

Review of Businesses Operating as Vapour Lounges and a Discussion of the Status of Medical Marihuana

Date:	October 11, 2012
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2012\Cluster B\MLS\LS12016

SUMMARY

The purpose of this report is to review the legality and neighbourhood impact of businesses operating as “vapour lounges” in the City of Toronto. This report discusses the current state of marihuana use, recognizing the differences between permitted and unlawful possession, consumption and production. This report is recommending that consideration be given to undertake a review of City regulations, such as the licensing of such businesses and amendments to applicable bylaws to assist in controlling the impacts related to the lawful aspects of this activity.

This report discusses the current state of Health Canada’s Marihuana Medical Access Regulations (MMAR) and the impact that proposed changes may have on the City in relation to both the number of individuals who are or may be permitted to legally possess and consume marihuana for medical purposes; and the current and potential future permitting of marihuana production which may establish commercially licensed growing facilities.

In undertaking the review of “vapour lounges” and to address the use of “water pipes and other apparatus” as well as “vapourizers and vapourizing accessories” referred to in Council's motion, staff determined that there were distinct types of locations or operations that would be covered by such a review. Given the differences in the nature of these businesses and the varying legal, public health and safety concerns, two separate reports are being submitted to fully address the motion.

This report addresses exclusively the legality and neighbourhood impact of the operations where the consumption of marihuana is occurring, including both the smoking and the vapourization of the substance, and also includes recommendations on how to address these concerns, in consideration of the anticipated changes to the Marihuana Medical Access Regulations. The second report deals with the issue of water pipe establishments, where smoking product known as hookah/shisha is consumed via the use of a water pipe.

Businesses operating as “vapour lounges” present a challenge to both police and by-law enforcement under current legislation, as it is imperative to distinguish between and balance the rights and interests of those with permitted medical use of marihuana and the non-medical marihuana use taking place at some of these establishments. Many of these locations operate in close proximity to schools, food establishments, shops and other services, and as such, there are concerns about the potential for associated community disorder.

The City Solicitor, the Chief of Police and the Deputy City Manager and Chief Financial Officer were consulted in the preparation of this report.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. City Council receive this report for information.
2. City Council direct the Executive Director, Municipal Licensing and Standards to undertake the necessary steps to develop a regulatory regime, including the consideration of the upcoming changes to the Marihuana Medical Access Regulations, and report back with recommendations on how to address the issues related to the possession and use of medical marihuana, and the impact of medical marihuana consumption facilities and proposed commercial growing sites.

Financial Impact

There is no financial impact to the Division’s budget as a result of the recommendations in this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact statement.

DECISION HISTORY

At its meeting of November 29, 2011, City Council directed the Executive Director, Municipal Licensing and Standards to undertake a comprehensive review of the legality and neighbourhood impact of businesses operating as “vapour lounges”:

<http://www.toronto.ca/legdocs/mmis/2011/mm/bgrd/backgroundfile-42713.pdf>

ISSUE BACKGROUND

Vapour Lounges and Vapourization

The term “vapour lounge” refers to establishments at which individuals consume marihuana indoors. Though some vapour lounges operate as cafés or entertainment venues, the primary purpose of these establishments is to provide a social setting, space and the necessary accessories for patrons to consume the marihuana that they bring to the premises. Each of the City’s currently known vapour lounges prohibit the sale or consumption of alcohol or tobacco on the premises.

Operators and patrons use the term “vapour lounge” to refer to a popular method of marihuana consumption carried out at these establishments, which is through vapourization. It is reported that the main benefit of vapourization is that the marihuana releases tetrahydrocannabinol (THC), the active ingredient in marihuana, without emitting the toxic tars and chemicals that conventional combustion creates. It should be noted, however, that in most vapour lounges patrons are free to consume the drug through any traditional combustion method as well.

Appendix A demonstrates the use of a popular vapourizer.

Vapour lounges operate within the wider context of the marihuana activist community. From hosting marihuana-friendly celebrities, to selling activist paraphernalia, these establishments provide a sense of community and a platform for those who feel the current legal restrictions related to marihuana should be repealed.

For medical marihuana users, these lounges provide a secure environment to treat themselves outside of the home. And for those wishing to vapourize marihuana, rather than smoke it, these lounges provide inexpensive access to vapourizing machines and accessories, which would otherwise be prohibitively expensive for some individuals.

The Toronto Police Service identifies six businesses operating as vapour lounges in the City. These businesses do not operate in concentrated areas, though the majority do operate downtown. While three vapour lounges have operated for more than five years, two have opened within the last year.

Currently, the City has no specific licensing category for vapour lounges. These businesses operate either without a business license, or hold a license for the vending of food, as applicable. Table 1 below lists the vapour lounges currently identified as operating within the city:

Table 1

Vapour Lounge Name (and vicinity)	Current License held
Vapor Central (Yonge and Bloor)	Food establishment
Vapor Social (College and Ossington)	N/A
Vape on the Lake (Islington and Lakeshore)	N/A
Village Vapour Lounge (Church and Wellesley)	N/A

Underground Comedy Club (Queen and Broadview)	N/A
Hot Box Café (Kensington Market)	Food establishment

All of these vapour lounges are operating in areas zoned as Commercial Residential, are visible from the street and exist in close proximity to many other stores, shops, restaurants, cafés, schools, and other services.

COMMENTS

Because it is difficult to distinguish between medical and non-medical marihuana use at businesses operating as vapour lounges, it is important to distinguish between the legal rights of those who have a federal authorization to possess marihuana for medical purposes and those who consume the drug for non-medical purposes.

Legislation controlling marihuana possession and consumption

Controlled Drugs and Substances Act

Marihuana is a schedule II narcotic under the Controlled Drugs and Substances Act (CDSA). Individuals with a ‘legal right’ to consume marihuana for medical purposes are, based on the declaration of a licensed Canadian physician, granted an exemption from the CDSA, by Health Canada. It is **illegal to possess or grow marihuana without permission** from Health Canada. Individuals who have not been authorized to possess or grow marihuana for medical purposes face prosecution under section 4 of the CDSA.

Marihuana Medical Access Regulations

Health Canada implemented the Marihuana Medical Access Regulations (MMAR) on July 30, 2001, to permit and govern marihuana possession, consumption, and production for individuals with “grave and debilitating illnesses”, for medical management purposes. Currently, Health Canada authorizes three permits:

1. Authorization to possess
2. Personal-use production license
3. Designated-person production license

All three authorizations require an applicant to provide a declaration from a licensed Canadian physician prescribing marihuana as a medical treatment. The requirements to obtain an *authorization to possess* are categorized in two different ways. The first details the specific illnesses (e.g. HIV/AIDS, MS) for which an individual may obtain a permit with a declaration from their regular physician. The second category requires that for any illness not specifically listed, a specialist must confirm the diagnosis of a treating physician, and prescribe marihuana as a medical treatment.

The *personal-use production license* permits individuals with an *authorization to possess* to grow marihuana for themselves, subject to conditions on the amount of marihuana that can be grown or stored at any given time, and pursuant to the obligations prescribed in the regulation, regarding security of the marihuana and the destruction of used material.

The *designated-person production license* permits an individual who is authorized to consume marihuana to designate another individual to grow that marihuana for his or her use. The designated person is legally permitted to grow and store dried marihuana in the amount specified in the license and to provide or deliver marihuana solely to the individual who is authorized to possess.

Once granted an *authorization to possess*, individuals have three legal means of obtaining marihuana for medical purposes: obtaining a *personal-use production license*, obtaining a *designated-person production license*, or purchasing dried marihuana from a Health Canada commercially licensed facility.

Table 3 summarizes the number of medical marihuana licenses in Canada and the City.

Table 3

License Category	Canada	City of Toronto
Authorization to possess	19 482	498
Personal-use production license	12 649	356
Designated-person production license	2 550	47

Proposed Changes to the MMAR

Health Canada is currently reviewing the MMAR and has proposed changes to overhaul the licensing regime. The changes are intended to respond to numerous stakeholder concerns, including the risk of abuse by criminal elements; health and fire risks associated with the cultivation of marihuana plants in homes; and patients' concerns regarding the length and complexity of the application process.

Reflecting these concerns, the proposed changes could establish a system in which licensed commercial growers provide an accessible and reliable supply of medical marihuana, such that Health Canada would no longer receive applications for possession or production permits. Health Canada would inspect and audit the licensed commercial producers, which would be required to meet conditions regarding product quality, personnel, record-keeping, safety and security, disposal and reporting, and labelling and packaging. Current personal-use production and designated-production licenses would be phased out.

Individuals wishing to consume marihuana for medical purposes would still be required to obtain a declaration from a licensed Canadian physician. However, under the proposed changes, individuals would no longer be required to submit their physician's declaration to Health Canada for approval, but would obtain a document from their physician and present it to the commercial producer. Categories for authorization based on illness, and the requirement to consult with a specialist, would be eliminated.

The proposed changes are likely to have two important effects for which the City ought to anticipate and consider plans:

1. By removing the requirement to receive authorization from Health Canada, the changes will likely improve legal access to medical marihuana, thereby potentially increasing the number of individuals in the City who can legally possess and consume the drug. This proliferation has the potential to increase the number of individuals patronizing vapour lounges and/or encourage the establishment of more locations.
2. It can be anticipated that operators may attempt to establish federally licensed commercial production facilities in the City. It is necessary to contemplate the impacts from a planning perspective, in addition to all other relevant regulations, to mitigate the potential impact that these facilities could present relative to public safety and nuisances.

Information on the current MMAR and proposed changes is attached to this report as Appendix B.

The Smoke Free Ontario Act

The Smoke Free Ontario Act (SFOA) regulates the smoking, display and sale of tobacco in the Province of Ontario. Because the SFOA's definition of smoking is limited to substances which contain tobacco, smoking other non-tobacco substances, such as marihuana, is not expressly prohibited.

Municipal Code Chapter 709, Smoking

Chapter 709 of the Toronto Municipal Code identifies the parameters in which smoking is permitted in workplaces and public places, where it is prohibited, and signage requirements and offences. As with the SFOA, the definition of smoking in Chapter 709 does not include non-tobacco substances and therefore does not apply to smoking marihuana indoors.

Neighbourhood Impact of Vapour Lounges

Businesses operating as vapour lounges are intended to provide benefit to those individuals with a medical need to consume marihuana and who wish to treat themselves outside the home. The principal concerns with these businesses regard the potential risks posed to public safety and the potential for nuisances because of difficulty determining whether those patronizing the establishment are in fact authorized to possess marihuana for medical purposes. Additionally, vapour lounges operating within close proximity to other shops, restaurants, services and schools, have the potential to exacerbate these concerns.

Consultation with Business Improvement Areas

Staff sought consultations with four BIAs in neighbourhoods where vapour lounges are located. Of those contacted, the Lakeshore Village BIA, Kensington Market BIA and the Church and Wellesley BIA were consulted.

Representatives of the Lakeshore Village BIA represented strong views in opposition to the vapour lounge operating in the neighbourhood, due to concerns about patrons causing nuisances, such as noise and vandalism, primarily after leaving the vapour lounge. As well, it was reported that the BIA has worked to improve the aesthetic and commercial appeal of the neighbourhood and believes that the operation of a vapour lounge in the neighbourhood runs counter to the BIA's efforts to gentrify the area.

The representative of the Church and Wellesley BIA did not represent any particular concerns with the vapour lounge operating in the neighbourhood. This representative described the BIA as an entertainment zone that has a responsibility to a historically progressive community and that these two factors might in part explain why a vapour lounge operates in the area. He discussed, as well, difficulties facing the neighbourhood with regards to drug addiction and panhandling. He reported that more than one compassion centre already exists in the neighbourhood to provide a treatment space for medical marihuana users.

The representative of the Kensington Market BIA and represented a positive view of the vapour lounge operating in that neighbourhood and spoke positively of the owner's contribution as an active member of the BIA.

Consultation with Owners/Operators

Vapour lounge owners/operators were invited to a consultation meeting, where of the six known vapour lounge operators invited, five were represented and a total of 17 owners, operators and employees were present.

Owners and operators detailed a number of important benefits of vapour lounges, specifically that vapour lounges provide a safe and social haven for medical marihuana users, where they may be otherwise stigmatized when forced to treat themselves in other contexts and venues, or in isolation. Second, by making vapourizers available, these lounges provide individuals with an avenue to consume marihuana for its narcotic benefits, without the toxic effects associated with combustion.

Owners and operators believe that these businesses have a positive impact on the neighbourhoods in which they are located. They believe that vapour lounges attract people to the area, thereby improving the business of neighbouring food establishments while, additionally, reducing some of the public nuisance associated with those who consume marihuana outdoors.

Owners and operators reported that they are taking steps to address concerns about air quality, overconsumption and associated nuisances. Many sell some sort of food or beverage, and require that staff monitor individuals to ensure that marihuana is being consumed safely, and that counselling is available, when necessary. As well, staff heard that steps are taken to ensure proper air quality is circulated throughout the facility and that owners/operators prohibit entry by minors under the age of 18 or 19, unless, in the case of one lounge, if the patron is at least 16 and has a medical authorization to consume.

The owners and operators reported that, because their businesses are ‘skating on thin ice’, there is a strong inclination to self-regulate. In general, they believe their business operations do not constitute any egregious challenges to public safety or health.

Consultation with Toronto Fire Services

Toronto Fire Services were consulted to determine whether the activities undertaken at vapour lounges constitute any fire hazard. Site inspections were conducted and the TFS concluded that, in general, no obvious fire hazards exist at vapour lounges.

Consultation with the Toronto Police Service

The Toronto Police Service currently investigates businesses operating as vapour lounges on a complaint basis and has several concerns with regard to businesses operating as vapour lounges and further related to the consumption of marihuana (medicinal and otherwise) in outdoor public spaces.

The TPS has indicated there is difficulty in distinguishing between legal consumption of medical marihuana and non-medical marihuana use on the premises. Because there is currently no requirement for owners and operators to check for the federal authorizations to possess, it is challenging to determine whether those inside the establishment are legally permitted to possess and consume marihuana. Regulations to ensure that, upon inspection, individuals within the establishment have a federal authorization to consume marihuana, would increase the effectiveness of TPS inspections.

Table 4 displays the TPS reported calls for service at these vapour lounges over the past three years. As previously stated, due to their nature, these businesses have a strong incentive to self-regulate. Therefore, there are concerns that these reported instances may not fully represent what is occurring at these establishments.

Table 4 – Toronto Police Service – number of calls for service

Business	Address	2010	2011	2012	Total
Hot Box Café	191 Baldwin Street	5	8	4	17
Village Vapour Lounge	66 Wellesley Street E.	3	11	19	33
Vapor Social	896 College Street	3	6	1	10
Vape on the Lake	2985 Lakeshore Blvd W.				0
Vapour Central	#2-667 Yonge Street	4	5	4	13
Underground Comedy Club	670 Queen Street E.	1		2	3

Further, the TPS is concerned with marihuana consumption, including medically permitted use, occurring in public places and outdoor spaces, where it impacts and potentially endangers public safety and contributes to community disorder. Though medical marihuana users are entitled to possess and consume their marihuana at home or at vapour lounges, the TPS believes there should be restrictions on smoking marihuana, including for medical purposes, in outdoor public spaces.

Finally, the TPS has expressed concern about the changes to the MMAR that may lead to a proliferation of medical marihuana use in the city. This will likely increase the number of individuals patronizing vapour lounges and legally consuming marihuana in outdoor public spaces. Consideration should be given to how the City can and should regulate these activities, to ensure the City has the proper mechanisms in place with which to address the associated public safety concerns. In addition, the proposed changes to MMAR that would establish licensed commercial facilities, create concerns about the potential for exploitation by organized crime. In anticipation of these changes, coordination with other city divisions, particularly City Planning, will be necessary to develop a mitigation plan to address all of the associated concerns.

Vapour Lounge Locations

In every case, vapour lounges operate within close contact to other food establishments, shops, and other services and on busy streets with high pedestrian traffic. These businesses make little effort to conceal the activities undertaken within the premises and individuals walking or driving past the establishments can clearly view the advertisements posted.

This visibility is particularly concerning given their proximity to primary and secondary schools, where youth could be more susceptible to drug use after coming into contact with these establishments. **Staff found that each vapour lounge in the City operates within one square kilometre of at least two elementary or high schools.** Three of the City's vapour lounges operate within the same proximity of five schools. Because several of these vapour lounges operate on major thoroughfares and close to schools, the potential for exposure to adolescents below the age of consent raises concerns about the negative impact these businesses have on impressionable youth.

A map of businesses operating in the City as vapour lounges, and their proximity to schools, is attached to this report as appendix C.

Businesses operating as vapour lounges in other jurisdictions

Staff identified vapour lounges in other jurisdictions, though little information is available on their operations. For the most part, municipalities have not taken direct legislative action to address vapour lounges and local police investigations appear to be conducted on a complaints basis, with the emphasis on trafficking of marihuana, rather than possession.

Hamilton had reportedly the first vapour lounge in Ontario, established as the Up in Smoke Café in 2003. Research indicated that it was closed in 2006 in relation to several Police investigations.

Aside from Toronto, staff have determined that Vancouver has the largest number of vapour lounges in Canada. It is worth noting that Vancouver City Council has recently recognized the drug's popularity, and has passed a motion to recommend the decriminalization of marihuana in totality.

Further considerations and next steps

Some vapour lounges operate within the wider context of federally regulated medical marihuana consumption and serve as a benefit to those individuals who are permitted to treat themselves with marihuana, and who wish to treat themselves outside the home. The City's response to public safety concerns about these businesses must be considered in this context, while also considering the anticipated changes to the MMAR, and their potential impacts. These changes are expected to increase the amount of legally authorized marihuana possession, thereby potentially exacerbating existing concerns. It is recommended that the City institute plans in advance to ensure that this legal consumption is regulated in a manner which both recognizes the rights of medical marihuana users and addresses public safety and community disorder concerns.

The recommendation of staff in this report, is to undertake work to address these public safety and community standards concerns through the development of a regulatory regime and to include considerations in respect to zoning implications.

Rationale

Health Canada clearly identifies the parameters for legal possession and consumption of marihuana for medical purposes. A bylaw could regulate the locations for use of medical marihuana, to address the municipal interests related to community disorder, and public safety concerns related to both the activities undertaken at recognized and licensed Medical Marihuana Consumption Facilities and the consumption of medical marihuana in outdoor places.

The bylaw would recognize Medical Marihuana Consumption Facilities as businesses in which individuals can possess and consume marihuana for medical purposes. This term would refer to businesses currently operating as vapour lounges. Considerations of the bylaw could include that owners and operators be required to ensure that individuals who possess and consume marihuana on the premises have a legal authorization from Health Canada, and that patrons would be required to have documentation confirming their legal authorization in their possession. These two regulations would assist the TPS in their investigations of these locations, to ensure that no prohibited activities are occurring on the premises and that ML&S inspection officers can effectively enforce the bylaw.

Ensuring that only federally authorized users are consuming marihuana on the premises will address the current nuisances and circumstances which can lead to crime. By restricting marihuana consumption at these facilities to medically authorized users, these establishments will not have the same negative impact on neighbouring businesses and residents, as may current vapour lounges where it is difficult to distinguish between legal consumption of medical marihuana and non-medical marihuana use.

Moreover, a medical marihuana bylaw will directly benefit those individuals with a legal right to possess marihuana for medical purposes, by recognizing their right to consume at Medical Marihuana Consumption Facilities in the City. This addresses concerns raised by

the medical marihuana community that having to treat themselves only at home leads to stigmatization and discrimination.

Regarding the consumption of marihuana in public places and outdoor spaces, the bylaw could address the Toronto Police Service concerns that marihuana consumed in public places contributes to community disorder and public nuisance. While individuals with a legal right to consume marihuana for medical purposes will have the right to consume in indoor facilities, the by-law could regulate the locations or manner in which the consumption occurs so that circumstances which may endanger public safety or contribute to community disorder can be addressed, in much the same way as alcohol consumption is currently regulated.

This approach to regulating these businesses would recognize the impending changes Health Canada is making to the MMAR. Anticipating that these changes may increase the number of legal medical marihuana users in the City, it is recommended that the City of Toronto consider measures to regulate in order to be adequately prepared to handle the anticipated increase in numbers of individuals who will patronize Medical Marihuana Consumption Facilities and/or wish to treat themselves outside the home.

Preparation for the licensing of commercial medical marihuana production facilities.

The proposed changes to the MMAR would establish licensed commercial producers to provide marihuana for individuals who demonstrate a medical need to consume the drug. The Toronto Police Service has raised concerns in respect to where these establishments may locate and their potential impact on the surrounding communities. The City needs to consider in advance what appropriate regulations will be required at the municipal level, to address the municipally specific concerns. Planning considerations must be given with regards to these potential commercial operations and the risks to public safety these may cause.

CONCLUSION

Though vapour lounges are not an entirely new business in the City, the number of new establishments in the past three years – including two in the past year – and the upcoming changes to the MMAR, have the potential to exacerbate existing concerns. Planning for these changes in advance will provide the greatest likelihood that the City respects the rights of individuals who are legally permitted to consume marihuana for medical purposes, while ensuring that public safety and community order concerns are addressed.

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Appendix A: Vapourizer graphic
Appendix B: MMAR and proposed changes
Appendix C: Comments from the Chief of Police
Appendix D: Location of vapour lounges in proximity to schools

Appendix A: Vapourizer graphic



Source: www.volcanovaporizer.com

Appendix B: MMAR Backgrounder

Marihuana Medical Access Program – Health Canada Backgrounder June 2011

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Canada

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About Health Canada

Marihuana Medical Access Program

[News Release: Government of Canada considers improvements to the Marihuana Medical Access Program to Reduce the Risk of Abuse and Keep our Children and Communities Safe](#)

June 2011

The Government of Canada is considering changes to the Marihuana Medical Access Program to reduce the risk of abuse and exploitation by criminal elements and keep our children and communities safe.

Health Canada would like to hear from Canadians on the proposed improvements. A consultation document has been posted on our website, and Canadians are invited to submit their comments by July 31, 2011.

How the Current Marihuana Medical Access Program Works

Under the current Program, individuals wishing to use marihuana for medical purposes must first obtain a declaration from a licensed medical practitioner who confirms that dried marihuana is going to be used to alleviate a specific symptom associated with an identified medical condition.

The individual then applies to Health Canada to be authorized to possess dried marihuana. Once authorized to possess, an individual has three options for accessing a legal supply of marihuana:

- purchase marihuana from Health Canada;
- produce marihuana for themselves by applying for a personal-use production licence; or,
- designate someone to produce marihuana for them under a designated-person production licence.

The application process is rigorous, and requires personal information to be submitted to Health Canada, not only about individuals seeking access to marihuana for medical purposes, but also about those applying for a designated-person production licence. The application process can take up to 10 weeks.

Authorizations to possess marihuana for medical purposes and associated production licences are valid for a maximum of 12 months and must be renewed upon expiry. Program participants must also apply to amend their authorisations and/or licences, if certain key details change for themselves or for anyone else named on the application.

Individuals applying for a production licence must disclose to Health Canada the measures that they intend to put in place in order to ensure the security of the marihuana at the production and storage sites.

Proposed Changes to the Marihuana Medical Access Program

In recent years, a wide range of stakeholders, including police and law enforcement, fire officials, physicians, municipalities, and program participants and groups representing their interests, have identified concerns with the current program.

http://www.hc-sc.gc.ca/ahc-asc/media/nr-cp/_2011/2011_80bkr-eng.php

10/03/2012

Some of the key concerns include:

- The risk of abuse and exploitation by criminal elements;
- the complexity and length of the application process for individuals who wish to obtain an authorization to possess and/or a licence to produce marihuana;
- the need for more current medical information for physicians pertaining to the risks and benefits associated with the use of marihuana for medical purposes;
- public health and safety risks associated with the cultivation of marihuana plants in homes, including electrical and fire hazards and the presence of excess mould and poor air quality.

Health Canada's proposed improvements to the program are intended to address these concerns in the following ways:

Streamlining the Process for Program Participants

Program participants would no longer have to submit application forms or personal medical information to Health Canada in order to obtain an authorization to possess marihuana. Instead, they would submit a document they obtain from their physician directly to a licensed commercial producer. Furthermore, marihuana produced by licensed commercial producers would be subject to quality standards, unlike marihuana that is produced by individuals under the current program.

Making the Program Less Complicated for Seriously Ill Canadians

Health Canada is proposing to eliminate the administrative categories of conditions or symptoms for which an individual may possess marihuana for medical purposes under the MMAR. The determination as to whether the use of marihuana for medical purposes is appropriate for a particular individual would still be made through a discussion between a physician and a patient.

Improving Physician Access to Comprehensive, Accurate and Up-to-Date Information

Health Canada will establish an expert advisory committee to improve physician access to comprehensive and up-to-date information on the potential risks and benefits of using marihuana for medical purposes. This will facilitate informed decision-making between individuals and their physicians with respect to the use of marihuana to treat particular symptoms and/or conditions.

Making Communities Safer

To reduce potential risks of abuse by criminal elements and keep our children and communities safe, a new supply and distribution system for dried marihuana would be established that uses only licensed commercial producers. Personal-use and designated-person production licenses would be phased out and individuals would no longer be able to grow marihuana for medical purposes in their homes and communities.

The Government would no longer contract for the production and distribution of dried marihuana or marihuana seeds for medical purposes. Licensed commercial producers would be regulated by Health Canada and be the only legal source of dried marihuana for medical purposes. Health Canada would regularly inspect and audit these licensed commercial producers to ensure they comply with all applicable regulations.

Regulation of Marihuana in Canada

Legalization or decriminalization of marihuana is not part of these changes.

Marihuana continues to be regulated as a controlled substance in Canada under the *Controlled Drugs and Substances Act*. This means that all activities, e.g., possession, possession for the

purposes of trafficking, production, importation, exportation, trafficking, and possession for the purposes of exporting, are illegal except as authorized by regulation. Illegal activities associated with marihuana are considered to be criminal offences and may be subject to the penalties set out in the *Controlled Drugs and Substances Act*.

Canadian Courts have established that individuals who have demonstrated a medical need for marihuana have a right under the *Canadian Charter of Rights and Freedoms* to possess and access a legal supply of marihuana. In recognition of a need for a process to provide seriously ill Canadians with access to marihuana for medical purposes, the Government introduced the *Marihuana Medical Access Regulations* in 2001.

Date Modified: 2011-06-17

Appendix C: Comments from the Chief of Police



Toronto Police Service

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Website: www.TorontoPolice.on.ca



William Blair
Chief of Police

File Number:

2012.09.27

Ms. Tracey Cook
Executive Director
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100 Queen Street West
Toronto, Ont.
M5H 2N2

Dear Ms. Cook:

In response to City Council Member Motion MM14.26 I have met with you and members of your staff in relation to Vapour Lounges and Medicinal Marihuana Access Regulations (MMAR).

The Toronto Police Service recognizes the legal use of marihuana as permitted under the law in respect of the MMAR and the Controlled Drugs and Substances Act (CDSA). My staff have reviewed calls for police service at each of the known Vapour Lounge locations for a 3 year period and provided that to you. I have also provided your staff with information relating to proposed changes by Health Canada to the MMAR. I have reviewed the draft report in response to MM14.26.

Vapour Lounges have become established as locations for users of medicinal marihuana to ingest their drug in a social setting, away from the general public. As with any business, members of the public have a general opportunity of access to each location. If a business purports to be a location for persons to legally ingest medicinal marihuana, there should be a scheme in place for the business operator to ensure that those persons undertaking the activity are in fact legally authorized to do so. Police activity at these locations is generally undertaken on a complaint driven basis, however there are also police initiated interactions from time to time to ensure that

To Serve and Protect - Working with the Community

patrons are in fact in compliance with the CDSA and MMAR. Public safety and community disorder are the prime motivators for police initiated activity at these locations.

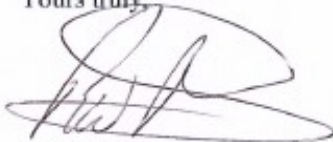
Public use of medicinal marihuana has led to complaints from the community. A specific example of this type of activity leading to a community complaint relates to an individual using a "bong" (water pipe used to smoke marihuana) during a family event at Dundas Square. The individual was legally entitled to possess and ingest medicinal marihuana. However he refused requests from security officials and police officers not do so at that location and at that time. He refused to comply with the request and was arrested under the Trespass to Property Act for engaging in a prohibited activity. The staff proposal for regulated use of medicinal marihuana in outdoor public places would address this aspect of community disorder.

As I understand the proposed changes to the MMAR by Health Canada, it is reasonable to predict that there will be more individuals legally entitled to possess medicinal marihuana as there will be less bureaucracy in the process. A medicinal marihuana user will effectively only need a "prescription" (the exact wording has not been released) from a physician and then provide the form to a "commercial licenced producer" (CLP) of marihuana. Under the proposed changes to the MMAR, individual and designated production licences will be eliminated. Commercial Licenced Producers will be authorized by Health Canada to produce marihuana for medicinal use and the operators will deal directly with the consumer. While the new regulation has not been made public, the police were consulted by Health Canada in the process of developing the new regulation. One of the suggestions made by police was that locations to be used for the production of marihuana under the Commercial Licence Producer scheme should be in compliance with all local zoning and by-laws. A recognition of the proposed changes to the MMAR should be considered in any future medicinal marihuana by-law for Toronto.

I understand the complexity of the task, but stress that public safety and community disorder issues must be balanced with the right of individuals to legally possess and ingest marihuana for medicinal purposes.

I look forward to our continuing professional relationship with Toronto Licencing and Standards.

Yours truly,



Randy Franks
Staff Inspector
Organized Crime Enforcement – Drug Squad

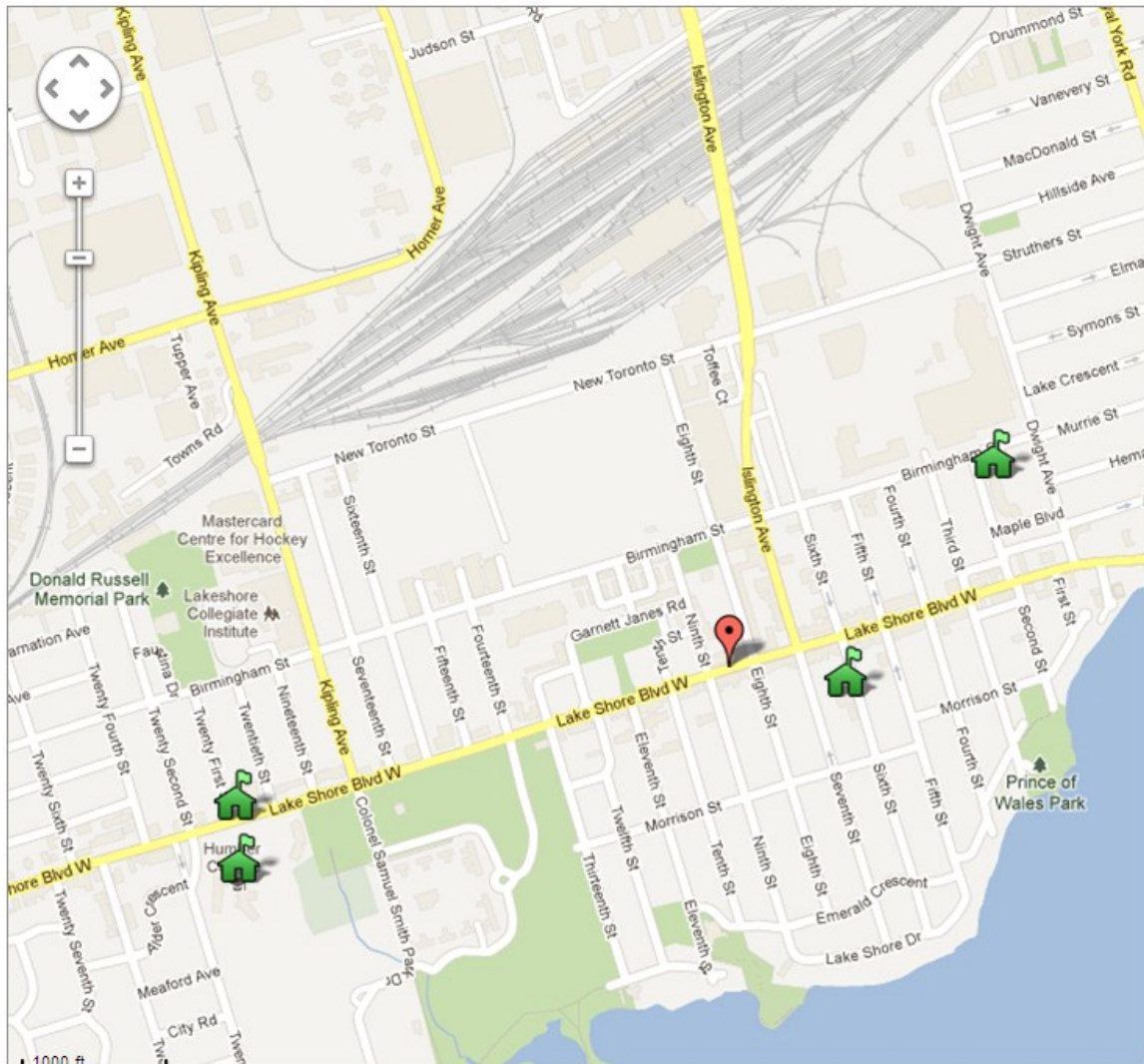
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Appendix D: Vapour Lounges and Proximity to Schools

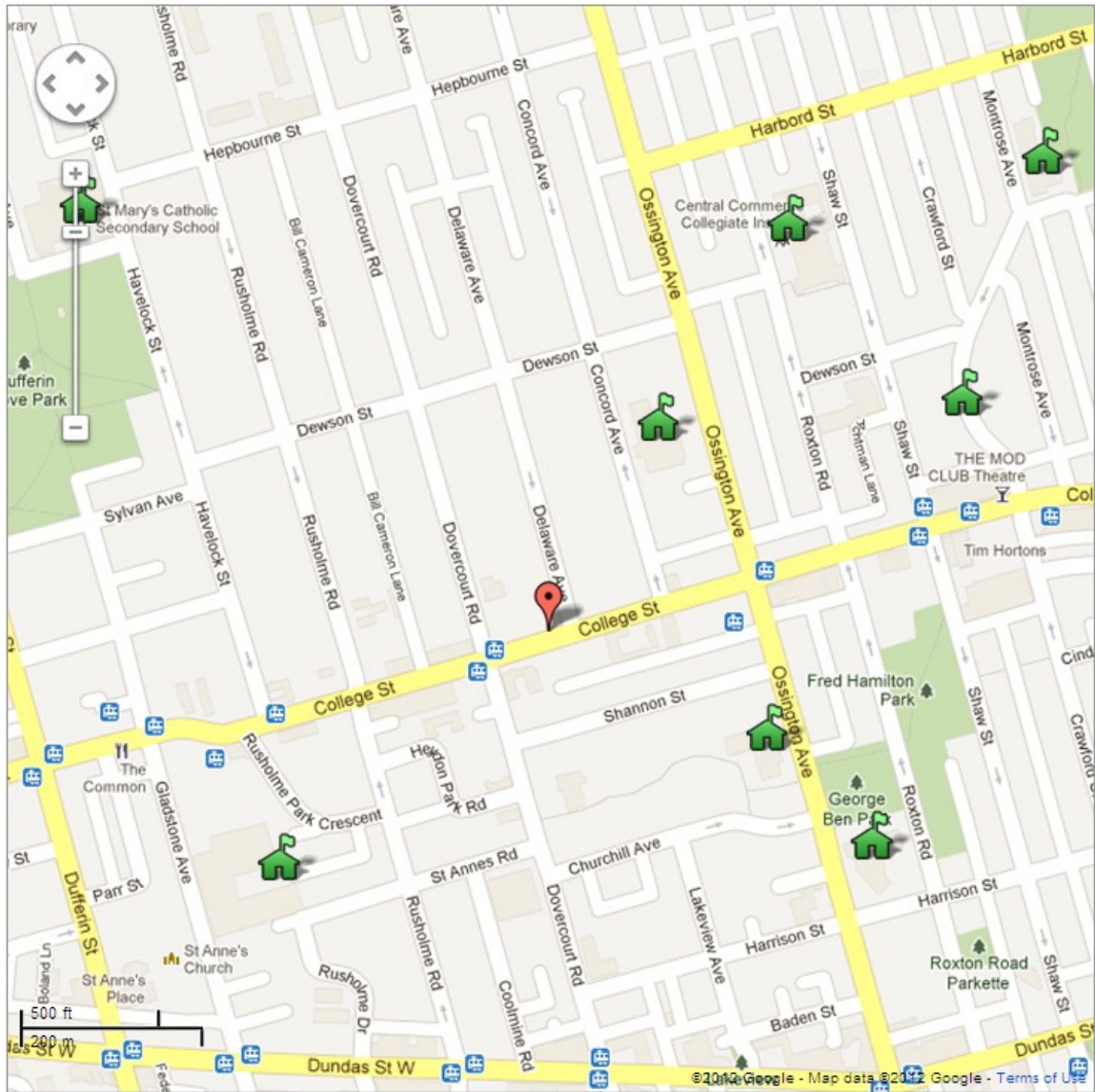


vapour lounge

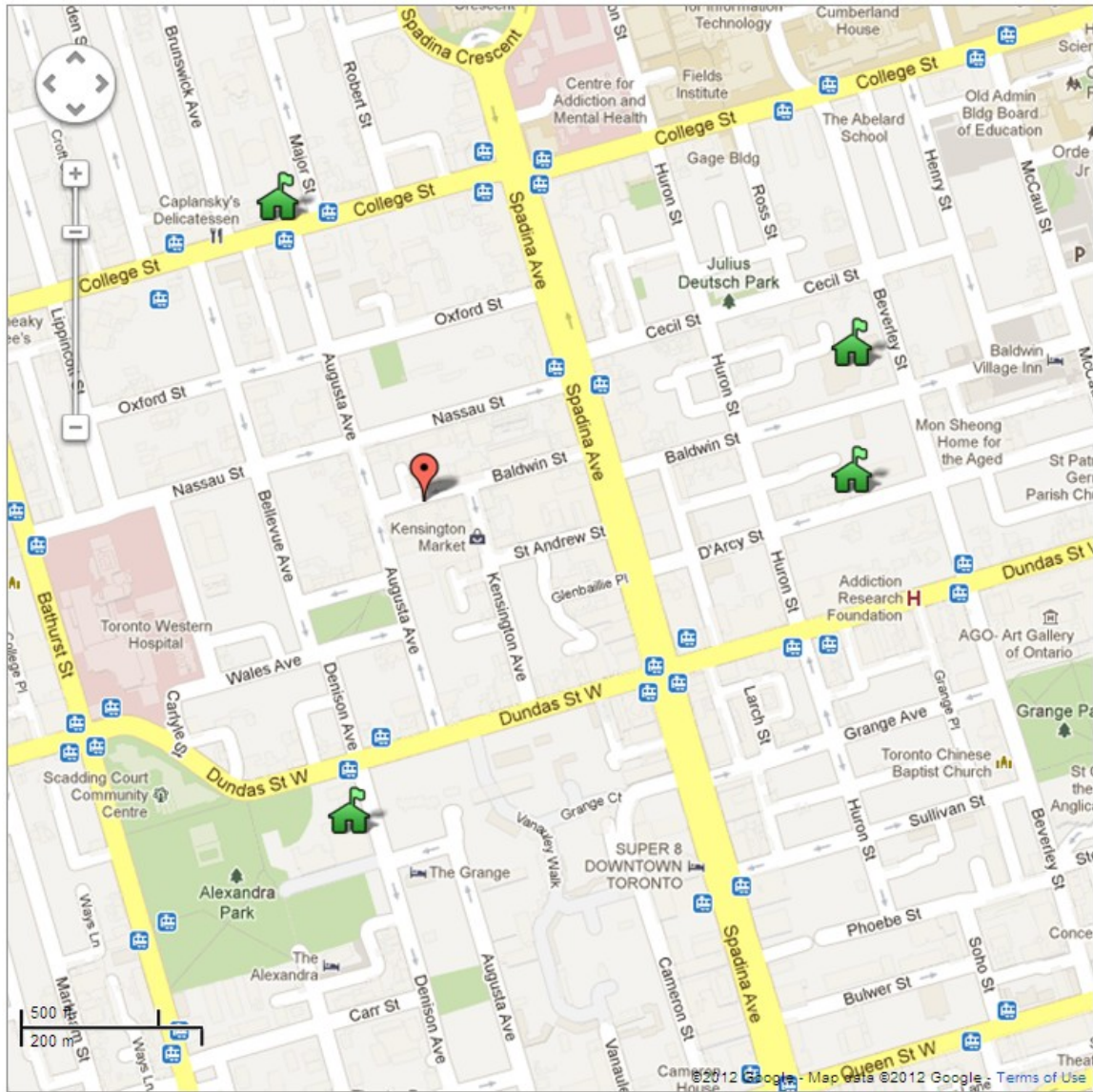
Vape on the Lake- 2985 Lakeshore Boulevard West



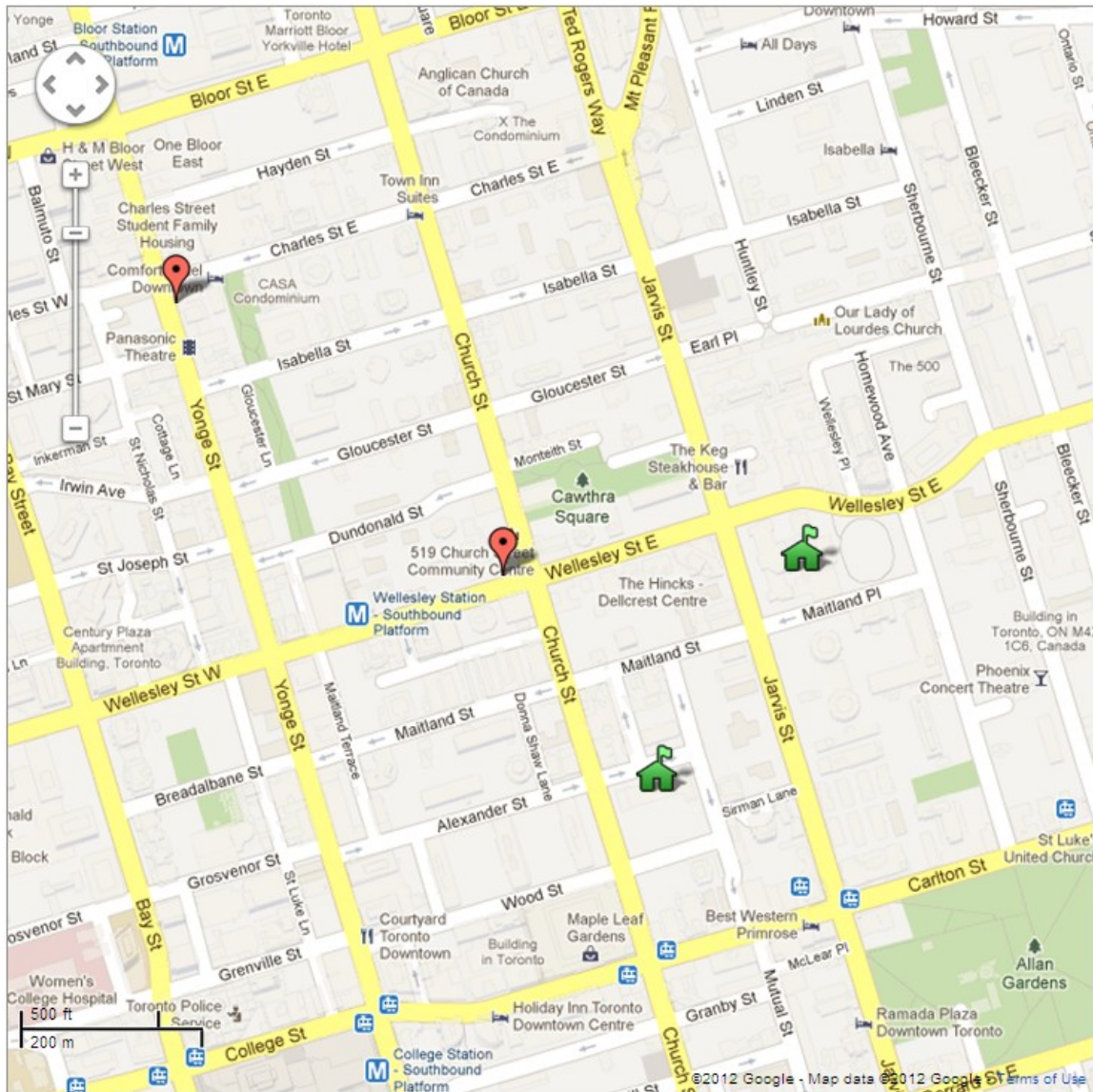
Vapor Social - 896 College Street



Hot Box Café - 191 Baldwin Street



Vapor Central – #2-667 Yonge Street
Village Vapor Lounge - 66 Wellesley Street East



Underground Comedy Club - 670 Queen Street East

