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<th>TO:</th>
<th>Mayor and Members Planning Committee</th>
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<td>COMMITTEE DATE:</td>
<td>February 18, 2014</td>
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<td>SUBJECT/REPORT NO:</td>
<td>A Review of the Federal Marihuana for Medical Purposes Regulations (MMRP) - Planning and Building Implications for the City of Hamilton (PED14037) (City Wide)</td>
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<td>WARD(S) AFFECTED:</td>
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**Council Direction:**

N/A

**Information**

The purpose of this Report is to provide information to Planning Committee and Council, respecting new Federal Regulations for Medical Marihuana Access. Under the new Regulations, users of medical marihuana will be supplied by licensed producers only, whereas under the current regulations the supply can be from individuals and four currently licensed producers in Canada. Staff are investigating the appropriate zoning by-law and building code matters for this use.

**Background**

1.0 Marihuana Medical Access Regulation (MMAR)

In 1999, the Federal Government introduced the program, MMAR, to allow seriously ill people, with permission from their doctor, to access dried medical marihuana for medical purposes. Individuals could access the medical marihuana in three ways:

1. produce their own supply provided they had a personal use production licence;

2. designate another person to grow it on their behalf, and that person receives a Designated Person Licence; or,
3. purchase the product from a facility licensed by Health Canada.

The MMAR is a Federal regulation under the Controlled Substance Act. Attached as Appendix “A”, is a list of Health Canada’s frequently asked questions. For information, there are two spellings of marihuana. Health Canada spells marihuana with an “h” rather than the more common spelling with a “j” – marijuana. Note this staffing report is reflective of the Health Canada spelling preference.

2.0 Marihuana for Medical Purposes Regulations (MMPR)

There were numerous issues with the MMAR Program. In response to these concerns and after an extensive review and consultation process, Health Canada introduced a new series of regulations. In June 2013, the Government introduced new regulations, MMPR, which significantly changes the way a person can access medical marihuana. These Regulations require individuals to access their supply from Federally licensed producers only; they will no longer be able to grow it themselves or have another individual do it on their behalf.

Under the MMPR, a prospective producer applies to Health Canada for a licence. The licence requirements are extensive. They include measures such as:

1. a complex on-site security system for the facility;
2. a detailed description of how the medical marihuana is handled, including the associated activities (i.e. disposing of waste from plant, weight of product and residual of the plant, inventory);
3. a restriction on the maximum quantity of dried medical marihuana to be produced per year; and,
4. the requirement to provide written notice to the municipality (Police, Fire, Administration) of their proposed facility. The content of the notice is prescribed in the regulation and includes details on the site location.

In addition, there are also other Federal guidelines and directives that provide greater detail to certain MMPR requirements (eg. type of security systems required).

This new legislation will take effect April 1, 2014. Any prospective producer of medical marihuana must notify Police, Fire, and the City, as to their intent to become a licensed producer with Health Canada.

3.0 Land Use Planning/Building Matters
The Federal Government has indicated that licensed producers must comply with all Federal, Provincial/Territorial and Municipal Laws and By-laws, including Municipal zoning by-laws and Provincial building codes.

3.1 Nature of the Operation

The producer grows the cannabis plant, cuts off the flowers, and dries the flowers indoors. There is quality control testing on the dried medical marihuana. The product is shipped out in a dried form to the individual user, other licensed producers, or dealers or a hospital employee. The waste from the plants is tightly controlled.

3.2 Building and Site Requirements

There are a number of requirements for both the building and the site:

a. production must be located inside a building and is prohibited in a residential dwelling. It may be permitted in the greenhouse if the security measures are appropriate/approved by Health Canada;

b. there are no retail sales permitted on site. The product is shipped from the producer by a secured shipper;

c. there is a sanitation program which details the handling of the product as well as the disposal, and the cleaning of the equipment and premises;

d. site and the restricted areas must have a physical security barrier to prevent unauthorized entry; and,

e. security includes:

• controlled access at all times to individuals who are required to work at the site;

• a 24/7 visual and sound recording system on the whole site, as well as the area where the substance is located;

• a security and surveillance system which would detect unauthorized people entering or trying to enter the site/building;

• individuals monitoring the security and surveillance systems would respond to incidents and record the incident; and,

• the identity of every person entering or existing the facility must be documented.
4.0 Review of Other Municipalities

Staff undertook a review of municipalities that are similar to Hamilton, in that they have both urban and rural areas. They include Guelph, Sudbury, Ottawa, and Fort Erie.

There are divergent opinions across these municipalities as to whether this use should be considered as an industrial use or an agricultural use. The difference in these uses depends on the nature of the use, in particular the level of processing, and whether such processes would be considered as normal farm practices. In addition, there are some questions regarding the nature of the internal security needed (e.g. vaults and ventilation systems).

Under the current MMAR, there is one producer operating in Stayner, Ontario. It appears to be located within an agricultural/rural area. More recently, the former Smith Falls Ontario Hershey Factory, which is located in an industrial zone, has been adapted to a medical marihuana facility under the new MMPR legislation.

5.0 Requests for Licences in Hamilton

The City has received notifications from several prospective licensees of their intent to become a licensed producer with Health Canada; the majority of which are in the rural area. Prior to the determination of the appropriate zoning for this type of use, staff will be:

1. undertaking a more in depth review of the MMPR legislation and discussions with Health Canada;
2. gaining a better understanding of the security and ventilation requirements;
3. having discussions with similar municipalities to understand how they classify the use from zoning by-law and building code perspectives; and,
4. contacting Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), respecting agricultural uses and normal farm practices (e.g. disposing of waste).

Once staff have a better understanding the nature of the use, they will be in a better position to determine the appropriate zone (i.e. agricultural or industrial), and Ontario Building Code requirements for this use. Staff will report back to Committee and Council to identify if any further action is required on this matter.

JHE/DO - Attach. (1)
Frequently Asked Questions: Medical Use of Marihuana - Health Canada

For Clients

How do I access marihuana during the transition period?

Until March 2014, individuals, who have the support of a health care practitioner, may access marihuana for medical purposes through either:

1. The Marihuana Medical Access Regulations (by applying to Health Canada); or
2. The new Marihuana for Medical Purposes Regulations (by registering with a licensed producer once they become established).

Under the Marihuana Medical Access Regulations, you can apply to Health Canada to access one of the three sources of supply: Health Canada supply; Personal-Use Production Licence; or Designated-Person Production Licence. For more information on how to apply for one of these sources of supply, please visit the "How to Apply" web page.

Under the new Marihuana for Medical Purposes Regulations, once licensed producers are established, you can have your health care practitioner complete a medical document. You must submit the original medical document directly to a licensed producer along with a completed registration form from the licensed producer of your choice.

Please note that you may only have access to marihuana for medical purposes under either the Marihuana Medical Access Regulations or the new Marihuana for Medical Purposes Regulations, not both.

During the transition period, what is my proof of authority to possess marihuana?

If you continue to access marihuana under the Marihuana Medical Access Regulations, your Authorization to Possess (ATP) will remain your proof of authority to possess until March 31, 2014. As of April 1, 2014, your ATP can no longer be used as proof that you are authorized to possess marihuana for medical purposes.

If you register with a licensed producer under the new Marihuana for Medical Purposes Regulations (regardless of whether it is before or after March 31, 2014) your proof of authority to possess will either be the label on the packaging or a separate document accompanying the shipment of dried marihuana from the licensed producer.

How do I find out how much a licensed producer is charging for marihuana?

You must contact the licensed producer directly for pricing information. Once licensed producers are established, a list of licensed producers and their contact information will be maintained on the licensed producers web page.

I have a valid Personal-Use Production Licence or Designated-Person Production Licence. Can I sell my plants to a licensed producer?

Yes. If you hold a valid licence to produce issued under the Marihuana Medical Access Program, you may provide starting materials (plants, seeds or clippings) to a licensed producer. To do so, you must submit an application to Health Canada.
If you hold a Designated-Person Production Licence, the consent of the authorized individual will be required. If you produce for more than one person, you will need to submit this information for each person.

Once the application is received, Health Canada will verify the information. If all of the information is valid, a notice will be sent to the licence holder, the authorization holder(s) (if applicable) and the licensed producer authorizing the transfer of materials.

All Personal-Use Production Licence or a Designated-Person Production Licence expire no later than March 31, 2014, so this is the last day this type of transfer may take place.

For Licensed Producers

Where can I obtain the application form to become a licensed producer?

The application along with guidance documents are available on the Becoming a Licensed Producer web page.

What are the requirements to become a licensed producer?

To become a licensed producer, you must meet all requirements of the new Marihuana for Medical Purposes Regulations, including, but not limited to:

- obtaining the proper personal security clearances;
- meeting the physical security requirements for the cultivation and storage areas;
- and
- submitting a completed licensed producer application.

For further information, please refer to the Becoming a Licensed Producer web page.

If you have any questions about these requirements or the application process, you can send us your questions by email to MMPR-RMFM@hc-sc.gc.ca or call us at 1-866-337-7705.

Once complete, your application must be submitted to the following address:

Controlled Drugs Section
Licences and Permits Division
Office of Controlled Substances
Controlled Substances and Tobacco Directorate
Health Canada
Address Locator: 0300B
Ottawa, ON K1A 0K9

All relevant sections of the application form must be completed and all required documents must be submitted. An incomplete application will not be processed and may be returned to you.

Does Health Canada provide information on how to produce marihuana?

No. Health Canada does not provide this type of information.
Where can I obtain a legal source of starting materials?

There are four legal sources of starting materials:

- Health Canada;
- Personal-Use Production Licence holders;
- Designated-Person Production Licence holders; and
- Importation.

The process varies by source. Please contact the Office of Controlled Substances at MMPR-RMFM@hc-sc.gc.ca for details.

Does Health Canada have a list of Personal-Use and Designated-Person Production Licence holders who are interested in selling starting materials to licensed producers?

Licensed producers must identify their own source of starting materials. Health Canada is unable to provide any information about Personal-Use and Designated-Person Production Licence holders.

What documents are required for a client to register with a licensed producer?

Licensed producers may accept the following documents:

1. A medical document - A medical document must be completed in full and signed by a health care practitioner.
2. An Authorization to Possess - This document is issued by Health Canada and can only be used until the end of its validity period, or the expiry date if no separate validity date is indicated.
3. A Form B "Medical Practitioner's Form" - While this form is primarily for use under the Marihuana Medical Access Regulations, if your health care practitioner has already completed it, it may be used during the transition period so long as it is within one year of the date it was signed by the health care practitioner.

A licensed producer may also require clients to provide additional supporting documentation.

Once my company registers a client who submitted their Authorization to Possess, what do I do with this document?

Once the client has been successfully registered, you must send the original Authorization to Possess document to Health Canada at the following address:

Marihuana Medical Access Program  
Controlled Substances and Tobacco Directorate  
Healthy Environments and Consumer Safety Branch  
Health Canada  
Address Locator: 0300A  
Ottawa, ON K1A 0K9

Once an Authorization to Possess holder registers with a licensed producer, Health Canada will revoke the Authorization to Possess and any associated licence to produce.
Is there a restriction on how much I can charge patients for dried marihuana?

No. Licensed producers may set their own prices.

What strains of marihuana can I cultivate under a production licence?

The new *Marihuana for Medical Purposes Regulations* do not specify or limit what strains of marihuana can be cultivated.

Can I sell cannabis resins, oils, extractions and edible marihuana products?

No. The new *Marihuana for Medical Purposes Regulations* only permit the sale of dried marihuana.

Can a production site be located outdoors or in a greenhouse?

Production sites can only be located indoors. You can cultivate in a greenhouse if it meets the requirements of the new *Marihuana for Medical Purposes Regulations*, including for physical security.

Can I operate a storefront?

No. You must ship dried marihuana directly to the client (or their physician, if requested).

Can I sell/provide product to a compassion club or dispensary who will then distribute on my behalf?

No. Only licensed producers are authorized to sell or provide dried marihuana. Licensed producers must ship dried marihuana directly to the client (or their physician, if requested) in accordance with the new *Marihuana for Medical Purposes Regulations*.

Do municipal zoning by-laws apply to my production site?

Licensed producers are required to notify their local government, local police force and local fire officials of their intention to apply to Health Canada, so that local authorities are aware of their proposed location and activities. Licensed producers are also required to communicate with local authorities whenever there is a change in the status of their licence. Licensed producers must comply with all federal, provincial/territorial and municipal laws and by-laws, including municipal zoning by-laws.

Is there a limit to how many production licences Health Canada will issue under the *Marihuana for Medical Purposes Regulations (MMPR)*?

No. Health Canada will not impose a limit on the number of production licenses.

For Health Care Professionals

What medical conditions qualify for the use of marihuana as a treatment option under the *Marihuana for Medical Purposes Regulations (MMPR)*?

The MMPR do not contain any limitations on the conditions for which a health care practitioner can support the use of marihuana for medical purposes.
You may wish to refer to the document entitled Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the Cannabinoids for the latest information on the use of marihuana for medical purposes.

Please note that if you are supporting an application under the Marihuana Medical Access Program (by completing a Form B "Medical Practitioner's Form"), applicants must qualify under either the Category 1 or Category 2 medical conditions.

**How does my patient access marihuana through the new Marihuana for Medical Purposes Regulations (MMPR)?**

If you support your patient's use of marihuana for medical purposes you will need to complete a medical document with specific information that is similar to a prescription. If you choose to use a different template/form you must ensure that all required information as described in the sample medical document is provided.

Once complete, your patient must send the original medical document to a licensed producer with a registration form (provided by the licensed producer). The licensed producer will fill and ship your patient's order, based on the daily amount of dried marihuana indicated on the medical document.

**What is the difference between Form B and a medical document?**

Form B "Medical Practitioner's Form" is the document that must be completed by the health care practitioner as part of an application to Health Canada for an Authorization to Possess marihuana for medical purposes under the Marihuana Medical Access Program.

If your patient chooses to order dried marihuana from a licensed producer under the new Marihuana for Medical Purposes Regulations, you must complete a medical document. This document does not require all of the same information as Form B.

**Are there daily amount and duration restrictions under the Marihuana for Medical Purposes Regulations?**

Various surveys published in peer-reviewed literature have suggested that the majority of people using inhaled or orally ingested cannabis for medical purposes reported using approximately 1-3 grams of cannabis per day.

While there are no restrictions under the new Marihuana for Medical Purposes Regulations on the daily amount that you may recommend, there is a possession cap of the lesser of 150 grams or 30 times the daily amount.

The medical document must be completed annually (or sooner if you recommend a shorter duration) to ensure that you continue to support your patient's use of marihuana.

We recommend you consult the document entitled Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the Cannabinoids for further information.

**What routes of administration can I recommend for my patient?**

Typically dried marihuana is consumed orally or inhaled. Smoking is not recommended. Some individuals use their dried marihuana with a vaporizer or in teas.
Please note that licensed producers can only provide dried marihuana. Other forms of marihuana, such as edibles or oils, are not permitted to be sold by licensed producers under the *Marihuana for Medical Purposes Regulations*.

**Is there information available that indicates which strains are better suited to certain conditions?**

Health Canada is not aware of any clinical research on this subject.

**Will dried marihuana be assigned a Drug Identification Number?**

Marihuana for medical purposes is not an approved therapeutic drug in any country in the world, including Canada. Scientific studies of its safety and efficacy are not conclusive.

**Where can I obtain information on the product my patient is considering?**

You may contact the licensed producer(s) directly to obtain information about the strain(s) of dried marihuana available. Each product label must include the percentage of Tetrahydrocannabinol (THC) and percentage of Cannabidiol (CBD) in the lot and batch that is being sold.

Once licensed producers are established, a list of licensed producers and their contact information will be maintained on the [Licensed Producers](https://www.healthcanada.ca) web page.

In addition, Health Canada has posted a detailed document entitled *Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the Cannabinoids*, which contains updated information on the use of marihuana for medical purposes. This document is available on the Health Canada website.

**For Police / Law Enforcement**

**How do I determine whether or not someone is authorized to be in possession of marihuana for medical purposes?**

Until March 31, 2014, individuals may hold an Authorization to Possess (ATP) marihuana for medical purposes issued by Health Canada under the *Marihuana Medical Access Regulations* (MMAR), OR they may register with a licensed producer to access dried marihuana under the new *Marihuana for Medical Purposes Regulations* (MMPR), but not both.

**Under the MMAR:**

For individuals who continue to access marihuana for medical purposes under the MMAR, the ATP will remain the same (a pink, watermarked, legal-sized document). On March 31, 2014, all ATPs (and licences to produce) issued under the MMAR expire and will no longer provide individuals authority to possess marihuana. As of April 1, 2014, the only legal means to access to marihuana for medical purposes will be through licensed producers.

Until March 31, 2014, law enforcement officials may continue to contact the Marihuana Medical Access Program's police services line to verify information related to authorizations and licences requested in the context of an investigation.
Under the new MMPR:

Individuals can access marihuana by registering with a licensed producer. These individuals will not be issued an ATP. Instead, either the label on the packaging or a separate document accompanying each shipment of dried marihuana will provide the authority to possess marihuana. In the course of an investigation, law enforcement officers may contact the licensed producer directly to confirm whether the individual is a client of the producer, an individual who is responsible for a client of the producer and the daily quantity allowed.

Who can I contact if I am investigating someone who may or may not be authorized under the MMPR?

If an individual presents you with the packaging or a document included in their order of dried marihuana from a licensed producer, you may contact the licensed producer to confirm the registration and the daily quantity of dried marihuana. The licensed producer must confirm that you are a member of a Canadian police force, the information must be requested in the context of an investigation under the CDSA or the Marihuana for Medical Purposes Regulations and you must provide the name of the individual, the date of birth and the gender.

Will authorization and licence documents issued under the MMAR constitute valid authority to possess or produce marihuana after March 31, 2014?

No. On April 1, 2014, all Authorizations to Possess (ATPs), Personal-Use Production Licences (PUPLs) and Designated-Person Production Licences (DPPLs) will expire. All individuals who possess and/or produce marihuana under the Marihuana Medical Access Regulations (MMAR) will be advised to destroy or dispose of their marihuana and/or plants no later than March 31, 2014.

As of April 1, 2014, the only legal means to access marihuana for medical purposes will be through a licensed producer under the Marihuana for Medical Purposes Regulations (MMPR).

What is the difference between an expiry and validity date?

The Marihuana Medical Access Regulations (MMAR) will be repealed on March 31, 2014. As a result, between now and March 31, 2014, Health Canada will issue Authorizations to Possess (ATPs) with two dates: an expiry date and a validity date.

The expiry date on all ATPs will be March 31, 2014.

The validity date, which may go beyond March 31, 2014, is now included on an ATP. This date enables ATP holders to switch to a licensed producer by using their ATP instead of returning to their health care practitioner to have a medical document signed.

Is there a limit to the amount of dried marihuana someone can carry on their person under the Marihuana for Medical Purposes Regulations?

Yes. The new Marihuana for Medical Purposes Regulations impose a maximum possession cap of the lesser of 150 grams of dried marihuana or 30 times their daily amount at any one time. For example, if an individual has a daily amount of 2 grams per day, their possession cap would be 60 grams.
Will Health Canada release a list of production sites that were licensed under the MMAR after March 31, 2014, so that local authorities can ensure they are dismantled?

No. This information is protected under the Privacy Act.

For Municipalities

Are licensed producers subject to local legislation and by-laws?

Yes; however, it is the responsibility of the municipality to conduct the relevant inspections for compliance with by-laws such as zoning. Health Canada can only inspect for compliance with the Marihuana for Medical Purposes Regulations and any related federal legislation. Note that licensed producers are required to notify their local government, local police force and local fire officials of their intention to apply to Health Canada, so that local authorities are aware of their proposed location and activities. Licensed producers are also required to communicate with local authorities whenever there is a change in the status of their licence.

Can municipalities stop the licensing process if they disagree with the proposed site of production or any other requirement?

No; however, local authorities can communicate any concerns directly to the production site owner and enforce local legislation and by-laws.

Can compassion clubs dispense for a licensed producer?

No. Licensed producers must ship dried marihuana directly to the client or the client's health care practitioner (if indicated).

Will Health Canada provide the municipality with a list of production sites that were licensed under the MMAR after March 31, 2014?

No. This information is protected under the Privacy Act.

Will Health Canada ensure that these sites have been dismantled once the MMAR is repealed on March 31, 2014?

Health Canada will provide guidance to all current program participants regarding the appropriate means to dispose of their dried marihuana and marihuana plants.

The production of marihuana in homes beyond March 31, 2014, is illegal and may result in law enforcement action.

For more information: