



## City of Toronto Recommendations for Cannabis Legalization

**Date:** September 13, 2017

**To:** Licensing and Standards Committee

**From:** Executive Director, Municipal Licensing & Standards

**Wards:** All

### SUMMARY

---

On April 13, 2017, the federal government introduced legislation to legalize and regulate cannabis. If passed, Bill C-45, the *Cannabis Act*, would impose measures to control access to non-medical cannabis, including fresh and dry cannabis, seedlings and plants, and cannabis oil, through restrictions on age and possession, by establishing criminal penalties for sale of cannabis outside of the legal framework, and by introducing rules around promotion, labelling, and packaging. For now, the federal government has not proposed to permit edible cannabis products.

Under the proposed rules, the federal government would regulate cannabis production and the provincial government would regulate cannabis distribution and retail sales.

Throughout the summer, the Province of Ontario has been conducting consultations to determine the potential impacts of cannabis legalization and to inform the future provincial legislation. On September 8, 2017, the provincial government announced its framework for cannabis legalization. The province plans to:

- Establish a provincially-operated retail model, with stores operated by a subsidiary to the Liquor Control Board of Ontario (LCBO) that sell only cannabis (no co-location with alcohol);
- Restrict places where cannabis can be used to private residences only;
- Set minimum age of purchase at 19 years old;
- Develop a prevention and harm reduction approach to educate the public;
- Develop an enforcement strategy with municipalities, local police services, the Ontario Provincial Police (OPP) and the federal government to help shut down illegal retailers; and
- Hold an enforcement summit with police, public health experts, and stakeholders to inform enforcement efforts.

City staff have convened an interdivisional working group to identify municipal concerns relating to the legalization of cannabis and the resources and tools needed to assist the City in their potential role within the legalized system. The interdivisional group consists of: Municipal Licensing and Standards, Toronto Public Health, City Planning, Toronto

Fire Services, Toronto Building, Corporate Finance, Toronto Police Service, City Manager's Office, Economic Development and Culture, and Legal Services.

In June 2017, the Board of Health (BOH) adopted recommendations to the provincial and federal governments to consider as they develop and finalize legislation to legalize cannabis. This report builds on and complements recommendations adopted by the BOH.

This report supports the province's plan to sell cannabis through a provincially-operated retail model. This model is preferred as it is a stronger regulatory mechanism than a private retail model, and would allow the province to closely oversee the operations of retailers and ensure that they operate in a responsible and accountable manner to uphold public health and safety. A provincially-operated retail model guided by public health objectives and social responsibility would help ensure that public health and safety is paramount, thereby reducing local impacts that would require extensive municipal oversight and enforcement.

Further, this report proposes that the City make the following recommendations to the province:

- Ensure that the City's concerns are considered when determining locations of cannabis storefronts.
- Commit to fully recover municipal costs of implementing and enforcing the new framework for legalized cannabis.
- Empower the City with municipal enforcement tools to use against storefronts operating illegally.
- Consult with the City when developing regulations for home cultivation of cannabis.

Staff will continue to work interdivisionally and with the province to ensure that the City is represented as the provincial government finalizes its plans for legalization. Staff will report to the appropriate committee with recommendations on next steps for the City of Toronto, as needed.

## **RECOMMENDATIONS**

---

The Executive Director, Municipal Licensing & Standards, recommends that:

1. City Council endorse the Province of Ontario's plans for a provincially-operated retail model for cannabis sales that does not permit sales by private entities.
2. City Council request the Province of Ontario, in the development of provincial cannabis regulations, work with the City of Toronto and the Toronto Police Service to develop appropriate enforcement strategies, including provincially funded and/or provided enforcement to support efforts to eliminate illegal cannabis sales.
3. City Council request the Province of Ontario to ensure that municipal concerns and input form a part of the consideration when determining locations of provincially-operated cannabis retail outlets.

4. City Council request that the Government of Canada and the Province of Ontario ensure that the City of Toronto is adequately funded on a full cost recovery basis for the City's role in implementation and enforcement arising from the legalization of cannabis, including enforcement costs related to the operations of illegal cannabis sales and use.
5. City Council request the Province of Ontario enhance the City's enforcement authorities and tools to address illegal sales of cannabis through cannabis specific legislation or by amendments to the *City of Toronto Act, 2006*, the *Planning Act*, the *Provincial Offences Act* and/or any other applicable statute to:
  - a. Prohibit sales of cannabis outside the legal regime and provide authorities for the City to enforce the prohibition;
  - b. Authorize and/or establish higher maximum penalties/fines for offences relating to sales of cannabis outside of the legal regime;
  - c. Provide the City with the appropriate authority to effectively combat illegal cannabis storefronts, such as the power to expediently issue or obtain closure orders for premises.
  - d. Authorize the City to establish additional regulation and offences to address concerns related to cannabis, including illegal sales, consumption or other nuisance-related concerns, as may be required.
6. City Council request the Province of Ontario consult with the City when developing regulations related to places of consumption for cannabis and that the Province provide the City with detailed guidance and adequate resources and authorities to enforce regulations.
7. City Council request the Province of Ontario consult with the City when developing regulations for home cultivation of cannabis and that the Province provide the City with detailed guidance and adequate resources and authorities to enforce regulations.
8. City Council request the Government of Canada closely oversee cannabis production sites, ensure rigorous safety and security standards are met, and ensure that federal licensing is subject to City regulations including that the City can continue to regulate the location of production facilities through zoning.
9. City Council ask the Government of Canada and the Province of Ontario to earmark funding for public education, ongoing research and monitoring on cannabis use and health impacts, and evaluation of the new legal regime.
10. City Council forward this report to the Province of Ontario's Legalization of Cannabis Secretariat, the Government of Canada's Cannabis Legalization and Regulation Secretariat, the Federation of Canadian Municipalities, and the Association of Municipalities of Ontario.
11. City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the interdivisional cannabis working group, report back to the

appropriate committee once federal and provincial governments have finalized the regulatory frameworks for cannabis with recommendations on next steps for the City of Toronto.

## **FINANCIAL IMPACT**

---

There are currently no financial implications beyond what has already been approved in the current year's budget. Future financial impacts are yet to be determined once the provincial government has announced the regulatory regime for cannabis. (Please also refer to the Comments section of this report and the sub-section entitled "Cost of implementation and enforcement, and funding").

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

## **DECISION HISTORY**

---

On June 12, 2017, the Board of Health adopted, with amendments, [Legal Access to Non-Medical Cannabis: Approaches to Protect Health and Minimize Harms of Use](#). The adopted item includes a series of recommendations, aimed to reduce harms and protect health, for the federal and provincial governments to consider as they develop and finalize legislation to legalize cannabis. Recommendations included a request for the province to establish a provincially-controlled agency for the retail sale and distribution of cannabis, separate from that for alcohol, and establish a comprehensive social responsibility program.

On June 27, 2016, staff reported to Licensing and Standards Committee on the issue of illegal cannabis storefronts. Committee "deferred consideration of the item until provincial and federal legislation has been passed on medical marijuana dispensaries and the Executive Director, Municipal Licensing and Standards can report on the matter." Read the staff report on the [Review of Regulations Governing Marijuana for Medical Purposes](#).

On May 30, 2016, the Board of Health adopted, with amendments, [Legalization and Regulation of Non-Medical Cannabis](#), making a number of recommendations to the federal government, including urging the federal government to use an evidence-based public health approach to legalization.

On May 19, 2016, Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards, in consultation with the Medical Officer of Health and the Chief of the Toronto Police Service, to report on a regulatory framework for cannabis storefronts, including a review of the current operations of cannabis storefronts in the city of Toronto, a review of regulations in other jurisdictions including Vancouver, and recommendations to address concerns, including the feasibility of licensing cannabis storefronts and other regulatory mechanisms to regulate the proximity of these establishments to schools and other educational facilities, childcare and other sensitive uses. Read the Mayor's letter on [Marijuana Dispensaries](#).

On April 1, 2014, City Council adopted amendments to the City of Toronto Zoning By-law to define Medical Marijuana Production Facility and to establish zoning regulations to permit these facilities in industrial areas. Read the staff report on [Zoning Changes for Medical Marijuana Production Facilities – Final](#).

## COMMENTS

---

### Update on the legalization of cannabis

In April 2017, the federal government introduced Bill C-45, the *Cannabis Act*, which seeks to legalize and regulate cannabis across Canada by July 2018. If passed, this legislation would impose measures to control access to non-medical cannabis (referred to as "cannabis" in this report) through age and possession restrictions, and establish criminal penalties and a strict regulatory framework associated with the drug.

While the federal government would oversee the licensing of commercial cannabis cultivators and manufacturers, the task of overseeing the distribution, retail sale, and public consumption of cannabis would fall to the provinces in collaboration with municipalities.

Summary of Bill C-45, the *Cannabis Act*:

- Minimum age of purchase is 18 and older, but provinces may set higher minimum (Ontario has proposed 19 as its minimum age);
- Maximum of 30g of dried cannabis in individuals' possession in public places;
- Marketing and promotion restrictions similar to tobacco – cannabis industry cannot appeal to young persons;
- Prohibition on sale of cannabis that is mixed with caffeine, alcohol, or nicotine;
- Home cultivation permitted in limited quantities;
- Packaging and labelling restrictions that prohibit depictions that could be appealing to young persons or encourage its consumption, feature testimonials or endorsements, depict persons, characters, or animals, whether fictional or real; glamorize use, contain false/deceptive/misleading information;
- Introduction of a national cannabis tracking system with information disclosure permissions including disclosure with the province;
- Medical access system will continue concurrently with recreational system. Producers licensed under *Access to Cannabis for Medical Purposes Regulations (ACMPR)* will be considered licensed under new *Act* as well.

On September 8, 2017, the province announced its proposed approach to retail distribution of cannabis. Under this proposed approach, a subsidiary to the Liquor Control Board of Ontario (LCBO) would operate stores that sell only cannabis. The province plans to open 80 stores by July 1, 2019, and 150 by 2020. The province also proposed that there would be online sales of cannabis available, with age verification and security measures upon delivery.

The province has also indicated proposed plans to:

- Restrict places where cannabis can be used to private residences only;

- Set minimum age of purchase at 19 years old;
- Develop a prevention and harm reduction approach to educate the public;
- Develop an enforcement strategy with municipalities, local police services, the Ontario Provincial Police (OPP) and the federal government to help shut down illegal operations;
- Hold an enforcement summit with police, public health experts, and stakeholders to inform enforcement efforts; and
- Provide resources and guidelines for employers and labour groups around workplace safety issues relating to impairment.

The province plans to introduce new legislation on cannabis this fall.

### **Current regulations relating to cannabis**

Currently, the *Controlled Drugs and Substances Act (CDSA)* prohibits possession, trafficking, import and export, and production of controlled substances, including cannabis, unless authorized by regulations. The *ACMPR* establishes exemptions for medical cannabis production, possession, and consumption.

Since 2001, the consumption of medical cannabis has been permitted in Canada. Under the current regulations, the *ACMPR*, federally licensed producers are responsible for the production and distribution of quality controlled dried cannabis, cannabis oil, and starting materials (seeds and plants) for individuals who are authorized to use medical cannabis and produce a limited amount of medical cannabis for personal use.

Individuals authorized by a health care practitioner to use cannabis for medical purposes are able to:

- Access it through licensed producers by mail;
- Register with Health Canada to produce a limited amount for their own purposes; or
- Designate someone else to produce it for them. A designated person can only produce for a maximum of two individuals including him or herself.

There are 58 authorized federally licensed producers of cannabis, 32 of which are located in Ontario as of September 13, 2017. Health Canada does not authorize the operation of retail storefronts, such as "compassion clubs" or "dispensaries". These operations remain illegal.

### **Current City of Toronto regulations relating to medical cannabis**

In 2013, when the federal government transitioned to a system of commercial production of medical cannabis with the promulgation of the *Marihuana for Medical Purposes Regulation (MMPR)* (replacing the *Medical Marihuana Access Regulation (MMAR)* which had been in place since 2001) the City amended the Zoning Bylaw to define Medical Marihuana Production Facilities (MMPFs) and prescribed where the use is permitted, including separation distances from sensitive uses.

MMPFs are defined in the Zoning Bylaw as premises used for growing, producing, testing, destroying, storing, or distribution of medical cannabis authorized by a licence

issued by the federal Minister of Health. MMPFs are only permitted in Employment Industrial zones.

Consequently, premises used for growing, producing, testing, destroying, storing, or distribution of medical cannabis must comply with the City Zoning Bylaw, including that the premises be located only in Employment Industrial zones.

The production or distribution of medical cannabis by an MMPF is regulated by the federal government and does not involve the City beyond the extent of the above zoning regulations.

## **Illegal storefronts in Toronto**

### **Update on illegal storefronts**

There have been numerous illegal cannabis storefronts that have appeared across Toronto since spring of 2016. These storefronts carry and sell cannabis products and are operating in contravention of federal laws, the City's Zoning Bylaw, and in some cases Toronto Municipal Code Chapter 545, Licensing, for the sale of food in the form of cannabis edibles.

As a response to these illegal storefronts, ML&S reported to Licensing and Standards Committee on the issue on June 27, 2016. The Committee "deferred consideration of the item until provincial and federal legislation has been passed on medical marijuana dispensaries".

Over the past year ML&S has pursued the following enforcement activities:

- Continuous inspection of all reported storefronts;
- Notified property owners and business owners of their illegal activities through caution letters regarding zoning violations;
- Conducted additional ML&S bylaw enforcement actions following the execution of search warrants by Toronto Police Service relating to illegal cannabis storefronts;
- Execution of six Search Warrants under the *Planning Act* in response to being obstructed from entry;
- Laid zoning, licensing, and obstruction charges against employees, managers, business owners, and property owners;
- Notified mortgagees of the use of financed properties for illegal purposes; and
- Commenced an application in Superior Court pursuant to the *City of Toronto Act (COTA)* seeking interim and permanent injunctions to close a chain of illegal storefronts.

While these efforts have helped to lessen the proliferation of storefronts, there are approximately 60 still in operation. Some of those storefronts that have closed have since reopened under new ownership. A number of storefronts have converted to stores selling paraphernalia, information centres, or mail order cannabis delivery services.

## Overview of enforcement outcomes completed to date

Since spring of 2016, there have been 139 illegal storefronts that have closed. Investigations have resulted in 121 charges against property owners, 276 charges against business owners, 214 charges against employees, for a total of 611 charges to date.

Summary of orders and fines:

- 39 prohibition orders
- 5 probation orders (to an individual person)
- 4 closure orders (to a property owner(s))
- \$89,250 total fine amount

## **Cannabis legalization**

### **City staff interdivisional working group**

In September 2016, City staff created an interdivisional working group on cannabis legalization. This working group has served as a platform for staff to share updates, discuss concerns, and identify municipal needs that may arise in a legalized regime. The interdivisional working group is chaired by Municipal Licensing and Standards (ML&S), and includes representatives from Toronto Public Health, City Planning, Toronto Fire Services, Toronto Building, Toronto Police Service, and the City Manager's Office. Corporate Finance and Economic Development and Culture have more recently been included.

### **Collaboration with staff from other governments**

Over the past year, City staff have engaged with the federal and provincial levels of government, including participation with the original federal Task Force.

City staff have also used this time to engage with other municipalities through the Association of Municipalities of Ontario (AMO) and the Federation of Canadian Municipalities (FCM) to discuss issues and considerations around cannabis legalization across Canadian municipalities.

Over the summer of 2017, the Province of Ontario has been consulting with the public, hosting a series of forums, and engagement sessions to determine the potential impacts of cannabis legalization and to inform future legislation. City of Toronto staff have participated throughout this process. In the following sections, staff provide further input, intended to formalize the City's positions in order to inform provincial policy decisions and legislation.

### **Key areas of municipal concern**

#### Retail sales

The *Cannabis Act* aligns regulations similar to those for tobacco products around marketing, labelling, advertising, packaging, and promotions. Specifically, the federal government's concern is ensuring that cannabis is not packaged and presented in a way that would encourage use, particularly by youth. Further, the Board of Health has



requested the Government of Canada to require comprehensive “plain packaging” rules for all cannabis product packaging prohibiting display of brand names, logos or promotional images, and allowing sufficient space for health warnings and product information. Schedule 4 of the *Act* lists the products that can be sold (namely, fresh and dry cannabis, seedlings and plants, cannabis oil). For now, the federal government has not permitted edible cannabis products and has indicated that the current mail order system for medical cannabis will continue to operate alongside the new non-medical regime.

Beyond these rules around the actual products sold, the federal government has not provided details around the retail distribution of cannabis. The responsibility of developing rules around the distribution and retail sale of cannabis is left to the province, which has proposed a provincially-operated retail model. The province has indicated that sales will be operated through a subsidiary corporation of an existing arm's length Crown corporation, the Liquor Control Board of Ontario (LCBO). This model would require less regulatory and operational oversight by the City compared to privately operated stores, but would still require local implementation and enforcement efforts.

Robust regulatory controls around the retail distribution of cannabis will help to minimize social harms, safety issues, and neighbourhood nuisances, including waste and odour.

Therefore, staff endorse the province's proposal to pursue a centralized, provincially-operated retail model for cannabis sales. This model is preferred as it is a stronger regulatory mechanism that would allow the province to closely oversee the operations of retailers and ensure that they operate in a responsible and accountable manner to uphold public health and safety.

A provincially-operated retail model guided by public health objectives and social responsibility would help ensure that public health and safety is paramount, thereby reducing local impacts that would require extensive municipal oversight and enforcement. This model prioritizes the central goals of legalization – to reduce the illegal market and protect youth – potentially more effectively than a profit-driven model. This approach was supported by the Board of Health in June 2017.

Staff have identified the following areas of concern relating to retail outlets for provincial consideration:

- **Separation distances between retail locations and sensitive uses and limits on hours of sale.** Toronto Public Health has indicated that research on tobacco and alcohol find that higher retail outlet density is associated with increased consumption and health harms. The Task Force report also echoes this recommendation for limits on the density and location of storefronts, including appropriate distancing from certain places, such as schools. The province has, in its recent announcement, indicated that it will work with municipalities to consider community priorities when choosing store locations. To that end, staff recommend that the City be consulted on locational criteria for cannabis retailers.
- **No sales on university and college campuses,** to align with tobacco sales restrictions.

- **Staff support the province's proposal to establish stores that sell only cannabis, prohibiting co-location of alcohol and cannabis sales**, due to the health and safety concerns of mixing alcohol and other drugs. This recommendation is also made in the Task Force report to the federal government.
- **Staff support the province's proposal to implement mandatory training for employees at retail outlets.** Retail staff should be subject to a standardized training program on responsible cannabis use and social responsibility requirements, similar to *Smart Serve* certification for serving alcohol.

### Places of use

Staff have identified a number of concerns around the public use of cannabis. There are public health concerns relating to second-hand cannabis smoke and social exposure of youth to smoking, with the potential effect of normalizing the activity. ML&S has identified smoking on sidewalks as a potential cause for nuisances. All North American jurisdictions where recreational cannabis is legal restrict public consumption in a similar manner to tobacco.

The proposed *Cannabis Act* has minimal restrictions on places of use, with the exception of amending the federal *Non-smokers' Health Act* to prohibit smoking and vaping of cannabis in federally regulated workplaces and public places in federal jurisdiction. It would fall to provinces and territories, and potentially the municipalities, to regulate the consumption of cannabis in public places as they see fit.

In Ontario, there are two relevant existing models of regulation for use of legal regulated substances: alcohol consumption and tobacco smoking. Through the *Liquor Licence Act (LLA)*, the province restricts where alcohol can be consumed to private places or residences and premises that have been issued a liquor licence. The *LLA* also prohibits public intoxication.

Through the *Smoke Free Ontario Act (SFOA)*, the province prohibits smoking or holding lighted tobacco in any enclosed workplace, any enclosed public place such as school property, and specifically designated outdoor places such as children's playgrounds, publicly owned sport fields and bar and restaurant patios. The restrictions extend to indoor common spaces in multi-unit residential buildings, colleges and universities and hotels. City of Toronto bylaws, such as Chapter 709, Smoking, Chapter 636, Public Squares, and Chapter 608, Parks, provide additional protections by prohibiting smoking within a nine metre radius of any entrance or exit of a public building, on public squares, and at swimming beaches and some park amenities.

In its September 8<sup>th</sup>, the province announced that the use of cannabis will be prohibited in public places, workplaces, and motor vehicles. This proposed approach seems to blend the restrictions around public consumption seen with both tobacco and alcohol legislation. It would therefore only be legal to use cannabis in private residences. People would not be allowed to consume any form of cannabis in public places, workplaces or when inside a motor vehicle.

The province has also indicated that they will consult with municipal partners, the Alcohol and Gaming Commission of Ontario and other organizations to explore the

feasibility and implications of introducing designated establishments where cannabis could be consumed (i.e. indoor consumption sites).

The City urges the province to consider how smoking restrictions would be enforced and the potential impact on the municipal resources that would be required to undertake enforcement. The City may require additional funding to meet the cost of new resources, increased staffing, training, and tools to enforce rules related to places of use.

Toronto Public Health is currently reviewing the implications of the provincial policy decision regarding consumption of cannabis in public spaces, in particular from an equity and enforcement perspective.

### Education, public health, and prevention

#### *Public education and training*

With cannabis legalization, the federal government's stated goals include restricting youth access to cannabis and enhancing public awareness of the health risks associated with cannabis consumption. The federal government has committed \$9.6 million over five years for public education, awareness campaigns, and surveillance activities in the 2017 budget. The province has also indicated plans to develop a prevention and harm reduction approach.

City staff recommend that public health professionals, health care professionals and educators in partnership with the public health community should be primary sources for providing information on cannabis use. Public education should be informed by current evidence and proactively address newly arising, high-risk practices such as consuming cannabis products with high THC levels.

Funding should be used to enhance and complement existing public education initiatives that are already underway through Toronto Public Health. Information on substances should be focused and tailored to vulnerable demographics, including youth and young adults. The most effective way to reach these populations will include engagement with parents, schools and school boards, postsecondary institutions, and through agencies that serve vulnerable populations.

The City will require resources and guidelines for training City staff on legislative changes, in particular for those areas that will be directly involved or impacted by the implementation and oversight of the new regime.

#### *Monitoring and evaluation*

To enable monitoring and evaluation of legalization regulations and cannabis use, staff urge the federal government to earmark funding for research on health impacts of cannabis use and develop and fund a comprehensive monitoring system for cannabis, including the collection of baseline data prior to implementation of a regulatory system. In May 2016, the BOH supported this recommendation from the Medical Officer of Health to the federal Minister of Health.

### *Impaired driving*

In addition to Bill C-45, the *Cannabis Act*, Bill C-46 would amend the Criminal Code with new impaired driving offences related to drug impaired driving; the use of oral fluid drug screening devices (drug screeners); and new provisions relating to blood samples.

Driving while impaired by cannabis is a public health and safety concern. Motor vehicle accidents are the main contributor to Canada's burden of disease and injury from cannabis. There are concerns that legalization of cannabis may lead to increased incidents of drug-impaired driving. As such, the province should provide the City with adequate guidance and resources to address local impacts from impaired driving. The province should also provide guidance and resources for preventative measures like public education on the risks of impaired driving.

### Cost of implementation and enforcement

Legalization of cannabis is expected to impact municipal service costs in a variety of ways. The City expects it will require additional resources and guidelines in public health, education and training, fire safety, emergency services, building and property standards, land use planning, and local policing and enforcement.

Since Spring of 2016, ML&S officers and Toronto Police resources have been redirected for enforcement efforts aimed at closing the illegal storefronts that have proliferated. Once cannabis is legalized, it is anticipated that ongoing enforcement efforts will be required, in respect to those who may continue to attempt to operate outside of the legal framework.

Staff recommend that City Council request the Government of Canada and the Province of Ontario commit to ensuring that all costs to the City are recovered for its role in implementation and enforcement related to both legalized cannabis and those operating outside of the legal regime.

### Enforcement tools to address illegal storefronts

Central to the legalization of cannabis is a desire to deter and reduce criminal activity by imposing serious criminal penalties for those breaking the law, especially those who import or export cannabis, or provide cannabis to youth.

While the province has the responsibility to regulate the retail distribution of cannabis, the City will continue to play a role in managing and mitigating any community nuisance that results from those who operate in contravention of the permitted regime. In an effort to eliminate illegal storefronts and address any illegal sales of cannabis outside of the legal regime, staff have the following requests of the province:

#### *The province should commit to enforcement against illegal storefronts*

Over the past year, ML&S and the Toronto Police Service have committed staff and resources to attempt to address the proliferation of illegal storefronts in Toronto. These efforts have helped suppress the proliferation of storefronts; however, in a regulated regime, the City will continue to need more and stronger resources and legal authorities to assist in addressing the illegal storefront problem, and to prevent these establishments from reopening.

In its September 8<sup>th</sup> announcement, the province has proposed developing a coordinated and proactive enforcement strategy with municipalities, local police services, the OPP, and the federal government to help shut down illegal cannabis storefronts.

The City supports this proposal and recommends that the province commit to partnering with the City to establish a provincial enforcement regime and supporting enforcement against illegal storefronts. Provincial enforcement commitments should explicitly include addressing illegal storefronts operating outside of the legal regime to ensure that they are addressed in a comprehensive and consistent manner.

*The province provide new authorities to issue closing orders*

Staff recommend that the province should also provide additional legislative authorities to allow the City to effect the immediate or expedited closure of illegal storefronts.

Staff believe it is necessary for the City to have the power to close illegal storefronts prior to a conviction, in order to more quickly mitigate negative community impacts which result from and are compounded by lengthy court processes. Possible legislative options include a specific amendment to *COTA* or provisions in cannabis legislation to establish an offence and closure authority with respect to illegal storefronts.

This change could provide the City with the authority to require the immediate closure upon issuance of an order to the owner of the property where the illegal storefront is operating. Any costs associated with the closure orders should be the property owner's responsibility as a lien against the property, similar to a municipal tax. Property owners could be given the ability to appeal the order or have the order rescinded in appropriate circumstances.

*The province provide increased maximum penalties*

The authority for higher maximum fines would give the City enhanced tools to address illegal cannabis storefronts, and could have the effect of deterring their continuation or proliferation.

Currently, through the *Planning Act*, the City can seek fines ranging from \$25,000 to \$50,000. Staff recommend that the province provide higher penalties through amendment to the *Planning Act*, *Provincial Offences Act*, *COTA*, or as an offence in new cannabis legislation and that these maximum penalties should escalate based on continuing offence and/or with repeat convictions, and include provisions for the application of special fines.

To enhance the effectiveness of the enforcement regime, the offence and the possibility of higher fines should explicitly include the directors of any corporations found to be engaged in the operation of an illegal cannabis storefront.

Home growing

Staff have raised a number of concerns around home growing of cannabis.

Bill C-45 would permit home cultivation with the following rules:

- Maximum of four cannabis plants that are not budding or flowering in individuals' possession;
- Maximum of four cannabis plants per household, regardless of number of adults residing in residence);
- Plants can be a maximum of 100 cm in height; and
- Cultivation is only permitted in residences.

These permissions pose enforcement challenges for the City and, if abused, could cause potential health and safety hazards. Safety hazards include fires resulting from attempts at extracting cannabis oil at home, exploding grow lights, and other electrical fires, and moisture and mould damage that leave buildings uninhabitable.

As discussed in the federal Task Force report on cannabis legalization, there are benefits to allowing home cultivation of cannabis as it could help to reduce the illicit market. Where permissions are abused, however, there are risks to the public and emergency personnel. There are also concerns around access to the plants by youth and children, potency of cannabis that is being grown at home, mould, and nuisance concerns around odours, particularly in dense areas and multi-residential buildings.

City staff need detailed direction from the province on home cultivation. These regulations should be developed in close collaboration with the City of Toronto. Staff anticipate the need for additional resources for public education and local enforcement efforts, including dealing with matters of fire safety.

### Production sites

With the legalization of cannabis, the federal government would continue to licence and oversee cannabis producers.

In 2013, the federal government introduced new rules for the production, distribution, and use of medical cannabis. The federal government currently oversees medical cannabis producers through a licensing regime that involves a rigorous application process. Licensed producers are subject to requirements related to good production practices; packaging, labelling and shipping; import and export; security; record keeping and reporting; and distribution. Staff understand that these or similar rules will likely remain for the new cannabis regime.

The 2013 changes to the Zoning Bylaw defined Medical Marijuana Production Facilities (MMPFs) and where they could be located by allowing them in some Employment-Industrial zones and imposing separation distances from certain sensitive uses.

Staff recommend that the federal government closely oversee cannabis production sites, ensure rigorous safety and security standards are met, and ensure that federal licensing is subject to City regulations including that the City can continue to regulate the location of production facilities through zoning. With this authority, the City will continue to ensure that production sites are separated from sensitive uses, such as schools.

## **Next Steps**

City staff have remained engaged as the federal and provincial governments have worked towards the legalization of cannabis. This report is an opportunity for City Council to provide formalized feedback to the province as they develop the regulatory framework to govern the legalization of cannabis. These decisions will have a particularly significant impact on the city of Toronto given the size and density of the city and the existing illicit cannabis market.

Once the federal and provincial governments have finalized the regulatory frameworks for legalized cannabis, staff will report to the appropriate committee with recommendations on next steps for the City of Toronto.

## **CONTACT**

---

Tracey Cook  
Executive Director  
Municipal Licensing & Standards  
416-392-8445  
Tracey.Cook@toronto.ca

## **SIGNATURE**

---

Tracey Cook  
Executive Director  
Municipal Licensing & Standards