas that are deemed sensitive to the local community, which may include: daycares, places of worship, parks, hospitals, mental

health, and addiction facilities (Municipality of Lakeshore 2019). However, the AGCO continues to ignore such comments from local governments. This is the centerpiece for municipal concern with respect to the introduction of recreational cannabis. The case studies of the Town of Tecumseh and the Municipality of Lakeshore highlight the concerns of many lower-tier municipalities in Ontario. Did these concerns remain following the municipalities' decision to allow cannabis sales?

### **Provincial Licensing Process Under the AGCO**

In Ontario, a cannabis Retail Store Authorization (RSA) is issued by the AGCO on behalf of the Provincial Government. There are three stages to the licensing process, which are as follows:

- In Progress;
- Public Notice;
- Authorized to Open (Alcohol and Gaming Commission of Ontario 2021).

First, when a retail cannabis store application is put forward to the AGCO (2021) it begins in the “In Progress” stage. This stage of the process entails that the application is under formal review by the AGCO. However, most, if not all stores are usually forwarded on to the next stage in the process: “Public Notice” (Alcohol and Gaming Commission of Ontario 2021). When a prospective store is in this stage, residents of the respective municipality and the municipality itself within which the store will be located can make comments within a short, fifteen-day window (Alcohol and Gaming Commission of Ontario 2018). However, not all comments or recommendations made by the municipality, or its residents are accepted by the AGCO. Comments distinguishing cannabis stores from other retailers are often disregarded and not considered, as will be showcased specifically in the case of the Municipality of Lakeshore.

Provided that your RSA is in compliance with the *Cannabis Licence Act 2018* with regards to facility and equipment standards; that your store is not against ‘public interest’; that you do not hold any federal licences to produce cannabis for commercial purposes while holding an RSA within that same location of production; and that the location of your prospective store is located within a municipality that has permitted cannabis retail stores, the application is usually moved forward to the final stage: “Authorized to Open”. Once an RSA has reached this stage, the AGCO (2021) has officially indicated that the prospective store “has met the regulatory requirements and has passed its pre-opening inspection from the AGCO” and is ready to open.

### **The Role and Input of Public Health Units**

During the procedure to opt-in, many municipalities consulted third parties such as their respective police service, private stakeholders, and local public health units. However, what is specifically striking about our case study of Windsor-Essex County is that the local health unit: Windsor-Essex County Health Unit (WECHU), corresponded with both the Town of Tecumseh and the Municipality of Lakeshore (2019) and advised them against opting-in due to the “current regulatory model which limits land use control at the local level.” According to an administrative report to the Municipality of Lakeshore (2019) Council, the “WECHU states that without restrictions on density, clustering of cannabis retailer may result in increased access, consumption, and increased risk of chronic disease, mental illness, and injury.” This then reflects directly on Kilborn and Caulkins’ (2018) argument that we will never not have a drug problem; we only get to choose what kind of problem we have, either increased consumption or the rise of the black market. In this case, the Government of Ontario and its many municipalities chose the former over the latter. Furthermore, the WECHU recommended that cannabis retail stores should be “at least 500 metres away from any school, library, park, recreational centre or youth-serving

facility, addiction, mental health facility, hospital, place of worship, alcohol, tobacco or any other cannabis-related business” (Municipality of Lakeshore 2019). However, this is not in line with the rules used by the AGCO during its licensing process. Notwithstanding the correspondence of the WECHU, both municipalities went on to opt-in to allow retail cannabis sales within their jurisdictions.

### **Fiscal Challenges**

With regards to cannabis legalization, regulation, and licensing; the Ontario government continued its undermining of municipalities. The presentation of the provincial framework to regulate cannabis after its legalization rarely accounted for the role of municipalities, whether it be in the process of licensing or overall regulation. In fact, even with regards to funds and expenses, municipalities were often tasked with more than their budgets can handle, which forced many municipalities to choose not to allow cannabis stores within their jurisdiction because of their fear of many factors such as a potential increase in policing costs and general enforcement (Hartmann 2018). After concerns were raised by many local government officials over the potential of increased costs of policing following the introduction of cannabis, the Ministry of Finance pledged over \$40 million over two years to all municipalities through the Ontario Cannabis Legalization Implementation Fund (OCLIF) (Town of Tecumseh 2018). In the cases of the Town of Tecumseh (2018) and the Municipality of Lakeshore, which host about 30,000 residents each, their allocation would have amounted to \$11,635 per municipality. In addition to these funds, municipalities who have chosen to opt-in have received upwards of \$5,000 while those who did not opt-in before or by the deadline of January 22, 2019, received a maximum of \$5,000 only (Town of Tecumseh 2018). The staggeringly low funds allocated to municipalities was a significant point of focus for many

councils across the province, such as that of the Town of Tecumseh and the Municipality of Lakeshore.

### **Town of Tecumseh**

Following the release of the January 22, 2019, deadline to opt-in for all municipalities in Ontario, the Town of Tecumseh among many others, began studying the positives and negatives of choosing to allow recreational retail cannabis sales within their jurisdictions. On December 11, 2018, the Town's administration released a Report *CS-2018-47* to inform Town Council of their recommendations with respect to cannabis retail (Town of Tecumseh 2018). The Report recommended that the Council choose to opt-out of cannabis retail sales while also listing reasons as to why choosing otherwise may be problematic. These reasons include the following as according to the report:

- No cap on the number of retailers per municipality;
- Municipalities are prohibited from using licensing and land use planning by-laws to control the placement of or number of cannabis retail outlets;
- The short proposed fifteen-day consultation period to respond to a notice of retail authorization (public notice) and the lack of direct notification to municipalities;
- Responses to notices limited to the definition of 'public interest';
- Lack of setback to retail stores away from sensitive areas other than schools (i.e., vulnerable communities, parks, childcare centres);
- Illegal storefronts; or the rise of unlicensed cannabis stores;
- Organized crime (Town of Tecumseh 2018).

Following inter-municipal research and recommendations from the Windsor Essex County Health Unit (WECHU), the Town of Tecumseh decided to opt-out of allowing recreational cannabis retail and took a “wait and see” approach (Battagello 2021).

Since 2018, and the decision to opt-out, the Town of Tecumseh has continued to study the effects of cannabis and left the option to opt-in open. Among many others, one of the Town’s main arguments against choosing to opt-in was the lack of funds received from the Government of Ontario. The Ontario Cannabis Legalization Implementation Fund (OCLIF) would grant the Town a maximum total of \$16,635 in two installments of \$11,635 and \$5,000 (Town of Tecumseh 2018). This then further solidifies the argument put forward by Fanelli (2014); the pressures relayed onto municipalities as a result of the provincial download of projects and implementations coupled with lack of funds. Furthermore, Gary McNamara, Town of Tecumseh Mayor, argued that “there is no denying the economic benefits of hosting successful cannabis retail operations” however, he admitted his disappointment with how much income goes to the federal and provincial governments first (Campbell 2021).

#### *Opt-In Discourse and Rationale in the Town of Tecumseh*

For a long period, the Town of Tecumseh remained the last municipality in Windsor-Essex County to have maintained its position of opting-out. In the early months of 2021, the Town began slowly reintroducing the discussion, and the administration was asked by Council to develop a report to help them better understand their options, three years later. As a result, a Report *CS-2021-09* was developed and presented on June 8, 2021 (Town of Tecumseh 2021). The report recommended that it be received and that “opting-in to retail cannabis sales in the Town of Tecumseh be given consideration by Council” (Town of Tecumseh 2021). The report also

included consultations from the Town’s Planning and Building Department which outlined the physical requirements and restrictions on cannabis retail stores (Town of Tecumseh 2021).

In unison with the presentation of Report *CS-2021-09*, the Council also received a presentation from the Ontario Cannabis Store on the benefits of opting-in and their strategic plan to work together with municipalities. Furthermore, the OCS presented the council with statistics that argue for opting-in to cannabis retail sales and its role in shrinking the illicit market. Following the presentation, the floor was opened for councillors for their comments and questions on behalf of the Town’s residents. There were four Council members who made major comments during the meeting. First, Councillor Dowie of Ward One highlighted his support for opting-in by stating that the proximity of a cannabis retail store in the neighbouring Municipality of Lakeshore as seen in **Appendix 5**. Councillor Dowie added that the prohibition on retail cannabis stores does not continue to “serve a practical purpose” (Town of Tecumseh 2021). Councillor Houston of Ward Four also supported opting in. He addressed one of many concerns that the residents highlighted during their discourse which was the rapid increase of stores and applications saying that cannabis retail is an industry like many others and its competitiveness should remain up to the market. Further, he continued to argue that should many stores begin to rapidly open within the Town, they may not see enough economic benefits due to a decrease of consumption or increase in competition that they may then choose to end their business (Town of Tecumseh 2021). Finally, Councillor Houston added that after all “cannabis is a legal product” and should be treated as such by all levels of government (Town of Tecumseh 2021). Third, Councillor Altenhof moved to disagree with both Councillor Dowie and Houston’s comments by calling attention to the Windsor-Essex County Health Unit’s (WECHU) report that advised the municipality not to opt-in to retail cannabis sales (Town of Tecumseh 2021). Moreover, Councillor Altenhof of Ward Two also made it known that should the Town decide to move

forward and opt-in, they should still adhere to much of what is recommended by the WECHU with regards to resident education and the development of a policy statement (Town of Tecumseh 2021). Finally, Mayor McNamara concluded by adding that the lack of legal cannabis retailers has created a vacuum which was exploited by illicit, “less safe”, cannabis that may be laced with other dangerous substances. Mayor McNamara added to this by saying, “For me, it is the safety aspect of the product at the end. We have to be able to have better quality control and to eliminate the illegal market, that should be the end goal” (Town of Tecumseh 2021). Furthermore, Mayor McNamara also commented on the correspondence made by the WECHU by saying that “In the big picture of it, it is like alcohol. If you were to ask the health unit on alcohol, they will say you should not drink” (Town of Tecumseh 2021). After Report CS-2021-09 was presented, Town Council voted (5 members in support; 1 member in opposition) for the motion to opt-in. It is clear that taking the ‘wait-and-see’ approach has tremendously benefitted the Town of Tecumseh by allowing it more time to study different municipalities and assess the risks of opting-in more closely. The impact and severity of the decision to opt-in has been minimized over three years as a result of continuous research on the risks and benefits of cannabis leading up to their decision to opt-in in the summer of 2021.

#### *The AGCO and the Town of Tecumseh Post Opt-In*

Within short weeks of choosing to opt-in, the AGCO began looking at four different prospective retailers within the Town of Tecumseh. As of November of 2021, the Town has one cannabis store that is ‘Authorized to Open’ by the AGCO and is currently operating; meanwhile, there are three other stores that have concluded their ‘Public Notice’ periods. As presented in **Appendix 1**, the prospective stores that have concluded their ‘Public Notice’, labelled as store “2”, “3”, and “4” are geographically condensed in an area and are all less than 600 metres from

one another. This, then, begins to undermine the Town of Tecumseh's confidence in the AGCO and the Government of Ontario. One of the Town's main concerns during their study of cannabis opt-in was the inability of municipalities to control the locations and volume of these prospective cannabis retailers (Town of Tecumseh 2018). Following the 'Public Notice' stage, the AGCO reviews and reports back to the stores with an 'Authorization to Open' and an official licence to operate. In the case of the said retailers, if the decision was left to the Town of Tecumseh, the applications are less likely to move forward because of their operation in such a condensed area. On the other hand, the AGCO is more likely to grant these retailers their licences; since their regulations only account for the basic guidelines within the *Cannabis Act 2018*. Not only is the Town of Tecumseh facing such hardships in its relationship with the AGCO, but many other municipalities in Essex County are also struggling to balance their interests with those of the Government of Ontario and its agencies.

### **Municipality of Lakeshore**

Like the Town of Tecumseh, the Municipality of Lakeshore also took a 'wait-and-see' approach to the introduction of recreational cannabis retail in its jurisdiction in December 2018. Following a comment from the Windsor-Essex Health Unit (WECHU) highlighting the fact that there remains to be no cap on the number of shops a town can have, saying, "we realistically will not know the long-term implications of cannabis legalization for a generation, but we can lean on our experiences with alcohol and tobacco and some of the harms that we have seen associated with the clustering of retail outlets, the proximity of retail outlets near a vulnerable population" (Broeckel 2018). Mayor Tom Bain of Lakeshore also commented on the decision to opt-out, "you do not go into the unknown because there are a lot of problems that could be there. It was necessary to opt-out and to get a report within the next three or four months and get some of these

questions answered” (quoted in Loiselle 2018). As a result, the conversation on cannabis retail was never completely ruled out by the mayor or the council.

### *Opt-In Discourse and Rationale in the Municipality of Lakeshore*

In 2019, almost a year following their opt-out, the Municipality of Lakeshore Council received a report from administration on November 19, 2019, titled *Cannabis Retail Stores*. The report included correspondences and consultations from the WECHU, Association of Municipalities of Ontario (AMO), Essex-Windsor Emergency Medical Services (EMS), and more (Municipality of Lakeshore 2019). The report did not include a specific recommendation to Council on whether to consider opting-in. Most importantly, the report gave the council insights on public opinion with regards to cannabis stores by utilizing the PlaceSpeak platform, to digitally engage the residents of the municipality. 142 members of the public responded to the survey as of December 4, 2019; “among them, 85 answered yes, 55 answered no, and two indicated that they were undecided” when asked if they wanted the sale of recreational cannabis in Lakeshore (Municipality of Lakeshore 2019). Further to these engagement strategies, the Municipality of Lakeshore conducted an in-person information session on November 4, 2019, to converse and educate the public on current regulations and restrictions on cannabis stores should they opt-in (Municipality of Lakeshore 2019). The Municipal staff noted that “about half of those who attended were in opposition to the idea of permitting retail cannabis stores”; referencing concerns in the areas of “decrease in property value, increased crime, and increase accessibility to harmful product” (Municipality of Lakeshore 2019). On the other hand, residents who were in favour described the benefits of cannabis use and “raised the importance of personal liberty on these matters” (Municipality of Lakeshore 2019). Further, many also highlight the individual and medicinal benefits of cannabis and the reciprocal benefits that the retailers would get.

The introduction of the report on December 10, 2019, prompted debate and discussion among members of Council. First, Councillor Kirk Walstedt of Ward Five voted against cannabis retail stores in 2018 and held the same position the second time around (CBC News 2019). Councillor Walstedt argued that “there is zero benefit for the municipality” if they allowed cannabis retail stores. Furthermore, he also commented that Lakeshore, specifically, “is a pretty unique municipality. People come here; it is a quiet, nice municipality. We have a lot to offer, and people come here for a reason. I do not think they are going to be coming here for cannabis stores” (CBC News 2019). Financial implications also played a role in Councillor Walstedt’s decision to oppose cannabis stores in Lakeshore. Councillor Walstedt argued, “now we are going to see very little, if any, revenue from the province in the form of taxes, because we opted out initially, so we are not even on a list now” (CBC News 2019). Councillor Walstedt also mentioned that inviting cannabis stores may lead to an increase in product access to young people in the community (CBC News 2019). However, on the other side of Councillor Walstedt’s argument was Deputy Mayor Tracey Bailey, who actively argued for the introduction of cannabis retail stores in the Municipality (CBC News 2019). Deputy Mayor Bailey advocated for the cannabis industry and highlights that it should be treated as a business; “after further investigation and a bit more time to consult with the community, my opinion has changed. I am viewing this as a business, and I am not looking to close off any business” (CBC News 2019). However, it is important to note that Deputy Mayor Bailey said that she feels Lakeshore is not an attractive place for cannabis retailers (CBC News 2019). Furthermore, in support of Deputy Mayor Bailey, Mayor Tom Bain also changed his position to support the introduction of cannabis retail stores in the Municipality of Lakeshore. Mayor Bain argued that cannabis was a legal commodity and “is probably coming our way, and we need to be prepared for it” (CBC News 2019). However, similar to Deputy Mayor Bailey, Mayor Bain highlighted the sentiment that the Municipality of

Lakeshore is unlikely to get a cannabis store. Further, Mayor Bain mentioned that a majority of council members voted for the motion to allow physical cannabis stores “knowing that right now the chances of them getting a retail outlet are pretty slim” (CBC News 2019). This projected mildness of opting-in may have led many members of Council, including Mayor Bain, to switch their position on cannabis retail. As a result, the Municipality of Lakeshore decided to reverse its decision and opt-in to recreational cannabis retail sales on December 10, 2019, by voting (5 members in support; 3 members in opposition) on the motion to opt-in (CBC News 2019). Similar to the Town of Tecumseh, the Municipality of Lakeshore has effectively taken the ‘wait-and-see’ approach by studying nearby municipalities and the effects of cannabis on those communities. As argued by the Council, over one year of close analysis, cannabis does not present severe dangers on communities as was argued during its early days of legalization in 2018.

#### *The AGCO and the Municipality of Lakeshore Post Opt-In*

As recommended by the AMO (2018), the municipality took to develop a policy statement in order to inform their citizens and also establish certain, informal, limitations on cannabis stores within their jurisdiction. The municipality indicated that the intention behind the formulation of a policy statement is to “set out locally sensitive uses (in addition to schools under the Ontario *Education Act*) with respect to the location of retail cannabis stores that the municipality would want considered by the AGCO” (Municipality of Lakeshore 2019). The Municipality of Lakeshore Cannabis Policy Statement (2019) includes a list of locations where retail cannabis stores should be ‘discouraged’ from operating. These locations include community centres, schools and daycares, public parks, and libraries that exist within the Municipality (Municipality of Lakeshore 2019). Moreover, the Municipality of Lakeshore (2019) distinguishes these locations as ‘sensitive’; and its distinguishment is “to help ensure public health and safety, protect

youth, and reduce illegal sales, retail cannabis stores are discouraged where nearby properties are designed to serve youth or other sensitive facilities that serve persons with mental health or addiction challenges.” The Policy Statement then directly clashes with the provincial regulations put forward by the *Cannabis Licence Act 2018* and the AGCO. As directed by the provincial regulations, municipalities may not restrict the use of any retail space to cannabis stores once they have chosen to opt-in (Alcohol and Gaming Commission of Ontario 2018). The Municipality of Lakeshore, along with many others in Ontario, strived to finesse the regulations by formulating such policy statements in order to affect the licensing process within the AGCO registrar. However, in this case, the attempt to do so has fallen short.

Two years following the municipal opt-in, there are now a total of three recreational cannabis stores in the Municipality of Lakeshore to date; significantly more than many had expected including Deputy Mayor Bailey (CBC News 2019). However, unsurprisingly, two out of the three stores directly oppose the policy statement put forward by the municipality. Firstly, the store located at 1303 Essex County Road 22 is located within the same address as a commercial school while also being located across the road from another commercial school located at 1302 Essex County Road 22 as presented in **Appendix 2 and 3**. The retail cannabis store is approximately 108 metres away from both locations; while the Policy Statement outlines that cannabis stores cannot be less than 150 metres away from the respective locations. However, the said locations are in line with the provincial regulations. Secondly, the store located at 571 Notre Dame Street is located approximately 96 metres away from a commercial school that is deemed ‘sensitive’ according to the Municipality of Lakeshore Policy Statement as is presented in **Appendix 4** (Municipality of Lakeshore 2019). It is then clear that municipal policy statements are not considered by the AGCO in the licensing process. As an example, when a store is in the ‘Public Notice’ stage, the respective municipality and its residents can provide the AGCO with

any comments with regards the location. If the proposed location does not contradict provincial regulations with regards to matters of public interest, however, it will usually pass this stage with no regards given to municipal policy statements or strategic planning (Alcohol and Gaming Commission of Ontario 2018). This could be strongly presented when looking at the example of the City of Hamilton. The City of Hamilton chose to provide comments on over 29 planned retail stores to the AGCO, however, none of these objections were accepted and the stores were authorized to open (Maurer 2021). Ontario's unilateral approach, therefore, eliminates and disregards municipal policies from the licensing process which drives the municipal-provincial relationship to become more one-sided.

### **Inter-Municipal Geopolitical Effects of Cannabis Opt-In**

Particular to our case study, we found that deciding to opt-in to cannabis retail stores often weighed on the decision-making of neighbouring government(s), their council(s), and ultimately their residents. To further this point, these municipalities, when bordering one another, create geopolitical pressures and sway public opinion with regards to important agendas such as that of cannabis. The Municipality of Lakeshore's opt-in two years before that of the Town of Tecumseh created indirect pressure and demand on the latter. According to the Town of Tecumseh's PlaceSpeak webpage, used to gather the community's input on whether the Town should consider opting-in, residents were often disturbed by the existence of cannabis stores in neighbouring municipalities. In the case of the Town of Tecumseh and the Municipality of Lakeshore, a cannabis store located in the jurisdiction of the latter is less than 400 metres away from the border of the former, as presented in **Appendix 5**. Moreover, this specific store was a topic of discussion during the Town of Tecumseh Council Meeting specifically by Councillor Dowie on behalf of his

residents. This then creates an inter-municipal influence and struggle between two smaller-tier municipalities that are within such close proximity from one another.

## **Chapter Five: Analysis and Conclusion – Outcomes of Ontario’s Unilateral**

### **Approach**

#### **Analysis of Ontario’s Approach – A Unilateral Free-Market**

Being the largest province in Canada, in terms of population, Ontario’s implementation of cannabis regulation is worthy of being studied and closely analyzed. Ontario’s approach to the legalization of cannabis revolved around goals such as reducing harmful use and access to cannabis, decreasing the share of the illicit market, and protecting youth and public health. As discussed through the literature review and analysis, such goals are sound in theory, but the coupling of these goals is problematic. Thus, we argue that the Government of Ontario has made two major errors in their approach to cannabis when contrasted to other provinces/territories and after analyzing municipal role and response. First, it established a set of goals that are contrary to one another and often counter-productive. As argued by Caulkins and Kilborn (2018), the intention to reduce the harmful use of cannabis while simultaneously reducing the share of the illicit market is not sound and will often reverse the intended results. The government continues to be successful in driving down the effectiveness of the illicit market; however, it did not curb the potential side effects of cannabis legalization such as the potential of an increase in cannabis-impaired driving (MADD Canada, 2021). In Washington State, the number of THC-positive drivers involved in fatal crashes nearly doubled in the year after recreational cannabis was legalized (Grabowski et al. 2016). In Canada, the number of police-reported drug-impaired driving (DID) incidents have increased by 43% from 2018 to 2019 (Public Safety Canada, 2020). While the Government of Ontario was successful in significantly increasing the share of the legal market while driving down that of the illicit market, cannabis consumption became easier than ever, causing another ‘drug problem’ (Caulkins and Kilborn 2019). Second, the Government of Ontario failed by introducing a

free-enterprise market that disserves municipalities to such an extent. The structure put in place not only favoured private stakeholders, it also often took away power from municipal governing bodies and agencies. On the other hand, these retail outlets provided municipalities with a new window for tax revenue and employment gains. Nonetheless, the problem itself is not within a free-enterprise structure. Provinces such as British Columbia have also adopted free-enterprise structures, but they have maintained their influence over it (Watson et al. 2019). In the example of British Columbia, its free-enterprise structure welcomes private stakeholders but does not take power away from municipalities with respect to licensing of prospective retailers. When the Liquor and Cannabis Registration Branch (LCRB) receives an application from a prospective licensee, that application is then forwarded to the respective municipality; this municipality, then, has the power to provide recommendations to the LCRB after gathering views from its residents (Government of British Columbia 2020). The municipality has the power to recommend that the applicant does not get granted a license (Government of British Columbia 2020). Further, according to the Government of British Columbia (2020), if a municipality “makes a recommendation to deny the application, then the LCRB may not issue the licence.” On the other hand, Ontario’s structure under the AGCO does not support forwarding applications to municipalities for their review, instead, it may choose to comment on the prospective retailer during a fifteen-day window as are the rest of its residents. This resulted in a more controlled approach on the part of the Government of British Columbia (2020) as opposed to that of Ontario. A free-enterprise structure is only effective in creating competition with the illicit market; however, it is not an effective strategy in addressing public health and safety concerns. On the other hand, a monopoly such as that of the Government of Quebec is effective in controlling prices, addressing public health and safety, and most importantly in not being revenue-driven. All in all, the Government of Ontario misguided municipalities by formulating certain goals that were

counterproductive while concurrently undermining their power by establishing a free-enterprise market that is ever-expanding.

To end, this project could be further deepened and expanded on with regards to testing the long-term effectiveness of Ontario's approach on cannabis. With more time and resources, this project could have benefitted from empirical data on the economic and social costs and benefits of cannabis on the respective communities of the Town of Tecumseh and the Municipality of Lakeshore (i.e. cost of policing, cost of regulation, and tax revenue). Further, we could have also explored the differences in response between smaller-scale municipalities and larger municipalities. Does a municipality's budget alter its response to cannabis? Does the geographic location and size of a municipality play a role? Finally, this project could have benefitted from a deeper level of policy evaluation, more specifically within the literature review section. We aim to have presented the material on cannabis regulation and its effects on municipalities in Ontario in an effective manner, so as to enhance further research on this topic.

## **Conclusion**

In conclusion, the topic of cannabis legalization and regulation is one that is interdisciplinary, contentious, unpredictable, and everchanging. Throughout the paper, we demonstrated that the current state of municipalities is a direct result of the unequal relationship between them and the Government of Ontario, ultimately leading to the minimization of progress in many provincial programs (such as cannabis regulation). The non-stop downloading of federal and provincial projects, the lack of fiscal autonomy, and the shortage of constitutional recognition coupled with the most recent introduction of cannabis continue to weigh on the already dilapidated Ontario municipalities.

Through our analysis of Ontario’s regulatory framework and the revision of relevant literature, we were able to conclude that the Provincial Government was indeed successful in driving down the price per gram (\$/g) for cannabis which had a direct impact on lowering the share of the illicit market. The negative relationship boosted the legal market from 25.1% in the first quarter of 2020 to 43.1% by the third quarter of the said year (Ontario Cannabis Store 2021). This was accomplished by government control over pricing and supply. On the other hand, the Government of Ontario negatively implemented a system that was dysfunctional with respect to municipalities and their role. Finally, it is important to conclude that had the municipalities had more political autonomy, their role would have been different with respect to the introduction of cannabis in 2018. While the Government of Ontario successfully granted municipalities the choice of opting-in, ultimately giving them the option, they have also minimized the role of those same municipalities in the regulation and licensing process. Côté and Fenn (2014) directly state the current challenges that both levels of government are facing “an opportunity for a fundamental rethink of the relationship and a new conception of how the two orders of government could work together – and in their respective realms.”

## REFERENCES/BIBLIOGRAPHY

- AGCO. (2018). Cannabis Regulation and Municipalities. *Municipal Webinar Series, 3*, 1–35.
- Alcohol and Gaming Commission of Ontario. (2021). Retail Store Location. Retrieved November 29, 2021, from <https://www.agco.ca/cannabis/retail-store-location>
- Alcohol and Gaming Commission of Ontario. (2021). “Status of Current Cannabis Retail Store Applications”. Retrieved November 29, 2021, from <https://www.agco.ca/cannabis/industry-resources/status-current-cannabis-retail-store-applications>
- Amlung, M., & Mackillop, J. (2018). “Availability of Legalized Cannabis Reduces Demand for Illegal Cannabis Among Canadian Cannabis Users: Evidence From a Behavioural Economic Substitution Paradigm”. *Canadian Journal of Public Health, 110*(2), 216–221.  
<http://doi.org/10.17269/s41997-018-0160-4>
- Association of Municipalities Ontario. (2018, December 10). “Developing a Municipal Cannabis Policy Statement”. Retrieved November 29, 2021, from <https://www.amo.on.ca/advocacy/strategic-priorities/developing-municipal-cannabis-policy-statement>
- Battagello, D. (2021, June 9). “Tecumseh Council Approves Retail Cannabis Outlets”. *The Windsor Star*. Retrieved from <https://windsorstar.com/news/local-news/tecumseh-council-approves-retail-cannabis-outlets>

Broeckel, Z. (2018, December 11). “Tecumseh and Lakeshore Opt Out of Retail Cannabis Stores”.

Retrieved February 6, 2022, from <https://www.iheartradio.ca/am800/news/tecumseh-and-lakeshore-opt-out-of-retail-cannabis-stores-1.8611446>

Campbell, C. (2021, March 24). “Town of Tecumseh to Reconsider Cannabis Retail Stores”.

Retrieved February 6, 2022, from <https://windsor.ctvnews.ca/town-of-tecumseh-to-reconsider-cannabis-retail-stores-1.5360945>

Caulkins, J. P., & Kilborn, M. L. (2019). “Cannabis Legalization, Regulation, & Control: A Review of

Key Challenges for Local, State, and Provincial Officials”. *American Journal of Drug and Alcohol Abuse*, 45(6), 689–697.

CBC News. (2019, December 11). “Lakeshore Council Reverses Decision, Says Yes to Cannabis

Retail Stores”. Retrieved February 6, 2022, from <https://www.cbc.ca/news/canada/windsor/lakeshore-council-opts-in-cannabis-retail-stores-1.5391918>

CBC News. (2019, December 10). “Lakeshore Re-Evaluating Opt-Out Option for Cannabis Retail

Stores”. Retrieved February 6, 2022, from <https://www.cbc.ca/news/canada/windsor/cannabis-retail-lakeshore-1.5389460>

Conway, J. (2021, September 17). “Cannabis Stores by Region Canada 2021”. Retrieved

November 29, 2021, from <https://www.statista.com/statistics/1035996/number-of-cannabis-stores-by-region-canada/>

Conway, J. (2021, June 15). “Cannabis Store Sales Ontario 2021”. Retrieved November 29, 2021,

from <https://www.statista.com/statistics/1045847/cannabis-store-sales-ontario/>

- Conway, J. (2020, November 23). "Past 3 Month Cannabis Users by Province Canada 2019". Retrieved November 29, 2021, from <https://www.statista.com/statistics/894956/past-3-month-cannabis-users-by-province/>
- Côté, A., & Fenn, M. (2014). "Provincial-Municipal Relations in Ontario: Approaching an Inflection Point". *Institute of Municipal Finance and Governance*, 1–61.
- Drug Free Kids Canada. Cannabis. Retrieved November 29, 2021, from <https://www.drugfreekidscanada.org/prevention/drug-info/cannabis/>
- Fanelli, C. (2014). "Under Pressure: How Public Policy is Constraining Ontario Municipalities". *Canadian Centre for Policy Alternatives Ontario Office*.
- Government of British Columbia (2020). "Local Government's Role in Licensing Non-Medical Cannabis Retail Stores". 1–4.
- Government of Canada. (2021, July 7). "Cannabis Legalization and Regulation". Retrieved November 29, 2021, from <https://www.justice.gc.ca/eng/cj-jp/cannabis/>
- Government of Netherlands. (2017, February 22). "Difference between hard and soft drugs". Retrieved November 29, 2021, from <https://www.government.nl/topics/drugs/difference-between-hard-and-soft-drugs>
- Government of Ontario. "Cannabis Licence Act, 2018, S.O. 2018, c. 12, Sched. 2". Retrieved November 29, 2021, from <https://www.ontario.ca/laws/statute/18c12>
- Grabowski, J. G., Tefft, B. C., & Arnold, L. S. (2016, May). Prevalence of marijuana involvement in Fatal crashes: Washington, 2010-2014. Retrieved April 24, 2022, from

<https://aaafoundation.org/prevalence-marijuana-use-among-drivers-fatal-crashes-washington-2010-2014/>

Grant, C. N., & Bélanger, R. E. (2017, May 3). "Cannabis and Canada's Children and Youth". Retrieved November 29, 2021, from <https://cps.ca/en/documents/position/cannabis-children-and-youth>

Hartmann, E. (2018). "Sharing the Costs of Cannabis in Canada How the Federal and Provincial Governments Should Split Cannabis Tax Revenues". *Mowat Centre: Ontario's Voice on Public Policy*.

Korf, D. J. (2001, November 19). "Trends and Patters in Cannabis Use in the Netherlands". Retrieved November 29, 2021, from <https://sencanada.ca/content/sen/committee/371/ille/presentation/korf-e.htm>

Kristin R. Good (2021, February 4). "Reconsidering the Constitutional Status of Municipalities: From Creatures of the Provinces to Provincial Constitutionalism". *Centre of Excellence on Canadian Federation* (No. 8).

Loiselle, A. (2018, December 12). "Uncertainties Push lakeshore and Tecumseh to Opt Out of Pot Shops". Retrieved February 6, 2022, from <https://blackburnnews.com/windsor/windsor-news/2018/12/12/uncertainties-push-lakeshore-tecumseh-opt-pot-shops/>

MADD Canada. (2021, August 19). Cannabis and Driving. Retrieved April 24, 2022, from <https://madd.ca/pages/impaired-driving/overview/cannabis-and->



Rotermann, M. (2020, February 19). "What Has Changed Since Cannabis Was Legalized?"  
Retrieved November 29, 2021, from <https://www150.statcan.gc.ca/n1/pub/82-003-x/2020002/article/00002-eng.htm>

Sancton, A. (2021). *Canadian Local Government: An urban perspective (Second Edition)*.  
Oxford University Press.

Senate of Canada. (2018, October 17). "The Cannabis Act in the Senate". Retrieved  
November 29, 2021, from <https://www.sencanada.ca/en/sencaplus/news/cannabis-act/>

Shover, C. L., & Humphreys, K. (2020). "Six Policy Lessons Relevant to Cannabis  
Legalization". *The American Journal of Drug and Alcohol Abuse*, 45(6), 698–706.  
<http://doi.org/10.1080/00952990.2019.1569669>

Town of Tecumseh (2018). CS-2018-47: "Legalization of Cannabis Use and Retail Sales". 1–12.

Town of Tecumseh (2021, June 8). "Regular Council Meeting". Town of Tecumseh.  
Retrieved from Town of Tecumseh Regular Council Meeting June 8, 2021

Town of Tecumseh (2021). CS-2021-09: "Retail Cannabis Stores". 1–6.

Watson, T. M., Hyshka, E., Bonato, S., & Rueda, S. (2019). "Early-Stage Cannabis Regulatory  
Policy Planning Across Canada's Four Largest Provinces: A Descriptive  
Overview". *Substance Use & Misuse*, 54(10), 1691–1704.

# APPENDICES

## Appendix 1



## Appendix 2



**Appendix 3**



**Appendix 4**



**Appendix 5**



## VITA AUCTORIS

NAME: Rami Farag

PLACE OF BIRTH: Mallawi, Minya, Egypt

YEAR OF BIRTH: 1998

EDUCATION: Vincent Massey Secondary School, Windsor, ON,  
2016

University of Windsor, B.A., Windsor, ON, 2020

University of Windsor, M.A., Windsor, ON, 2022