

REGULATORY REGISTRY FEEDBACK FORM

Proposed Places of Use Regulations under the *Cannabis Act, 2017*

The Ontario government would like your feedback on regulatory proposals related to where cannabis can be used under the *Cannabis Act, 2017*.

The proposed regulations are intended to continue to support Ontario's safe and sensible framework for recreational cannabis and protect the health and well-being of all Ontarians, especially children, youth and other vulnerable populations. More information on the proposed regulations can be found in the paper provided on the Regulatory Registry.

Please use this form to submit your feedback on proposed regulations posted on the Regulatory Registry at <http://www.ontariocanada.com/registry/>.

The closing date for providing feedback is **March 5, 2018**.

Contact Information

Please provide your name, title and the full name and address of your organization (if you are submitting comments on behalf of an organization).

The recommendations described below are the recommendations of the City of Ottawa's Acting Medical Officer of Health, Dr. Vera Etches. The recommendations are derived from staff's professional review and analysis of the available evidence on cannabis as well as lessons learned from the regulation of other substances.

The recommendations have been circulated to the Board of Health for the City of Ottawa Health unit, however, they have not been formally considered or approved by same, nor has the Board had an opportunity to receive public delegations on same. The recommendations described below will be presented to the Board at its meeting on April 16, 2018, after which the Board Chair will forward any additional recommendations and comments that may arise from the Board.

The contact information of the Acting Medical Officer of Health is as follows:

Dr. Vera Etches, MD, MHScM CCFP, FRCPC
Medical Officer of Health (Acting)

Ottawa Public Health
100 Constellation Drive
Ottawa, Ontario
K2G 6J8

About You or Your Organization

(please check the appropriate box/boxes)

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|---|--|
| <input checked="" type="checkbox"/> Health organization | <input type="checkbox"/> Municipality |
| <input type="checkbox"/> Educator | <input type="checkbox"/> Indigenous organization/community |
| <input type="checkbox"/> Law enforcement | <input type="checkbox"/> Other _____ |

Region

(please refer to map and check appropriate box)

- 1. Central Ontario
- 2. Eastern Ontario
- 3. Greater Toronto Area
- 4. Northern Ontario
- 5. Southeastern Ontario
- 6. Southwestern Ontario
- 7. Western Ontario
- 8. Provincial



Proposed Regulations

Places of Use for Medical Cannabis

It is proposed to prohibit medical cannabis users from using medical cannabis while driving or having care or control of a vehicle or boat, whether or not it is in motion. Medical cannabis users would still be permitted to consume cannabis if they are a passenger in a vehicle or boat, provided the cannabis is not smoked or vaped.

It is proposed to exempt medical cannabis users from the prohibition on transporting cannabis under the following conditions:

- The cannabis was obtained in accordance with applicable federal law respecting medical cannabis
- The person transporting the cannabis is a medical user
- The cannabis is not readily available to the driver or operator of the vehicle or boat

Do you have any comments regarding the proposed rules for medical cannabis?

As the Acting Medical Officer of Health for the City of Ottawa, I support the proposed regulations for places of use for medical cannabis.

Clarification of Places of Use Rules for Recreational Cannabis

It is proposed to prescribe the following places as additional places where recreational cannabis **cannot** be used for greater certainty without limiting the generality of the places of use rules and to ensure alignment with the *Smoke-Free Ontario Act, 2017*, where appropriate:

- A school within the meaning of the *Education Act*.
- A building or the grounds surrounding the building of a private school within the meaning of the *Education Act*, where the private school is the only occupant of the premises, or the grounds annexed to a private school, where the private school is not the only occupant of the premises.

- A child care centre within the meaning of the *Child Care and Early Years Act, 2014*.
- A place where an early years program or service is provided within the meaning of the *Child Care and Early Years Act, 2014*.

It is also proposed to restrict the smoking or vaping of recreational cannabis in any indoor or outdoor common area in a condominium, apartment building or university or college residence, including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas. This is consistent with our safe and sensible approach to cannabis legalization and with the public health intent of the *Smoke-Free Ontario Act, 2017* to protect youth and young adults from exposure to smoke and vape. The use of other forms of recreational cannabis would not be restricted in these areas.

Do you have any comments regarding the proposal to clarify the places of use prohibition by prescribing these places?

The restrictions proposed on places of use for non-medical cannabis are appropriate to protect public health.

I am pleased that the Government of Ontario recently introduced the *Standard Lease*, which includes a section outlining a clause on smoking policies. Based on the evidence described below, I recommend **the Government of Ontario prescribe inside the units and on the balconies of multi-unit housing as a restricted place of use for the smoking and vaping of non-medical cannabis**. As indicated in my response to the *Smoke-Free Ontario Act, 2017 Regulation* consultation (proposal number: 18-HLTC007), this ban should extend to all combustible products, including medical cannabis, tobacco, and herbal shisha.

As of 2016, just over 2.3 million Ontarians lived in some form of multi-unit housing.¹ Further, there is a high demand for smoke-free multi-unit housing, with eight out of ten Ontarians who live in multi-unit housing reporting they would prefer a smoke-free building when given the choice.² Public support expands beyond those living in multi-unit housing as nine out of ten Ontarians report they believe smoking should not be allowed in multi-unit housing.²

The available evidence on cannabis smoke demonstrates:

- Cannabis smoke contains tar, fine particulate matter and many of the same harmful chemicals and cancer causing agents as tobacco smoke.^{3,4,5}
- The levels of some chemicals in cannabis smoke are higher than in tobacco smoke.^{5,6}
- There is concern that exposure to cannabis second-hand smoke could be harmful for vulnerable populations such as children, pregnant women, the elderly and those with respiratory problems.

Second-hand smoke can disperse through a building, traveling between adjacent units through cracks in walls and ceilings, windows, and heating and ventilation systems. According to the American Society of Heating, Refrigerating & Air-Conditioning Engineers (ASHRAE), there is currently no available or reasonably anticipated ventilation or air cleaning system that can adequately control or significantly reduce the health risks of second-hand smoke.⁷ Individuals of low-income are particularly affected by the current housing system as they often have fewer housing options and are not always able to move when faced with SHS exposure.²

Exemption for Hotel, Motel and Inn Rooms

It is proposed to permit registered guests or invited guests of registered guests to use recreational cannabis in a hotel, motel or inn room, provided the room is primarily designated as sleeping accommodation and the cannabis is not being smoked or vaped.

The smoking or vaping of cannabis would only be permitted in designated smoking rooms to align with the *Smoke-Free Ontario Act, 2017*.

Do you have any comments regarding the proposed exemption to permit cannabis use in hotel, motel and inn rooms under certain conditions?

Based on the evidence presented above on the effects of cannabis smoke, it is recommended that the province prohibit the smoking and vaping of all combustible substances, including non-medical cannabis, inside hotel, motel, and inn rooms. Doing so will protect the patrons, housekeeping staff, and maintenance staff from involuntary second-hand smoke exposure.

Exemptions for Vehicles and Boats used as Private Residences

It is proposed to permit the consumption of recreational cannabis would be permitted in a vehicle equipped with sleeping accommodation and cooking facilities when the vehicle is parked and being used as a residence. The exemption would not apply while the vehicle is on a highway.

It is proposed to permit the consumption of recreational cannabis would be permitted in boats with permanent sleeping accommodations and permanent cooking and sanitary facilities while the boat is at anchor or secured to a dock or land. The dock or land would also be exempt from the consumption prohibition, except at times where the public is invited or permitted access. Boats used to carry passengers for hire would not be included in the exemption.

Do you have any comments regarding the proposed exemptions for vehicles and boats used as private residences?

I support the proposed exemptions for vehicles and boats used as private residences as they align with the *Liquor Licence Act* and *Smoke-Free Ontario Act*. **As the Acting Medical Officer of Health, I recommend the regulations prohibit the consumption of cannabis in commercial vehicles that are equipped with sleeping accommodations.**

Exemptions for Workplaces in Private Residences

It is proposed to exempt most private residences that are also workplaces from the prohibition on consuming cannabis in workplaces. The proposed exemptions are similar to the consumption rules respecting smoking, e-cigarettes and medical cannabis in the *Smoke-Free Ontario Act, 2017*.

It is proposed to permit the smoking or vaping of recreational cannabis in the following places under the same conditions in which tobacco can be smoked:

- Long-term care homes within the meaning of the Long-Term Care Homes Act, 2017.
- A residential facility that is operated as a retirement home and that provides care, in addition to accommodation, to the residents of the home.
- A supportive housing residence funded or administered through the Ministry of Health and Long-Term Care or the Ministry of Community and Social Services.
- Homes for special care licensed under the *Homes for Special Care Act*.
- Psychiatric facilities formerly designated under the now repealed *Mental Hospitals Act*,
- Specific veterans' facilities: the Parkwood Hospital site of St. Joseph's Health Care London, and the Kilgour wing (K wing) and the George Hees wing (L wing) of the Sunnybrook and Women's College Health Sciences Centre.

Consistent with the approach under the Smoke-Free Ontario Act, 2017, and regulations proposed under that Act, the smoking or vaping of recreational cannabis would only be permitted in the abovementioned facilities under the same conditions in which tobacco smoking, the use of e-cigarettes and the smoking or vaping of medical cannabis is permitted.

The consumption of other forms or recreational cannabis would not be prohibited.

It is proposed to prohibit the smoking and vaping of recreational cannabis in places where home child care is provided whether or not children are present. Other forms of recreational cannabis would not be prohibited in these places as long as children are not present when the cannabis is being used.

Do you have any comments regarding the proposed exemptions for certain workplaces/ residences?

I support the proposed exemptions for workplaces in private residences as they align with *Smoke-Free Ontario Act*.

Designated Areas in Multi-Unit Dwellings and Consumption Lounges

The Ministry of the Attorney General is considering the following proposals for possible implementation post-legalization:

- Permitting licensed cannabis consumption lounges; and
- Permitting owners or operators of multi-unit dwellings to designate outdoor areas for the consumption of recreational cannabis.

Do you have any comments regarding the proposal to consider future implementation of cannabis consumption lounges and designated outdoor smoking areas for multi-unit dwellings?

Licensed cannabis consumption lounges

Based on the evidence, I recommend the Government of Ontario prohibit licensed cannabis consumption lounges for smoking and vaping. Once edible cannabis is

regulated, the Government of Ontario should initiate a subsequent consultation on allowing consumption establishments for edible products.

Allowing designated consumption establishments poses risks to public health, undermines the efforts of tobacco control to denormalize smoking and poses public health risks. As noted above, cannabis smoke contains tar, fine particulate matter and many of the same harmful chemicals and cancer causing agents as tobacco smoke.^{3,4,5} The levels of some chemicals in cannabis smoke are higher than in tobacco smoke.^{5,6} At this time, there is no available or reasonably anticipated ventilation or air cleaning system that can adequately control or significantly reduce the health risks of second-hand smoke.⁷ According to the World Health Organization, 100% smoke-free environments are the only effective way to protect the population from second-hand smoke.⁸

The City of Ottawa set precedents in creating smoke-free spaces by enacting a by-law prohibiting the use of water pipes (non-tobacco) in public places and workplaces. Evidence demonstrated that water-pipe establishments had implications for clean indoor air laws, occupational safety and posed serious health risks:

- Both tobacco and non-tobacco products exert substantial and similar deleterious effects on respiratory health.⁹
- The establishments contained elevated concentrations of indoor air pollutants that can cause adverse health effects in employees and patrons exposed to second-hand smoke.¹⁰

This evidence must be taken in to consideration for licensed cannabis consumption lounges.

Designated outdoor consumption areas

Further to my recommendation above, I recommend the Government of Ontario prohibit owners or operators of multi-unit dwellings from designating outdoor areas (DSA) to consume non-medical cannabis. Creating a ban inside units, balconies, and outdoor property limits the options for smoking and vaping non-medical cannabis, however, cannabis can be used in other forms, which are lower risk consumption options for individuals and have less second-hand effects to others. Allowing DSAs creates significant challenges, some of which may lead to negative long-term impacts.

Evidence shows that second-hand smoke in outdoor spaces can be as toxic as indoors.¹¹ As noted above:

- Cannabis smoke contains tar, fine particulate matter and many of the same harmful chemicals and cancer causing agents as tobacco smoke.^{3,4,5}
- The levels of some chemicals in cannabis smoke are higher than in tobacco smoke.^{5,6}
- There is concern that exposure to cannabis second-hand smoke could be harmful for vulnerable populations such as children, pregnant women, the elderly and those with respiratory problems.

Allowing DSAs risks normalizing cannabis use, poses enforcement challenges, and undermines tobacco control efforts. Further, permitting DSAs for non-medical cannabis would undermine the years of success accomplished in eliminating tobacco DSAs, which most recently banned DSAs on hospital grounds as of January 1, 2018. DSAs for non-medical cannabis are also contrary to the objectives of the Smoke Free Ontario Strategy to protect people from second-hand smoke. In addition, ensuring the DSA is only used for non-medical cannabis by the residents of the building and no other members of the public will likely lead to enforcement challenges. Finally,

evidence from tobacco demonstrates that smoke-free environments, including outdoor places, can reduce smoking rates, prevent youth initiation and increase quit attempts.¹¹

Ultimately, allowing DSAs contravenes the federal government's objectives in legalizing cannabis. Bill C-45, the *Cannabis Act*, focuses on public health objectives¹² and the intention in legalizing is not to promote use, increase use, or commercialize and normalize use.

To support the implementation of smoke-free policies, I believe the province should invest in creating sufficient supports for evidence-informed early identification and treatment. As demonstrated in the Smoke Free Ontario Strategy, providing cessation services is an important component to establish a comprehensive approach by supporting users to quit or reduce use. Further, the province should undertake public education to promote the Lower Risk Cannabis Use Guidelines to encourage users to not smoke cannabis and choose lower risk products. Providing cessation services and harm reduction measures supports Ontarians along the spectrum of substance use.

We are interested in any other comments or suggestions you wish to make.

Tobacco enforcement officers

Individuals who are currently appointed as Tobacco Enforcement Officers (TEOs) together with additional provincial offence officers should be designated to enforce the *Cannabis Act, 2017* and there should be sufficient funding to support the expanded duties. TEOs already have a wealth of knowledge and experience enforcing no-smoking regulations under the *Smoke-Free Ontario Act (SFOA)* and will also have authority under the SFOA to enforce similar prohibitions on medical cannabis. TEOs are already in the community responding to complaints and conducting pro-active inspections for smoking in prohibited places, being able to take action when encountering someone using recreational cannabis in a prohibited place increases enforcement efficiency and reduces some burden on Police. In Ottawa, TEOs conducted over 1700 inspections under the SFOA for enclosed public places, workplaces and prescribed places in 2017.

Environmental health concerns

The province of Ontario has been silent on provincial regulations for home-cultivated cannabis, despite federal approval to do so. This is a public health concern.

The province should consider the implications of home cultivation, including in multi-unit housing, and undertake public consultation to establish regulations.

Public health approach

Lessons learned from other legal substances demonstrate that legislation and regulation alone do not protect the public from the harms associated with substance use. I encourage the province to consider a public health approach in the legalization and regulation of cannabis, including:

- Investments in health assessment, surveillance and research;
- Investments for health promotion/prevention activities;
- Health protection; and

- Sufficient supports for evidence-informed early identification and treatment.

Investments in all of these areas will contribute to assessing the impact of legalization, inform policy development, contribute to evidence-informed decision-making by the public and provide community supports along the spectrum of substance use.

Please submit your feedback on the Regulatory Registry by **March 5, 2018**

Privacy Statement

Please note that unless requested and agreed otherwise by the Ministry of the Attorney General, all materials or comments received from organizations in response to this consultation will be considered public information and may be used and disclosed by the ministry to assist the ministry in developing the proposed regulatory amendments. This may involve disclosing materials or comments, or summaries of them, to other interested parties during and after the request for public comment process.

An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified. Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by the individual. However, materials or comments from individuals may be used and disclosed by the ministry to assist in developing the proposed regulatory amendments.

Personal information of those who do not specify an organizational affiliation, such as an individual's name and contact details, will not be disclosed by the ministry without the individual's consent unless required by law. If you have any questions about the collection of this information, please contact the Ontario Legalization of Cannabis Secretariat at cannabis@ontario.ca

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