



# CANNABIS RETAIL & PRODUCTION OPERATIONS

## PROPOSED REGULATIONS



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## Background:

The federal government intends to legalize the distribution and consumption of recreational cannabis by July 2018. Bill C-45, *The Cannabis Act* and Bill C-46, *An Act to Amend the Criminal Code*, are the federal pieces of legislation pertaining to the legalization of cannabis.

The **federal government** will provide regulations around the following:

- production of cannabis
- possession limits
- trafficking
- advertising
- tracking of seed to sale
- minimum age limits
- personal cultivation
- the continued oversight of the medical marijuana industry

The **provincial government** will provide regulations around the following:

- control over wholesale and retail distribution
- selection of distribution model
- workplace safety

Furthermore, the provinces will have the discretion to impose higher age limits than those set out by the federal government, as well as, the option to enact more restrictive possession limits.<sup>1</sup> Saskatchewan has set the minimum age requirement at 19 years of age.<sup>2</sup>

In Saskatchewan, the regulatory role of **municipal governments** will most heavily revolve around zoning and land use, business licensing, and public consumption.



To date, the provincial government has not released legislation for the legalization of cannabis. However, the province has released guidelines that outline their legislative intentions for the retailing and wholesale distribution of cannabis.<sup>3</sup>

The province has decided upon a private wholesale and retail model that will be regulated by the Saskatchewan Liquor and Gaming Authority (SLGA). The SLGA will be responsible for

<sup>1</sup> *Cannabis Legalization Primer: How municipalities can get ready* (Issue brief). (2017, August). Retrieved <https://fcm.ca/home/issues/emergency-preparedness-and-response/cannabis-legalization/cannabis-legalization-primer.htm>

<sup>2</sup> Government of Saskatchewan. (2018, March 14). *Saskatchewan Cannabis Framework Released*[Press release]. Retrieved March 14, 2018, from <https://www.saskatchewan.ca/government/news-and-media/2018/march/14/framework-for-cannabis-legalization>

<sup>3</sup> Saskatchewan Liquor & Gaming Authority. (n.d.). *Guide to Saskatchewan's Cannabis Retail Framework*. Retrieved May 1, 2018, from <https://www.slga.com/permits-and-licences/cannabis-permits/cannabis-retail-framework>, p. 3

monitoring local wholesalers and retailers, issuing permits, and tracking inventory.<sup>4</sup> The province will issue up to 60 permits across 40 municipalities and First Nations across Saskatchewan for the private sale of cannabis. The province may create a second round of permit allocations depending on the impact and demand arising from the initial round of permits. The province has granted some municipalities the ability to opt out of receiving permits for wholesale and retail distribution of cannabis in their municipality.<sup>5</sup>

**The following pages will offer options developed by Crosby Hanna & Associates (CHA) for municipalities to follow regarding the regulation of cannabis in their communities.**

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<sup>4</sup> *ibid*, p. 3

<sup>5</sup> *ibid*, p. 7



## Regulatory Tools:

The main tools of regulation at the disposal of municipalities are **zoning bylaws**, **business licensing**, and **smoking control bylaws**. Zoning will be the most likely method employed by a municipality to regulate cannabis uses. Business licensing and smoking bylaws are further methods that can be used to regulate cannabis use. All three methods are detailed below.

**It is important to note that it is up to each municipality to decide upon which tools to use and to determine how strictly they will regulate cannabis uses.**

### Zoning:

Zoning can be used to regulate cannabis-related land uses within a municipality. These land uses, including cannabis retail stores and cannabis production facilities can be classified as **permitted** or **discretionary** land uses within specific zoning districts. If a municipality does not want cannabis land use or uses in a particular zoning district, such as in a residential district, it can be omitted as a use. This would effectively ban the cannabis use or uses from that zoning district. Further zoning requirements for cannabis uses can be implemented such as:

- setbacks from schools, playgrounds, alcohol and drug treatment centres, other cannabis retail businesses, and other sensitive uses.
- general signage regulations

## Cannabis Retail Zoning

Cannabis retail stores will be standalone operations that are separate from any other business activity. Cannabis retail stores will only be permitted to sell cannabis and cannabis related products.<sup>6</sup>

### Zoning Option 1: Permitted as a retail use

This approach would view cannabis retail as a typical “retail” use. There would be no separate classification between cannabis retail and other retail uses. This would allow cannabis retailers to operate as a conventional retailer and would be listed as a **permitted** or **discretionary** use depending on the zoning district. If **discretionary**, specific discretionary use evaluation criteria needs to be provided in the zoning bylaw.

### Zoning Option 2: Permitted as its own use

This approach would classify cannabis retail as a separate use and allow it in appropriate commercial zoning districts. Furthermore, a municipality could choose to specifically direct cannabis retail to commercial areas that are in need of revitalization (e.g. downtown). Cannabis retail use would be listed as a **permitted** or **discretionary** use depending on the zoning district. If **discretionary**, specific discretionary use evaluation criteria needs to be provided in the zoning bylaw.

### Zoning Option 3: Permitted as its own use in industrial zoning districts

This approach would classify cannabis retail stores as a separate use by providing for it in industrial zoning districts only. Limiting locational opportunities to industrial zoning districts would leave cannabis retailers less visible to the public and likely would not be located near youth or community-oriented land uses and activities.

## APPROACH TO ZONING

CHA recommends **Zoning Option 2** as it provides an appropriate balance between regulating cannabis retail while augmenting economic activity for municipalities. CHA defines cannabis retail stores as the following:

- *a retail store, approved under federal and provincial regulations that sells cannabis and any of its derivatives.*

### SAMPLE ZONING

Under “Special Regulations” sections of a zoning bylaw specific development criteria could be outlined. Below is a possible set of zoning regulations:

- *All cannabis retail operations will be prohibited from residential zoning districts.*
- *All cannabis retail operations are allowed in all other zones if the activity and site meet the following requirements:*
  - *All cannabis retail operations must have all approved business licenses and shall be approved by and comply with provincial and federal authorities and regulations.*

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<sup>6</sup> Guide to Saskatchewan's Cannabis Retail Framework., p. 5

- *All cannabis retail operations must maintain a setback of 150 meters from schools and playgrounds.*

The city of Calgary has a setback of 150 meters from schools and 300 metres from other cannabis retail stores.<sup>7</sup> In Saskatoon, administration recommended a setback of 160 metres from schools and cannabis retail stores, except in the Broadway area. However, on May 28<sup>th</sup>, 2018 City Council directed administration to prepare a bylaw that would provide for a lesser city-wide setback of 60 metres.<sup>8</sup> While some jurisdictions have setback requirements from other cannabis retail stores, CHA does not feel this is necessary since most of the smaller urban and rural municipalities that we provide planning support to will see limited retail opportunities given the provincial permitting process (i.e. only one or a few if any will be allowed). Also, in larger municipalities, market forces will play a role in ensuring cannabis retail operations do not locate in close proximity to one another.

### Cannabis Production Operations Zoning

The main uses that would fall under the scope of a “Cannabis Production Operation” are the activities involved in the cultivation, processing, and distribution of cannabis as described below.

#### **Cannabis Cultivation**

Activities in this category include growing industrial hemp and cannabis plants and the harvesting of material from those plants, as well as associated activities. Nurseries that grow plants for the harvesting of starting material are also included.<sup>9</sup>

#### **Cannabis Processor**

Activities in this category include those that manufacture, package, and label cannabis products destined for sale to consumers, and the intra-industry sale of these products, including to provincially/territorially authorized distributors, as well as associated activities.<sup>10</sup>

#### **Cannabis Wholesale**

This activity includes businesses that operate warehouse and distribution facilities in Saskatchewan that purchase cannabis from licensed producers or other Saskatchewan based wholesalers for distribution to cannabis retailers.<sup>11</sup>

Retail sale to the public would NOT be included. Cannabis cultivation and cannabis processor activities will be licensed by federal regulators.<sup>12</sup> Additionally, cannabis processors wishing to do

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<sup>7</sup> City of Calgary. (n.d.). *Cannabis Store Business Guide*. Retrieved May 28, 2018, from <http://www.calgary.ca/PDA/pd/Pages/Business-licenses/Cannabis-Store.aspx>

<sup>8</sup> Saskatoon council votes down proposed 160-metre pot dispensary buffer, will look at 60-metre alternative. (2018, May 29). *CBC*. Retrieved May 29, 2018, from <http://www.cbc.ca/news/canada/saskatoon/saskatoon-council-buffer-pot-dispensaries-1.4682270>

<sup>9</sup> Health Canada. (2017, November). *Proposed Approach To The Regulation Of Cannabis*. Retrieved February 3, 2018, from <https://www.canada.ca/en/health-canada/programs/consultation-proposed-approach-regulation-cannabis/proposed-approach-regulation-cannabis.html>, p. 10

<sup>10</sup> *ibid.*, p. 10

<sup>11</sup> Saskatchewan Liquor & Gaming Authority. (n.d.). *Guide for Saskatchewan's Cannabis Wholesalers & LP's*. Retrieved May 1, 2018, from <https://www.sлга.com/permits-and-licences/cannabis-permits/cannabis-retail-framework>, p. 4

<sup>12</sup> *Proposed Approach To The Regulation Of Cannabis*, p. 8

business in Saskatchewan will be licensed provincially as “**licensed producers.**” A cannabis wholesaler is regulated provincially by the SLGA.<sup>13</sup>

### APPROACH TO ZONING:

For clarity’s sake, CHA recommends the above noted activities (cannabis cultivation, cannabis processor, cannabis wholesaler, and licensed producer) be combined under the term “Cannabis Production Operation”, classified as a use, and defined as:

- *a facility, approved under federal and provincial regulations, that is used in whole or in part for the planting, cultivation, testing, harvesting, processing, and distribution of the cannabis plant and any of its derivatives.*



This approach would classify a cannabis production operation as a separate use and allow it in appropriate commercial, industrial, and agricultural zoning districts.

A Cannabis production operation would be listed as a **permitted** or **discretionary** use depending on the zoning district. Generally, a cannabis production operation would be treated as a typical industrial use alongside other such uses like freight handling facilities, warehouses, and/or wholesale establishments and, as such, would be able to locate where these types of operations are located.

### SAMPLE ZONING:

Under “Special Regulations” sections of a zoning bylaw specific development criteria could be outlined. Below is a possible set of zoning regulations:

- *Cannabis production operations may be allowed in designated agricultural, commercial and industrial zoning districts if the activity and proposed location ensures that it will have minimal impact on surrounding adjacent areas and meets the following requirements:*
  - *meet municipal servicing capacity;*
  - *mitigate anticipated levels of noise, odour, smoke, fumes, dust, lighting, glare vibration or other emissions emanating from the operation;*
  - *mitigate anticipated increased levels or types of vehicle traffic, unsafe conditions or situations for vehicles, cyclists or pedestrians; and/or*
  - *ensure the safe handling and disposal of hazardous and dangerous substances and materials.*
  - *all cannabis production operations must have all approved business licenses (if applicable) and shall be approved by and comply with provincial and federal authorities and regulations.*
  - *all cannabis production operations must maintain a setback of 150 meters from schools and playgrounds.*

<sup>13</sup> *Guide for Saskatchewan's Cannabis Wholesalers & LP's.*, p. 4

- *All materials and goods used in conjunction with cannabis production operations shall be stored within an enclosed building:*
  - *no outside storage is permitted for a cannabis production operation.*

### General Signage Regulations

In addition to zoning land use of cannabis retail and cannabis production operations, municipalities may wish to ensure that signage for cannabis businesses is discrete and does not promote the use of the product to young people. Signage regulations can be outlined in the zoning bylaw. The following sample regulations can be applied through a zoning bylaw and applied to all cannabis uses:

- *Signs for Cannabis Retail Stores and Cannabis Production Operations shall not contain any images, but may include the business name in alpha-numeric characters.*
- *The sign would be subject to any other applicable regulations.*

### Business Licensing

This tool can be used to define cannabis uses as a special business, similar to pawnshops or adult services. Under the *Cities Act* and the *Municipalities Act* municipalities are granted broad scope to regulate businesses through business licenses. Municipalities can set guidelines on business operations such as setback distances or other particular business practices (in the case of pawnshops - recording transactions). Municipalities could implement further operational regulations such as the number of required staff, store hours, advertising on premises, etc. Municipalities could seek further input from law enforcement as to what regulations would be appropriate to include in the business license. This approach gives municipalities the flexibility to adapt to circumstances and experiences by allowing a municipality to change the requirements of the business license. These potential changes could be applied to existing cannabis businesses upon renewal of the business license. Any cannabis business would still be subject to federal and provincial regulations.

### Smoking Control Bylaws

The *Tobacco Control Act (TCA)* is the primary means of regulating tobacco in Saskatchewan. The *TCA* pertains to the transaction of tobacco, second-hand smoke (also called Environmental Tobacco Smoke), administration and enforcement, and offenses and penalties. It is possible that the province will amend the *TCA* to include cannabis as part of its regulations. The *TCA* grants powers to municipalities to enact further regulations through bylaws regarding public consumption making it likely that municipalities will have authority to enact stricter regulations of public consumption of cannabis. For example, restrictions could be put in place that would prohibit smoking cannabis in public similar to smoking tobacco. The City of Saskatoon approved amendments to its smoking control bylaw to include cannabis once it becomes legal.<sup>14</sup>

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<sup>14</sup> Dyck, D. (2018, January 30). Saskatoon smoking bylaw now covers marijuana. *CBC*. Retrieved March 5, 2018, from <http://www.cbc.ca/news/canada/saskatoon/saskatoon-council-marijuana-smoking-bylaw-1.4510188>

## Conclusion

At this point in time, it is necessary for municipalities to consider how they wish to proceed with regulation of cannabis related businesses in their community. The options and recommendations in this paper came from a study of other jurisdictions in the United States and Canada combined with CHA's experience in community planning in Saskatchewan. CHA can tailor cannabis regulations to suit a municipality's priorities and desires in order to control local cannabis related businesses. Ultimately, it is up to the local elected officials to decide what is right for their community.

Finally, due to the tight timelines imposed by the federal government, CHA is recommending municipalities evaluate and decide upon the appropriate local approach to regulating cannabis before it becomes legalized.

