

**CANNABIS IN CANADA: A BEST PRACTICE GUIDE TO PLANNING FOR THE  
LEGALIZATION OF RECREATIONAL MARIJUANA**

by

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A Major Research Paper  
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Planning  
in  
Urban Development

- Toronto, Ontario, Canada, 2018

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# **CANNABIS IN CANADA: A BEST PRACTICE GUIDE TO PLANNING FOR THE LEGALIZATION OF RECREATIONAL MARIJUANA**

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Master of Planning  
In  
Urban Development  
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## **ABSTRACT**

When marijuana is legalized in Canada there will be land-use planning implications for municipalities. Different levels of government have different jurisdictional responsibilities regarding the legalization of recreational marijuana. One of the jurisdictional responsibilities of municipalities is land use planning and zoning. Two new land uses will be introduced to municipalities through the legalization of marijuana: recreational marijuana production facilities and recreational marijuana retail stores. For municipalities to control for the location of these uses, the land use legislation they enact must be able to co-exist with federal and provincial/territorial legislation and not result in any operational conflicts. This research paper provides a set of best practices to municipalities across Canada for how they should regulate these uses in their land use legislation.

**KEY WORDS:** recreational marijuana legalization; marijuana retail stores; marijuana production facilities; land use planning; Canada.

## **Acknowledgements**

I would first like to thank my faculty supervisor, Professor Mitchell Kosny, for his insights and guidance throughout this project. I would also like to thank my second reader, Nancy Alcock, for taking the time to provide thoughtful comments and feedback on this work. I really appreciate all the support you both have given me.

A very important thank you goes to my parents for being the best support system I could ask for. I would not have made it this far without you both. To my sisters, thank you always for making me laugh and being calming influences in my life. To Archie, thank you for always being there.

Finally, I would like to thank my classmates for making late nights working on studio, group projects, and class work inspiring, memorable, and actually fun. You all made planning school even better than I could have imagined. I made so many great friends throughout this program. Amanda, thanks for always proof-reading my work, encouraging me to take some much-needed study breaks and treating myself. Graham, thanks for your positive energy and getting me to explore the outdoors. I look forward to seeing all the great things we accomplish!

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# 1 INTRODUCTION

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Bill C-45, *The Cannabis Act*, was introduced in the House of Commons on April 13, 2017 to create “a strict framework for controlling the production, distribution, sale, import, export and possession of cannabis in Canada” ( Department of Justice, 2017). The Bill was passed November 27, 2017 after third reading with 200 Members of Parliament (MPs) for and 82 MPs against. When this Bill is given Royal Assent, recreational marijuana will be legalized across Canada, making Canada one of the only countries in the world to have legal recreational marijuana.

There are many unknown implications of this legislation. One of these unknown implications is the impact recreational marijuana may have on land use planning. This report intends to investigate the potential impacts this legislation will have on land use planning and provide a set of recommendations and best practices to guide municipal decision makers and planners across Canada for how to best regulate recreational marijuana.

Until Royal Assent is given, federal, provincial/territorial, and municipal governments will be releasing additional legislation and regulations associated with marijuana legalization for matters that fall under their respective jurisdictions. Different levels of government will have different jurisdictional responsibilities regarding the legalization of recreational marijuana. For example, the federal government will have responsibility over matters such as possession limits, trafficking, advertisement and packaging, production, and the federal minimum age limit. The provincial government will have responsibility over matters such as distribution, wholesaling, the retail model, and public consumption. Municipal governments will have responsibility over matters such as public consumption and land use planning and zoning. The focus of this paper is on land use planning and zoning. A full list of jurisdictional responsibilities for each level of government is found in Section 3.3.4.

By the time recreational marijuana is legalized, it is recommended that municipalities have proper policies and regulations in place for matters that fall under their jurisdiction, including land use planning and zoning. Potential impacts and matters that may need to be addressed in the land use planning legislation include: possible new uses for land associated with growing, packaging, buying, and using marijuana; local zoning definitions for these new uses; distance restrictions from other uses; whether to limit the number of marijuana facilities within a certain area; building and business permit considerations; the relationship with agricultural policies; how to manage for nuisances and environmental externalities; and approaches to other restrictions, such as moratorium.

## **1.1 RESEARCH QUESTIONS**

The questions this research paper intends to answer are:

- 1) What implications will recreational marijuana have for land use planning in Canada? and
- 2) How should municipalities in Canada regulate the land uses associated with recreational marijuana?

## **1.2 PURPOSE AND SIGNIFICANCE**

By researching these questions, this report will help to inform a better understanding of the impacts of recreational marijuana policy implementation on land use planning. Municipalities have a lack of experience regulating for this form of land use. This report intends to provide guidance to municipal decision makers and planners across Canada regarding how to best regulate for the new land uses to ensure the health, safety, and well-being concerns of their communities are met. Furthermore, it intends to inform municipal legislation so that it conforms to federal and provincial/territorial objectives and requirements.

Chapter two of this paper explains the methods that used to evaluate the impact of recreational marijuana legislation and determine a set of best practices. Chapter three explores the history and background of marijuana policy in Canada and provides an overview of the jurisdictional responsibilities of each level of government. Chapter four provides a land use planning review of marijuana land uses, discusses considerations for these land use and other possible issues that should be considered. Chapter five provides an overview of the legislation that exists regarding the legalization of marijuana at the federal level, in each province/territory, and in certain municipalities. The remaining Chapters provide a set of suggested best practices, directive next steps, and a conclusion.

## 2 METHODS

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The methodological approaches of this paper consist of both a policy scan of applicable legislation and a literature review of existing academic work and professional reports to understand the implications that legalizing recreational marijuana will have on land use planning in Canada.

The policy scan examines applicable legislation from each province and territory in Canada. It also examines select municipalities in Canada that have incorporated medical marijuana uses into their land use planning regulations and select municipalities in Canada and the United States that have released land use planning legislation regarding recreational marijuana as of March 10, 2018. The findings from these policy scans are summarized and put into tables. These tables are available in Chapter 5. Several municipalities' marijuana related policies were examined, but the municipalities included in this paper were ones that were frequently referenced in other literature and reports. Examining the land use tools that have been used in places where recreational marijuana is already legalized and regulations that have been used for medical marijuana purposes is a good starting place for beginning to understand the implications that the legalization of recreational marijuana will have on land use planning for municipalities in Canada.

The literature review focuses on literature about land use planning issues associated with medical and recreational marijuana. This includes research studies that have been done on the impacts that medical and recreational marijuana dispensaries, production, and growing locations have had on matters such as crime rates, resident displacement, property values, and quality of life. The literature review informs the land use planning review of marijuana land uses (Chapter 4), the considerations that should be given for these land uses, and possible issues related to land uses that may arise from legalization.

No ethics approval was required to undertake this research.

## 3 HISTORY AND BACKGROUND

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This chapter provides a historical, legal, and policy context for recreational marijuana legalization in Canada. It begins with a discussion of what *cannabis sativa* and marijuana are. It then provides a history of marijuana and marijuana use and concludes with a discussion of marijuana policy in Canada and the path to recreational legalization.

### 3.1 CANNABIS SATIVA

Marijuana comes from the *Cannabis sativa* plant. This plant has two main components: marijuana and hemp. Marijuana comes from the dried leaves and flowering tops of the plant and has psychoactive effects if consumed (Mackay & Phillips, 2016). There are two compounds in Marijuana: Delta-9-tetrahydrocannabinol (THC) and Cannabidiol (CBD).

Delta-9-tetrahydrocannabinol is a psychoactive compound and has different effects on users depending on the dosage consumed and the personality of the consumer (Mackay & Phillips, 2016). The sensory and psychological effects of THC include: “mild reverie and euphoria; heightened sensory awareness, creativity, and empathy; impaired short-term memory; altered sense of time and space; enhanced appetite and sexual desire; occasional drowsiness; and a tendency to enhance introspection” (Warf, 2014, p. 416). CBD is not a psychoactive compound and has no sensory and psychological effects on consumers. Many of the medicinal qualities of marijuana are found in CBD.

Marijuana can be consumed in a number of ways. It can be smoked by joint, bong, or vaporizer, or it can be ingested through THC infused oils. Often these infused oils are used to create marijuana ‘edibles’, which frequently take the form of gummy bears and brownies.

The *Cannabis sativa* plant is also used for hemp. Hemp is a source of fiber and can be used for purposes such as rope, oil, and food. There are no psychoactive effects associated with hemp oil or hemp flowers (Andre, Hausman, & Guerriero, 2016).

Marijuana and hemp from the *Cannabis sativa* plant have been used for both cultural and medicinal purposes throughout history.

## **3.2 HISTORY OF MARIJUANA**

The earliest evidence of *Cannabis sativa* cultivation was in China in approximately 4000 BC (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016). At this time, the plant was used as a crop for food, textiles, rope, paper, and oil (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016). As the use of cannabis increased in China, it began to spread westward to other countries (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016).

Medicinal use of marijuana has been recorded since approximately 2700 BC in China but was only introduced into Western medicine in 1839 (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016). After marijuana's introduction into Western medicine, the prevalence of its use in medicine grew rapidly. At the time, medical professionals found marijuana to be particularly useful in the treatment of migraines, coughing, inflammation, and diseases such as tetanus, rabies, and gonorrhea (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016). As western medicine advanced and vaccines, synthetic analgesics, and the hypodermic needle and its application to opiates were invented, the prevalence of marijuana for medicinal purposes began to decrease (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016).

Recreational use of marijuana began in North America in the early 1900s. At this time, use of it was not perceived negatively. Public perception towards marijuana became negative in the 1930s after many prominent political figures claimed it caused problems for its users. For example, the U.S. Treasury Department's Federal Bureau of Narcotics at the time, Harry J. Anslinger, described marijuana as "the assassin of youth... one of the greatest menaces which has ever struck the country" (Mackay & Phillips, 2016). These negative claims and changing perceptions led to legislation being introduced in many countries that essentially banned the use of marijuana for both medicinal and recreational purposes.

During the 1970s, cultivators began to be able to extract the psychoactive compound THC more easily and were thus able to produce more potent marijuana (Hand, Blake, Kerrigan, Samuel, & Friedberg, 2016). This resulted in a significant increase in the prevalence of recreation use.

Today, marijuana is the most widely used illicit drug in the world (Mackay & Phillips, 2016). An estimated 183 million people reported using it in 2014 (Mackay & Phillips, 2016). According to the 2013 Canadian Tobacco, Alcohol and Drugs Survey, 11% of Canadians aged 15 years and older reported using marijuana during the previous year (Mackay & Phillips, 2016). Marijuana is also the most widely cultivated drug crop in the world, with 172 countries having reported cultivating it in the 2008 World Drug Report (Potter, Barratt, Malm, & Bouchard, 2015). Moreover, it is the most trafficked drug in the world (Potter, Barratt, Malm, & Bouchard, 2015).

### **3.3 MARIJUANA POLICY IN CANADA**

The following sections will discuss the history of criminalization of marijuana in Canada, the legalization of medical marijuana, and conclude with a discussion on the legalization of recreational marijuana.

#### **3.3.1 History of Criminalization**

There is a history of criminal law and prohibition regarding drugs in Canada. This began with the enactment of the *Opium Act, 1908* and the *Opium and Narcotic Drug Act, 1911*. These Acts essentially placed a prohibition on the use of opium for any purpose other than medical and introduced a criminal element to possession (Mackay & Phillips, 2016).

Marijuana was added to a schedule of prohibited drugs on the *Opium and Narcotic Drug Act* in 1923 (Mackay & Phillips, 2016). In 1938, stricter legislation regarding marijuana was introduced due to the growing public perception that it was dangerous (Mackay & Phillips, 2016). Under this new legislation, *cannabis sativa* plants could only be grown if a producer obtained a permit from the Department of Health (Mackay & Phillips, 2016). It is worth noting that a report published in 2002 by

the Senate Special Committee on Illegal Drugs stated that the reason why marijuana was added to the schedule of prohibited drugs in 1923 was unknown (Mackay & Phillips, 2016).

Today, we find legislative measures concerning the control of illicit drugs, including marijuana, under the *Controlled Drugs and Substances Act*. The schedules of this Act provide lists of the controlled substances in Canada. Marijuana is listed under Schedule II of the Act.

Part 1 of the *Controlled Drugs and Substances Act* sets out the offences associated with each controlled substance listed in the schedules of the legislation. For Schedule II substances, which includes marijuana, possession that does not exceed 30 grams would result in a summary of conviction offence and a maximum penalty of a \$1,000 fine or six months imprisonment or both (Mackay & Phillips, 2016). Penalties for trafficking are discussed in Section 5 of Part 1 of the Act. For Schedule II substances, if the amount of the substance trafficked is more than 3 kilograms (kg), then the maximum penalty is life imprisonment (Mackay & Phillips, 2016). For less than 3 kg, the maximum penalty is five years' imprisonment, less one day (Mackay & Phillips, 2016). Section 7 of Part 1 of the Act discusses offences associated with producing the controlled substances. For producing marijuana, the maximum punishment is 14 years' imprisonment and various minimum punishments apply if more than five marijuana plants are produced and the purpose of production is trafficking (Mackay & Phillips, 2016).

### **3.3.2 Medical Marihuana Legalization**

In 2001, Health Canada officially recognized marihuana<sup>1</sup> as a treatment for certain medical conditions. This was done through the *Medical Marihuana Access Regulations*, which allowed persons with proper authorization from a health care practitioner to have access to dried marihuana (Mackay & Phillips, 2016). In 2013, Health Canada enacted the *Marihuana for Medical Purposes Regulations*. These regulations created stricter conditions for the production and distribution of medical marihuana to ensure

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<sup>1</sup> When the 'j' in marijuana is replaced with an 'h' to spell marihuana, it means that the substance is specifically for medicinal purposes.

that prescribed medical users could access quality-controlled marihuana grown under secure and sanitary conditions (Mackay & Phillips, 2016).

Largely in response to the court cases *R. v. Smith* and *Allard v. Canada*, the *Marihuana for Medical Purposes Regulations* were replaced by the *Access to Cannabis for Medical Purposes Regulations* on August 24, 2016. A significant change between these regulations is that in addition to dried form, medical marihuana could now come in fresh or oil form. The newer regulations also allowed for medical marihuana users to grow their own marihuana for medical purposes if they registered with Health Canada.

The *Access to Cannabis for Medical Purposes Regulations* only allow access to medical marihuana under strict conditions. Storefronts selling marijuana, often known as dispensaries, that have been frequently opening across the country, do not meet these strict conditions. They are not legally permitted to sell marijuana for any reason, even if it is medical. They are therefore operating illegally. The only way to purchase medical marihuana legally currently is online with a prescription from a licensed medical professional.

### **3.3.3 Recreational Marijuana Legalization**

Three parliamentary entities – the LeDain Commission in 1972, the Senate Special Committee on Illegal Drugs in 2002, and the House of Commons Special Committee on the Non-Medical Use of Drugs in 2002 – concluded that the criminalization policies associated with marijuana use create a significant amount of harms and should be reformed (Mackay & Phillips, 2016). The harms from criminalizing marijuana include increased rates of imprisonment, barriers to treatment for users, high costs of policing, more demand on courts and prisons, and increased criminal activity in the black market and money going to criminals (Mackay & Phillips, 2016).

In light of these recognized harms and more positive public perceptions towards the drug, the Liberal Party of Canada and its leader Justin Trudeau promised to legalize marijuana as part of their 2015

election campaign. After the Liberal Party won the federal election in 2015, the process of legalizing recreational marijuana in Canada began.

Bill C-45, *The Cannabis Act*, was introduced to the House of Commons on April 13, 2017 to create “a strict framework for controlling the production, distribution, sale, import, export and possession of cannabis in Canada” ( Department of Justice, 2017). The objectives of the act are to “prevent young persons from accessing cannabis, to protect public health and public safety by establishing strict product safety and product quality requirements and to deter criminal activity by imposing serious criminal penalties for those operating outside the legal framework” (House of Commons of Canada, 2017). The Act is also intended to reduce the burden that marijuana has on the criminal justice system. The Bill was passed in the House of Commons on November 27, 2017 after a final vote in the third reading, with 200 Members of Parliament (MPs) voting for and 82 MPs voting against. The Bill is currently in the Senate. When this Bill is given Royal Assent, recreational marijuana will be legalized across Canada, with a target date of July 2018.

### **3.3.4 Jurisdictional Framework**

While Bill C-45 is a federal bill, the provincial/territorial governments and municipal governments have different jurisdictional responsibilities regarding the legalization of recreational marijuana throughout the production and sale cycles.

Responsibilities of the **federal government** include:

- Determining the cannabis possession limits;
- Setting the minimum age to purchase cannabis;
- Controlling cannabis trafficking;
- Regulating cannabis packaging and advertising;
- Managing the production and distribution of medical cannabis;
- Tracking cannabis from seed to sale; and

- Licensing and inspecting cannabis production facilities (City of Edmonton, 2017).

Responsibilities of the **provincial/territorial governments** include:

- Determining the distribution model; and
- Managing the distribution of cannabis from producers to the distribution stores (City of Edmonton, 2017).

The regulations for at-home cannabis production is a joint responsibility between both the federal and provincial/territorial governments (City of Edmonton, 2017).

Responsibilities of the **municipal governments** include:

- Developing land use regulations and business license processes for cannabis stores.

Determining where recreational marijuana stores can be located, the recreational marijuana store operation regulations, ensuring workplace safety, and setting and enforcing regulations for consuming recreational marijuana in public are joint responsibilities between the provincial/territorial and municipal governments (City of Edmonton, 2017).

All three levels of government also share the responsibility of providing tools for police to address impaired driving because of cannabis use, developing public education and awareness campaigns, and determining how cannabis will be taxed and how the tax revenue will be spent (City of Edmonton, 2017).

The separation of powers between the three levels of government may seem well structured, however, overlap often arises (Flynn-Guglietti, Forristal, & Sutton, 2017). Municipalities do not have any constitutional power. Rather, they rely on their province/territory to enact legislation for their power. Municipalities are therefore creatures of their province/territory. According to lawyers Flynn-Guglietti, Forristal, and Sutton of McMillan LLP, a municipal by-law is most often upheld when there is no operational conflict and that the federal, provincial, and municipal legislation can co-exist (2017). If it is determined that the by-law is attempting to regulate a matter that is within federal or provincial/territorial

power under the guise of being land use planning, the municipal by-law will be normally found to be beyond their legal power or authority (Flynn-Guglietti, Forristal, & Sutton, 2017). Therefore, the municipal land use plans and by-laws must be in conformity with the federal and provincial/territorial government legislation.

The following table presents a summary of the jurisdictional responsibilities of each level of government in Canada regarding marijuana legalization. This table was modified from the Manitoba Municipal Relations Community and Regional Planning Zoning for Cannabis Guide (2018).

Table 1 - Jurisdictional Responsibilities of Federal, Provincial, and Municipal Governments

Activity	Responsible		
	Federal	Provincial	Municipal
Possession limits	✓	✓	
Trafficking	✓		
Advertisement and packaging	✓		
Impaired driving	✓	✓	
Medical cannabis	✓		
Seed-to-sale tracking system	✓		
Production (cultivation and processing)	✓		
Age limit (federal minimum)	✓	✓	
Public Health	✓	✓	
Education	✓	✓	
Taxation	✓	✓	
Home cultivation (growing plants at home)	✓	✓	
Workplace safety		✓	
Distribution and wholesaling		✓	
Retail model		✓	
Retail location and rules		✓	✓
Regulatory compliance		✓	
Public consumption		✓	✓
Land use planning and zoning			✓

## **4 LAND USE PLANNING REVIEW**

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A system for legalized recreational marijuana has many unknown consequences as it has never been created before in Canada and lacks precedents. This chapter will examine what implications the legalization of recreational marijuana could have for land use planning in Canada. It will provide an examination of what land uses are required for the production, distribution, and sales of marijuana and then follow with a discussion of considerations for these land uses. This chapter will help to inform the best practices in Chapter 6 for how municipalities should regulate for the land uses associated with recreational marijuana.

### **4.1 MARIJUANA LAND USES**

Creating an economy and system for recreational marijuana will require changes to existing land uses and potentially new land uses. These include:

- Land used for the production of recreational marijuana; and
- Land used for the sale of recreational marijuana.

### **4.2 LAND USE CONSIDERATIONS**

As discussed in Section 3.3.4, a jurisdictional responsibility of municipal governments is land use planning and zoning. The following sections will examine the land use considerations for both the production and the sale of recreational marijuana. It will also provide a discussion on other land use considerations resulting from the legalization of recreational marijuana. These sections were informed by a review of literature on land use planning issues associated with medical and recreational marijuana.

#### **4.2.1 Land Use Considerations for the Production of Recreational Marijuana**

Land required for the production of recreational marijuana includes land for growing marijuana and space for accessory activities that occur alongside the actual cultivation of marijuana. Accessory activities include the processing, testing, storing, and packaging of the marijuana. Office space may also be needed for the administrative and management of the marijuana companies.

Much of a marijuana production facility is dedicated to space for growing marijuana plants (Chabot, 2014). Accessory uses occupy less space. Queen’s University graduate student, Bailey Chabot, examined how to incorporate the production of medical marijuana into the Zoning By-law of the District of West Kelowna. They describe the most common form of medical marijuana production facility as “a large, windowless, single story, industrial building with a relatively small testing lab, storage space, and packing and shipping room, with space for offices” (Chabot, 2014, p. 18).

According to the *Access to Cannabis for Medical Purposes Regulations*, all licensed medical marijuana producers must produce, package, and label cannabis indoors at the same production site (Government of Canada, 2018). Reasons for ensuring cultivation takes place indoors are criminalization, security needs, pest and disease management, and the desire for greater process control and yields (Mills, 2012). Licensed recreational marijuana production facilities will be subject to the same requirements as medical marijuana production facilities under the new federal legislation.

The following sections will analyze the characteristics of medical marijuana production facilities, including the inputs required, outputs required, externalities, sizing requirements, siting requirements, and compatible/incompatible adjacent land uses and activities (Chabot, 2014).

##### **4.2.1.1 Inputs**

Two essential inputs for the operation of a medical marijuana production facility are electricity and water.

## *Electricity*

Marijuana crops require a significant amount of electricity for production because of the lighting and the heating, ventilation, and air conditioning (HVAC) systems that are needed.

Since marijuana plants must be grown indoors under federal regulations, large wattage agricultural light bulbs, typically of 1000 W, are required in place of sunlight (Diplock & Plecas, 2011). Marijuana crops typically take 90 days to cultivate, which means that four crops can be produced in a year (Diplock & Plecas, 2011). During the first 30 days of the grow cycle, the agricultural light bulbs are required to be on for at least 18 hours a day. For the next 60 days of the cycle, the lights are required to be on for 12 hours a day (Diplock & Plecas, 2011). Over the course of one year, this means that each light expends 5,040 kWh of energy (Diplock & Plecas, 2011). According to an expert medical marijuana producer, 680,000W of light should be provided for a 17,000 ft<sup>2</sup> marijuana production facility that is filled wall-to-wall with plants (Lyzit, 2018). This would imply a ratio of 40W of light per ft<sup>2</sup>.

The lights required to grow marijuana also tend to generate significant levels of heat, therefore, large HVAC systems need to be installed to regulate the temperature. For marijuana production facilities of 1,000 ft<sup>2</sup>, HVAC systems with up to 14 tons of cooling capacity need to be installed (Integra Realty Resources, Inc. , 2018). By comparison, the HVAC system in a standard office fit up within an industrial building only requires two to three tons of cooling capacity (Integra Realty Resources, Inc. , 2018).

In 2012, researcher Evan Mills estimated the total emissions of marijuana production facilities in the United States. He found that these facilities emitted 15 million metric tons of carbon dioxide, which is equivalent to 3 million average American cars (Mills, 2012). The average kilogram of dried marijuana is associated with 4,600 kg of carbon dioxide emissions (Mills, 2012). Deloitte estimates that over 600,000 kg of marijuana will be needed to be produced each year in Canada to satisfy the demand of its recreational marijuana market (Deloitte, 2016). With these numbers, 2.76 megatons of carbon dioxide emissions will be attributed to recreational marijuana production in Canada. This would be equivalent to

0.4% of Canada's total greenhouse gas emissions in 2015 (Environment and Climate Change Canada, 2017).

### ***Water***

Water is the other essential input required for marijuana production. The two common methods of growing marijuana, in soil or hydroponically<sup>2</sup>, both require a significant amount of water.

Humidity is also a consideration for marijuana production. The optimal humidity for growing marijuana is 50%, which means that if a facility has a lower humidity, it must artificially increase the humidity (Chabot, 2014). This also requires water inputs (Chabot, 2014). Facilities also tend to have dehumidification to remove excess water vapour to avoid mold formation (Mills, 2012). During the processing stage of production, which is when the marijuana is dried, temperatures and humidity must be closely monitored (Chabot, 2014)

Other than energy and water, other inputs required to produce marijuana include fertilizer, lab equipment, and technical ability. Fertilizer is required for either type of growing method. Lab equipment and technical ability are required to test the marijuana to ensure that the levels of THC and CBD are accurate and consistent (Chabot, 2014).

#### ***4.2.1.2 Outputs***

When recreational marijuana is legalized in Canada, the only output that a marijuana production facility will be able to produce is dried marijuana. While there has been discussion for other possible outputs to be legalized in the future, such as edibles, these are not included in the current federal legislation.

Aside from the output of dried marijuana, marijuana production facilities also create secondary outputs such as plant waste and wastewater. Marijuana plants only last a single growing season and then

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<sup>2</sup> Hydroponic growth means that mineral nutrient solutions are used to feed the plants in water, not soil (Growth Technology Ltd., 2018)

die. Under federal regulations, after the plants die, specific procedures must be followed for their destruction.

The water used during the growing process is considered wastewater because it contains fertilizer. Hydroponic production creates significantly more wastewater than through soil growth production. Provincial/territorial regulations do restrict certain farm practices from discharging wastewater into the watercourse or groundwater supply. This particularly applies to indoor greenhouses and the use of fertilizers. The fertilizers used in the production of marijuana are mild enough that they can be treated with standard waste water treatment systems in most municipalities (Chabot, 2014). Caution must still be taken to ensure marijuana production facilities do not dispose of the wastewater through a storm drain or a septic tank, which would risk the possibility of leaching and the contamination of groundwater (Chabot, 2014).

#### ***4.2.1.3 Externalities***

The production of marijuana may also produce externalities such as smell and the attraction of criminal activity.

Smell is the result of the resin produced during the flowering phase of marijuana growth. This phase of growth gives off a distinct odour often described as being similar to the smell of a skunk. If many marijuana plants are all flowering at once, this smell can be quite potent. To mitigate the smell, federal regulations require air filtration systems to be installed.

Another externality is the criminal activity marijuana production facilities may attract. Marijuana is a highly valuable crop, so facilities are often targets of theft (Chabot, 2014). This is especially true for large facilities which grow thousands of plants. For these reasons, security measures must be in place at each marijuana production facility, such as a security fence, rings or barriers of protection around items being protected, locks, safes, and vaults (Veridin Systems Canada Inc. , 2018).

#### ***4.2.1.4 Sizing Requirements***

Marijuana production facilities vary considerably in size. In Canada, they currently range from around 500 m<sup>2</sup> to over 37,000 m<sup>2</sup> in size (Chabot, 2014). The average size of a production facility tends to be around 10,000 m<sup>2</sup> (Chabot, 2014).

It is possible for economies of scale to be realized during the production of marijuana. This means that the per unit cost of producing a gram of marijuana decreases as the size of the production facility increases. While there may be economic advantages to gain from building large production facilities, there may be other costs, such as higher electricity costs.

#### ***4.2.1.5 Siting Requirements***

The size of marijuana production facilities, along with the inputs needed, outputs produced, and the potential for odour and criminal activity externalities must all be considerations when siting a production facility. Other factors for siting include loading, setbacks, and parking requirements.

Chabot (2014) states that one loading bay per marijuana production facility is sufficient. There must be enough room for the loading vehicle to manoeuvre and load/unload completely on-site and within a secure area (Chabot, 2014). This is to also ensure that no local traffic is disrupted (Chabot, 2014).

Setbacks are needed from adjacent land uses because of the potential for odour externalities. Chabot (2014) recommends a minimum setback along all sides of the parcel (front, back, and sides) of 30 m. These setbacks may be increased up to 100 m depending on the air filtration system in place and the adjacent land uses (Chabot, 2014).

Parking requirements will vary depending on the size of the facility. Chabot (2014) states that “a facility that is 10,000 m<sup>2</sup> will have up to 50 employees on-site at any given time, including management, technical staff, and security” (p. 22). Facilities of 10,000 m<sup>2</sup> should therefore have 50 off-street parking spaces, however this may vary depending on the location of the facility. This implies a ratio of one parking space per 1,000 ft<sup>2</sup> (92.9 m). The parking requirements should also be consistent to other similar

uses. Given all the components of a marijuana production facility, it is more likely for municipalities to define these uses as industrial rather than agricultural.

#### ***4.2.1.6 Adjacent Land Uses and Activities***

Some adjacent land uses and activities are compatible with a marijuana production facility while others are not. Compatible land uses will have a similar built form to the marijuana production facility and will not be seriously affected by the negative externalities (Chabot, 2014). Compatible land uses include light industrial uses, such as warehouses, processing facilities, light manufacturing, wholesale distribution, and some business parks (Chabot, 2014). Incompatible land uses do not have a similar built form to the marijuana production facility and may be seriously affected by the negative externalities (Chabot, 2014). These include residential uses, commercial uses that rely on attracting customers, and institutional uses, such as schools. Municipal decision makers should consider these compatible and incompatible adjacent land uses when drafting the zoning regulations for these sites.

### **4.2.2 Land Use Considerations for the Sale of Recreational Marijuana**

The following section presents an analysis of the land use considerations for recreational marijuana retail stores. This analysis will discuss the inputs required, outputs required, externalities, sizing requirements, siting requirements, and incompatible/compatible adjacent land uses and activities.

#### ***4.2.2.1 Inputs***

Inputs required for recreational marijuana retail stores will be very similar to the inputs required for other retail stores. These include connections to basic municipal services, such as electricity and water.

#### ***4.2.2.2 Outputs***

Outputs will not be a major concern for recreational marijuana retail sales stores. The only output of concern will be marijuana waste from damaged or tampered products. Regulations must be in place so that stores dispose of these products in a secure way.

#### ***4.2.2.3 Externalities***

A possible externality associated with recreational marijuana retail stores includes the attraction of criminal activity. Theft is a risk at these stores, especially if the illicit market for marijuana is still in existence. Marijuana retail stores have on-site stock and sales of marijuana and are predominantly cash-based businesses, which make these locations suitable targets for property crimes, such as burglary (Kepple & Freisthler, 2012). The stores may also attract loiterers, although there is no evidence to support this yet. Proper security measures must therefore be required at each marijuana retail sales facility to mitigate against these activities.

It is worth noting that there is some evidence against the public perception that marijuana stores may attract criminal activity. A study conducted in Sacramento, California, USA, examined whether the density of medical marijuana dispensaries is associated with crime (Kepple & Freisthler, 2012). The study concluded that the density of medical marijuana dispensaries was not associated with crime rates (Kepple & Freisthler, 2012). Crime rates did have a positive correlation with areas that had higher percentage of commercially zoned areas, the percentage of one-person households, unemployment rates, and the percentage of the population aged 15-24 years (Kepple & Freisthler, 2012). The authors stated that there may be an association between marijuana dispensaries and crime, but possibly no more than any other facility in a commercially zoned area (Kepple & Freisthler, 2012). No conclusions about causation could be made (Kepple & Freisthler, 2012).

#### ***4.2.2.4 Sizing Requirements***

It is likely that marijuana retail sales stores will not be large in size and have many employees. In Pinal County, Arizona, the maximum floor area for a medical marijuana dispensary is 2,000 ft<sup>2</sup> or 186 m<sup>2</sup> (Pinal County, 2017). Furthermore, the secure storage area for the medical marijuana stored at the medical marijuana dispensary must not exceed 400 ft<sup>2</sup> or 37 m<sup>2</sup> (Pinal County, 2017). According to the

Liquor Control Board of Ontario (LCBO), recreational marijuana sales stores will be approximately 2,500 ft<sup>2</sup> or 232 m<sup>2</sup> (Miller, 2018).

In 2015, the Oregon Liquor Control Commission surveyed a random sample of marijuana dispensaries in Oregon to provide insight into the current dispensary system in the state. This survey found that the average number of employees per dispensary was 6 and the average weekly hours worked per dispensary was 186 (Oregon Liquor Control Commission, 2015).

#### ***4.2.2.5 Siting Requirements***

The inputs, outputs, possible externalities, and sizing requirements of marijuana sales facilities will all impact the siting requirements. From the previous sections, it is apparent that these factors are minimal for a retail store and will not be of great concern to municipalities.

Other siting issues for municipal decision makers to consider include whether there should be a distance requirement between marijuana retail stores, distance requirements from other uses, what kinds of locations are best suited for marijuana retail stores, off-street parking requirements, and loading requirements.

Distance requirements between marijuana retail stores is an issue that is frequently cited in literature and in municipal reports. Even though researchers Kepple and Freisthler (2012) found the density of medical marijuana dispensaries was not associated with crime, communities seem to be concerned with density and distance requirements. For example, in a survey conducted by the City of Edmonton on the legalization of marijuana, 32-40% of respondents were concerned about how close recreational marijuana stores will be to each other<sup>3</sup>. When asked how far apart marijuana retail stores should be from each other, 27-36% of respondents did not think there should be a separation distance, while 29-31% of respondents thought the stores should be more than ½ a kilometre apart.

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<sup>3</sup> The variation is to account for the results from the two different survey formats.

Another issue frequently cited in literature and in municipal reports are the distance buffers between marijuana retail stores and other more sensitive land uses. Sensitive land uses commonly include places frequented by children, such as schools and community centres. Other sensitive land uses less occasionally accounted for in the distance buffers include drug and alcohol rehabilitation facilities and other health facilities. The distance buffers tend to range between 100 m to 300 m. This topic will be discussed in more detail in the next section of the report.

Another siting consideration is what locations are best fit for marijuana retail sales stores. Municipalities should consider how accessible the stores will be by different modes of transportation, compatible adjacent uses, and appropriate locations. In the City of Edmonton survey, the most suitable locations identified included main streets with a mix of commercial uses and good access to transit, commercial areas along major roadways, and in central areas like downtown or near major LRT stations. Less popular locations included small scale commercial areas in residential neighbourhoods, shopping centres, and in light industrial and business park areas.

Off-street parking and loading requirements must also be considered. Off-street parking requirements should be consistent with the other municipal parking requirements for retail uses. There should be a loading space on site large enough to accommodate secure delivery of the products.

#### ***4.2.2.6 Adjacent Land Uses and Activities***

Some adjacent land uses and activities will be compatible with a recreational marijuana retail store while others will not be. There are no legal marijuana retail store precedents in Canada, which makes this discussion difficult.

Based on literature, possible incompatible adjacent uses include places where children and youth frequently gather, such as schools, community centres, parks, playgrounds, and residential areas. The City of Edmonton survey asked how close marijuana retail stores should be to places where children and youth gather and whether the respondents were concerned about this issue. 66-70 % of respondents were

concerned with the distance marijuana retail stores would be to these uses. When asked how far marijuana retail stores should be from schools, community centres, parks and playgrounds, 58 to 61% of respondents believe marijuana retail stores should be more than 200 m away, 16-17% said 200 m (or about the width of two blocks), 8-9% said 100 m (or about the width of one block), 2-3% said 75 m (or about the width of half a block), and 13-14% did not think there needed to be a separation distance from those uses. The results of this survey indicate that most residents prefer a minimum distance of 200 m.

Based on the literature and municipal surveys, compatible adjacent uses include commercial and mixed-use areas.

#### ***4.2.2.7 Other Land Use Considerations***

Other land use considerations municipal decision makers should consider related to land use include the impact these marijuana retail stores will have on property values and how landlords and condominium boards are able to regulate marijuana use, cultivation, and consumption on and inside their properties.

A graduate student in Urban Planning at the University of Illinois at Urbana-Champaign, Taryn Stephnae Harm, conducted several interviews in the Denver area and in the state of Illinois to determine what areas of urban planning were impacted by the legalization of both medical and recreational marijuana (2017). The interviews were conducted with several planning and non-planning professionals in both the Denver and Illinois area. The research found that the primary areas impacted by these two industries are “development services, economic development, community development, real estate development, sustainability, and urban design” (Harm, 2017, p. 11). Municipalities should ensure they prepare the necessary departments before legalization (Harm, 2017).

Evidence is emerging from studies in the United States that a positive relationship between recreational marijuana retail stores and residential property values may exist. In the state of Colorado, researchers Conklin, Diop and Li (2017) found that the location of recreational marijuana retail stores had a positive impact on neighbouring property values in the city of Denver. Properties within 0.1 miles of a

recreational marijuana retail store saw an increase in value of 8.4% compared to properties 0.1 miles to 0.25 miles away (Conklin, Diop, & Li, 2017). This increase translates to almost USD \$27,000 per house, which results in an average increase in property tax revenue for the City of Denver of approximately \$167 per house (Conklin, Diop, & Li, 2017).

In Colorado, municipalities have the option of choosing whether to adopt legalized recreational marijuana sales or not. A study by Cheng et al. (2016) compared the impact that legalized recreational marijuana had on property values between municipalities that legalized recreational marijuana sales and those that did not. The researchers found that house prices in municipalities that adopted legalized recreational marijuana increased approximately 6% over house prices in municipalities that did not adopt legalized recreational marijuana sales (Cheng, Mayer, & Mayer, 2016).

Since only a selected number of states in the United States have legalized recreational marijuana, the impacts these new land uses have on property value are still not fully understood. Legislation in the United States is also still relatively new, so long-term impacts are even less understood. Recreational marijuana retail stores do currently seem to have a positive relationship with property values, so future research could examine whether these stores contribute to the gentrification of an area.

Furthermore, the ability of landlords and condominiums boards to regulate recreational marijuana consumption and growth on their properties is another issue. For example, will adult residents in a condominium or rental unit be allowed to grow a legal number of plants per household? Will adult residents in a condominium or rental unit be allowed to consume recreational marijuana inside their units? If there are lease agreements about consuming and growing recreational marijuana, will these lease agreements be retroactive or only apply to the next tenants or the next year of the lease?

Provincial, territorial, and municipal governments should ensure these matters are addressed in their legislation. It is worth noting that special considerations may apply to residents who use marijuana for medical reasons. It could be a human rights violation to prohibit these residents from cultivating or consuming marijuana in their residence.

## 5 ANALYSIS

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Canada has three levels of government, each having different jurisdictional responsibilities, as discussed in Section 3.3.4. The separation of powers between the three levels of government may seem well structured, however, overlap often arises (Flynn-Guglietti, Forristal, & Sutton, 2017). Lower levels of government must make sure that their legislation does not create any operational conflict with higher levels of government or attempt to regulate a matter that falls under another level of government's authority under the guise of something within their own authority.

The following Chapter will expand on these jurisdictional responsibilities and examine the legislation regarding marijuana legalization that exists as of March 10, 2018 at the federal, provincial/territorial, and municipal levels. The focus of these sections will be on items in the legislation that will impact land use planning for municipalities. For the purposes of this Chapter, consuming means smoking.

### 5.1 FEDERAL

Bill C-45, *The Cannabis Act*, was introduced to the House of Commons on April 13, 2017 and was passed November 27, 2017. It is currently in the Senate. Through this Bill, adults aged 18 years or older will be eligible to purchase dried or fresh marijuana from a licensed retailer. While 18 is the federal minimum legal age, provinces and territories may increase the minimum age requirement. The maximum possession would be 30 grams of dried cannabis, or the fresh equivalent. Furthermore, up to four cannabis plants could be grown at a personal residence. Health Canada will continue to license the commercial production, import, export, and sale of cannabis at the point of source (Government of Saskatchewan, 2018). Bill C-45 includes a provision which will provide for the legalization of edibles and concentrates by the one-year anniversary of cannabis legalization (Government of Saskatchewan, 2018). The following table presents a summary of the key points within the federal legislation:

Table 2 – Federal Recreational Marijuana Framework and Legislation Summary

<b>Minimum age</b>	<p>18 Years.</p> <p>Provinces/Territories have the ability to set a higher minimum age.</p>
<b>Maximum possession</b>	<p>Up to 30 grams of dried cannabis or the fresh equivalent.</p> <p>Provinces/Territories have the ability to set more stringent possession limits.</p>
<b>Home cultivation</b>	<p>Up to four (4) plants per household.</p> <p>Provinces/Territories have the ability to set more stringent cultivation limits.</p>
<b>Restrictions on advertising, promotions and packaging</b>	<p>Cannot be appealing to youth and cannot contain false or misleading promotions.</p> <p>The display of cannabis and accessories at the point of sale will also be restricted.</p>
<b>Taxation</b>	<p>The federal and provincial/territorial governments have agreed to a 25/75 revenue split, meaning the federal government will receive 25% of cannabis-specific tax revenue, and the provinces/territories will receive 75% (Harris &amp; Cochrane, 2017). A \$100 million cap will be placed on federal revenue (Harris &amp; Cochrane, 2017). Revenue beyond this will be returned to the province/territory (Harris &amp; Cochrane, 2017).</p> <p>Cannabis tax is to not exceed \$1 per gram or 10% of the final producer’s selling price, whichever is higher (Harris &amp; Cochrane, 2017).</p>
<b>Commercial production</b>	<p>Health Canada will license the commercial production, import, export and sale of cannabis.</p> <p>Licensed producers can grow and sell product for both the medical and recreational cannabis markets.</p>
<b>Security considerations</b>	<p>Will be considered as part of the federal licensing process for cannabis cultivators and as part of the provincial licensing process for cannabis warehousing and retail facilities.</p>
<b>Protection of public health and safety</b>	<p>Will impose criminal penalties for any illegal activities and will also set minor offences.</p> <p>The Nonsmokers’ Health Act will be amended to prohibit the smoking and vaping of cannabis in regulated places, similar to the restrictions in place for tobacco smoking. Provinces/Territories have the ability to set more stringent public consumption rules.</p>

## **5.2 PROVINCIAL/TERRITORIAL**

Provincial and Territorial governments have jurisdictional responsibility over matters such as distribution, wholesaling, the retail model, retail location and rules, and public consumption. Provincial and Territorial governments also have the ability to introduce more stringent policy than the Federal policy over matters such as increasing the minimum age for possession, setting lower limits for the amount that can be possessed in a public space, and a reduction in the amount of permitted plants for personal cultivation.

The following sections will examine the current legislation that exists in each of the provinces and territories in Canada as of March 10, 2018. It will focus on the minimum age for purchase and consumption of marijuana, the overseeing body, the chosen retail model, possession limits, legislation regarding home cultivation, legislation regarding public consumption of marijuana and whether legislation has been introduced regarding consumption and cultivation in tenanted or strata buildings.

### **5.2.1 Alberta**

Bill 26: *An Act to Control and Regulate Cannabis* was introduced to the Legislative Assembly of Alberta November 16, 2017 and passed November 30, 2017. In early 2018, regulations regarding the sale of marijuana, including licensing criteria and other rules for private retailers will be released. As of March 10, 2018, none have been released. In the spring of 2018, legislation regarding taxing authority and workplace safety is planned to be released. The following table highlights key parts of the legislation:

Table 3 - Alberta Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	18 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in Alberta.
<b>Overseeing Body</b>	The Alberta Gaming and Liquor Commission (AGLC) will manage the wholesale and distribution of recreational cannabis.  Private retailers must be licensed by the AGLC.	The AGLC planning on issuing 250 retail licenses in the first year after legalization (Stagg, 2018). They plan to begin accepting applications on March 6, 2018 (AGLC, 2018).  AGLC approval requires background checks, receipt of fees, municipal approval, business requirements, and retail store requirements <sup>4</sup> .
<b>Buying marijuana</b>	Private retail model.  Government run online sales.	Hours of operation: 10am - 2am.  Private retailers cannot sell recreational cannabis alongside alcohol, tobacco, or pharmaceuticals.
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Adults can grow up to 4 plants per household.	The Province is considering amending rental agreements and condominium bylaws so that they could prohibit cannabis cultivation in a given property <sup>5</sup> (CBC News, 2018).
<b>Consuming Marijuana</b>	Consumption of recreational marijuana is permitted in private residences and in public places where tobacco is permitted (Dolphin & English, 2018).  There must be a 100 m buffer between a marijuana retail store and a provincial health care facility, a school, or a parcel of land designated as school reserve (AGLC, 2018).  Municipalities can set further separation distances (AGLC, 2018).	The Province is considering amending rental agreements and condominium bylaws so that they could prohibit marijuana consumption in a given property (CBC News, 2018).

<sup>4</sup> Municipal Approval is needed before the AGLC will issue a retail cannabis store license. Municipalities will regulate retail cannabis store business licenses, zoning requirements, and land-use restriction (AGLC, 2018). The retail location must have a: point-of sale area; shipping/receiving area that is separate from other businesses; secure storage area; and alarm system; a video surveillance system; and a secure product display (AGLC, 2018).

<sup>5</sup> No formal provincial policy direction has been released as of March 10, 2018.

## **5.2.2 British Columbia**

As of March 10, 2018, the Province of British Columbia has not released any legislation regarding recreational marijuana. They have released documents about what their provincial regulatory framework will look like and other informative guidelines, such as the B.C. Cannabis Retail Licensing Guide. The following table presents a summary of key details of the proposed policy direction:

Table 4 - British Columbia Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in British Columbia.
<b>Overseeing Body</b>	The BC Liquor Distribution Branch (LDB) will operate the public retail stores, online sales, and be the sole wholesaler/distributor of recreational marijuana in the province.	
<b>Buying Marijuana</b>	<p>Hybrid of privately run retail stores, government-operated retail stores, and online sales.</p> <p>The Liquor Control and Licensing Branch (LCLB) will license and monitor private retail stores.</p> <p>Online sales will be operated by the LDB.</p>	<p>In recognition that access to recreational marijuana will be different in rural and urban areas, licensed retailers in rural areas will be able to sell marijuana in the same stores as liquor or tobacco, while licensed retailers in urban areas will not be able to (Government of British Columbia, 2018).</p> <p>Retailers must have support and approval from the municipal government prior to receiving provincial licenses (Penner, 2018).</p> <p>The Province will not regulate the location of the retail stores; however, local governments may choose to do so.</p> <p>There will be no cap on licenses.</p>
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government’s proposed possession limit for adults.
<b>Growing Marijuana</b>	<p>Four (4) plants per household for personal use.</p> <p>Personal cultivation is prohibited in residences used as daycare facilities (Dolphin &amp; English, 2018).</p>	<p>Plants can not be visible from public spaces around the property.</p> <p>Landlords and strata councils will be able to restrict or prohibit home cultivation in tenanted and strata properties (Government of British Columbia, 2018).</p>
<b>Consuming Marijuana</b>	<p>Allowed in public spaces where tobacco smoking, and vaping are permitted.</p> <p>Prohibited in areas frequented by children, such as community beaches, parks, and playgrounds, and in vehicles.</p>	<p>Municipal governments will be able to set additional restrictions.</p> <p>Landlords and strata councils will be able to restrict or prohibit recreational marijuana smoking in tenanted and strata properties (Government of British Columbia, 2018).</p>

### **5.2.3 Manitoba**

*Bill 25: The Cannabis Harm Prevention Act*, which received Royal Assent in June 2017, amends several Acts to address health or safety concerns arising from the legalization of marijuana. *Bill 11: The Safe and Responsible Retailing of Cannabis Act* amends the *Liquor and Gaming Control Act* and the *Manitoba Liquor and Lotteries Corporation Act* to authorize and regulate the retail sale of marijuana in Manitoba. This Bill was given First Reading on December 5, 2017. The following table presents a summary of key details of the proposed legislation:

Table 5 - Manitoba Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is one year later than the minimum legal age for alcohol and tobacco purchase in Manitoba.
<b>Overseeing Body</b>	<p>The Liquor and Gaming Authority (LGA), which will be renamed the Liquor, Gaming and Cannabis Authority, will be responsible for licensing and regulating recreational marijuana stores and distributors.</p> <p>The Manitoba Liquor and Lotteries Corporation (MBLL), will act as the provincial wholesaler, and will be responsible for administering, overseeing, and acquiring marijuana for retail sale (i.e. private retailers would be required to buy marijuana from the MBLL) (Dolphin &amp; English, 2018).</p>	
<b>Buying Marijuana</b>	<p>Private retail model.</p> <p>Government regulation and management of the supply chain.</p>	Municipal governments have the option of banning the sales of recreational marijuana upon holding a plebiscite.
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Prohibited.	
<b>Consuming Marijuana</b>	Unknown.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

#### **5.2.4 New Brunswick**

Bill 16: the *Cannabis Control Act*, Bill 17: the *Cannabis Management Corporation Act*, and Bill 18: the *Cannabis Education and Awareness Fund Act*, were introduced for First Reading in the Legislative Assembly of New Brunswick on November 9, 2017. Each Bill received third reading on February 2, 2018 and have been referred to Standing Committee on Economic Policy. As of March 10, 2018, neither Bill has Royal Assent. The following table presents a summary of key points of the proposed legislation:

Table 6 - New Brunswick Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase and consumption in New Brunswick.
<b>Overseeing Body</b>	The operation of recreational marijuana retail locations will be done by a subsidiary of the New Brunswick Liquor Corporation (NB Liquor), the Cannabis Management Corporation.  The Cannabis Management Corporation will also operate online sales.	
<b>Buying Marijuana</b>	Government operated model.	15 to 20 retail locations are expected (Dolphin & English, 2018).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government’s proposed possession limit for adults.
<b>Growing Marijuana</b>	Permitted, but the number of permitted plants is not yet determined (Dolphin & English, 2018).	Must be stored in a locked container or locked room within a residence (Poitras, 2017).  It is unknown whether landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties.
<b>Consuming Marijuana</b>	Prohibited in public places (Dolphin & English, 2018).	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

### **5.2.5 Newfoundland and Labrador**

Bill 23: *An Act to Amend the Liquor Corporation Act* was introduced in the Legislative Assembly of Newfoundland and Labrador on November 22, 2017. This Bill amends the *Liquor Corporation Act* to give the Newfoundland and Labrador Liquor Corporation (NLC) the authority to: buy, import and sell marijuana; control the possession, sale and delivery of marijuana; establish, maintain and operate marijuana stores; and issue licences for the possession, sale and delivery of marijuana (Government of Newfoundland and Labrador, 2017). The Bill received Royal Assent on December 7, 2017. The following table presents a summary of key points of the legislation:

Table 7 - Newfoundland and Labrador Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase and consumption in Newfoundland and Labrador.
<b>Overseeing Body</b>	The Newfoundland and Labrador Liquor Corporation (NLC) will oversee the distribution of recreational marijuana and control the possession, sale, and delivery of recreational marijuana (Dolphin & English, 2018).	
<b>Buying Marijuana</b>	Private retail model. The NLC will license and regulate the retail stores. Online sales will be initially run by the NLC.	
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Unknown.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties.
<b>Consuming Marijuana</b>	Limited to private residences only.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

### **5.2.6 Northwest Territories**

On February 28, 2018, *Bill 6: Cannabis Legalization and Regulation Implementation Act* received first reading in the Legislative Assembly of the Northwest Territories. The following table presents a summary of the key points in the proposed legislation:

Table 8 - Northwest Territories Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol purchase in the Northwest Territories. The minimum legal age for tobacco purchase is 18 years.
<b>Overseeing Body</b>	The Northwest Territories Liquor Commission will be responsible for the importation and sale of recreational marijuana (Government of Northwest Territories, 2017).	
<b>Buying Marijuana</b>	Government operated model. Recreational marijuana will initially be sold alongside liquor by the Liquor Commission in its existing liquor retail stores.	The Government of Northwest Territories will explore other options for retail sales at a later date (Government of Northwest Territories, 2017). Municipal governments have the option of holding a plebiscite to impose restrictions and prohibitions on marijuana for recreational uses <sup>6</sup> (Dolphin & English, 2018). This is aligned with the options available to municipal governments for restricting liquor (Government of Northwest Territories, 2017).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public places.	This aligns with the federal government’s proposed possession limit for adults.
<b>Growing Marijuana</b>	Four (4) plants per household for personal use.	Landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties (Government of Northwest Territories, 2017).
<b>Consuming Marijuana</b>	Adults will be allowed to consume marijuana in private residences and in some public places. Consumption is proposed to be prohibited in places frequented by children, and crowds, in vehicles, and from any place where smoking tobacco is prohibited (Government of Northwest Territories, 2017).	Landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties (Government of Northwest Territories, 2017).

<sup>6</sup> Under this model there could be prohibited communities and restricted communities. According to the Government of Northwest Territories, prohibited communities “would have a ban on possessing, consuming, and transporting recreational cannabis in the community” (Government of Northwest Territories, 2018). Restricted communities “would place limits on the quantity or types of recreational cannabis that could be possessed, consumed, or transported in the community” (Government of Northwest Territories, 2018).

## 5.2.7 Nova Scotia

Provincial legislation is still being drafted for the Legislative Assembly of Nova Scotia. The following table presents a summary of the current provincial policy direction:

*Table 9 - Nova Scotia Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in Nova Scotia.
<b>Overseeing Body</b>	The Nova Scotia Liquor Corporation (NSLC) will oversee the distribution and sale of recreational marijuana.	
<b>Buying Marijuana</b>	Government operated model. NSLC will operate online sales.	Initially recreational marijuana will be sold in nine (9) existing NSLC retail locations. This will be reassessed after the first year of legalization (Dolphin & English, 2018).  Recreational marijuana will be sold alongside alcohol. The area in which the marijuana will be sold will be separate and not visible from the rest of the store (Dolphin & English, 2018)
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Four (4) plants per household for personal use.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties.
<b>Consuming Marijuana</b>	Unknown.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

## 5.2.8 Nunavut

Provincial legislation is still being drafted for the Legislative Assembly of Nunavut. The following table presents a summary of the current provincial policy direction:

*Table 10 - Nunavut Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol purchase in Nunavut. The minimum legal age for tobacco purchase is 18 years.
<b>Overseeing Body</b>	The Nunavut Liquor Commission (NULC) will oversee the distribution and sale of recreational marijuana.	
<b>Buying Marijuana</b>	Government operated model. Recreational marijuana will only be able to be purchased online or over the phone through the NULC.	A system where the NULC oversees and controls the sale and distribution of recreational marijuana but outsources retail sales to the private sector is being considered (Dolphin & English, 2018).  The Government of Nunavut will consult with communities and seek formal support from the council before any physical stores are opened (Government of Nunavut, 2018).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Unknown.	The Government of Nunavut is considering whether landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties (Government of Nunavut, 2018).
<b>Consuming Marijuana</b>	Generally permitted within private residences and in public spaces where consumption of tobacco is permitted.  Consumption of recreational marijuana will be prohibited in areas frequented by children, such as schools, playgrounds, and health care centres.	Municipalities will be able to place additional restrictions on the use of marijuana in public spaces.  The Government of Nunavut is considering whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties (Government of Nunavut, 2018).

## 5.2.9 Ontario

*Bill 174, Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017* was introduced for first reading on November 1, 2017 and received Royal Assent on December 12, 2017. The following table presents a summary of the key points in the legislation:

*Table 11 - Ontario Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in Ontario.
<b>Overseeing Body</b>	A subsidiary of the Liquor Control Board of Ontario (LCBO, the Ontario Cannabis Retail Corporation (OCRC), will operate a government-run distribution and retail model.	
<b>Buying Marijuana</b>	Government operated model. Stand-alone stores and online sales will be by the OCRC.	40 stand-alone stores will open by July 2018, 80 stand-alone stores will open by July 2019, and 150 stand-alone stores will open by 2020.
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Four (4) plants per household for personal use.	It is unknown whether landlords will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted properties post-legalization.  Strata councils will be able to prohibit or restrict private cultivation if proper amendments are made to their bylaws (Lash, 2018).
<b>Consuming Marijuana</b>	Consumption limited to private residences only.  Public consumption of recreational marijuana is prohibited.  Would allow the consumption of recreational marijuana in live/work units (Lash, 2018).	The Government of Ontario is considering restricting the smoking of marijuana in indoor and outdoor common areas in condominiums (Lash, 2018). They are proposing to allow condominium corporations to designate outdoor areas for the consumption of recreational marijuana (Lash, 2018).  Landlords will be able to restrict or prohibit private consumption of recreational marijuana in tenanted properties in new leases post-legalization (The Canadian Press, 2018).  Strata councils will be able to prohibit or restrict private consumption if proper amendments are made to their bylaws (Lash, 2018).

## 5.2.10 Prince Edward Island

Provincial legislation is still being drafted for the Legislative Assembly of Prince Edward Island (PEI).

The following table presents a summary of the current provincial policy direction:

*Table 12 - Prince Edward Island Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in PEI.
<b>Overseeing Body</b>	The Liquor Control Corporation.	
<b>Buying Marijuana</b>	Government operated model.	The Liquor Control Corporation. will establish and operate four retail locations for recreational marijuana in 2018.
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Unknown.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties.
<b>Consuming Marijuana</b>	Consumption limited to private residence only.  Consumption in limited public spaces will be re-evaluated at a later date (Dolphin & English, 2018).	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

### 5.2.11 Quebec

*Projet de loi n°157: Loi constituant la Société québécoise du cannabis, édictant la Loi encadrant le cannabis et modifiant diverses dispositions en matière de sécurité routière* was tabled in the National Assembly on November 16, 2017. It was adopted in principle on February 13, 2018. The following table presents a summary of the key points in the legislation:

Table 13 - Quebec Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	18 years.	This is aligned with the minimum legal age for alcohol and tobacco purchase in Ontario.
<b>Overseeing Body</b>	The Société québécoise du cannabis ("SQC"), which is a newly created subsidiary of the Société des alcools du Québec (SAQ), will act as the sole distributor and retailer of recreational marijuana in Quebec.	
<b>Buying Marijuana</b>	Government operated model. Recreational marijuana ordered online will be delivered by Canada Post.	There will be fifteen (15) retail locations operating by July 2018 and one hundred and fifty (150) retail outlets planned by 2020 (Dolphin & English, 2018).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Prohibited.	
<b>Consuming Marijuana</b>	Consumption of recreational marijuana will be subject to the same laws and regulations in place that govern the use of tobacco.  Consumption prohibited on the property of health care and educational institutions, as well as outdoor areas frequented by minors.	It is unknown whether landlords and strata councils will be able to restrict or prohibit home consumption of recreational marijuana in tenanted and strata properties.

## 5.2.12 Saskatchewan

Provincial legislation is still being drafted for the Legislative Assembly of Saskatchewan. The following table presents a summary of the current provincial policy direction:

*Table 14 - Saskatchewan Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	Unknown.	The minimum legal age for alcohol purchase is 19 years and the minimum legal age for tobacco purchase is 18 years.
<b>Overseeing Body</b>	The Saskatchewan Liquor and Gaming Authority (SLGA) will be responsible for regulating the wholesaling and retailing of recreational marijuana.	
<b>Buying Marijuana</b>	Private retail model. The private retailers will be regulated and supplied by the SLGA.	The SLGA intends on issuing approximately 60 retail permits to private retailers in approximately 40 municipalities and First Nation communities having populations of at least 2,500 residents (Dolphin & English, 2018).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Four (4) plants per household for personal use (Government of Saskatchewan, 2018).	Landlords will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted properties (White-Crummey, 2017). It is unknown what role strata councils will have.
<b>Consuming Marijuana</b>	Consuming marijuana will be prohibited in public places and around minors (Government of Saskatchewan, 2018).	Landlords will be able to restrict or prohibit home consumption of recreational marijuana in tenanted properties (Government of Saskatchewan, 2018). It is unknown what role strata councils will have.

### 5.2.13 Yukon

*Bill 15: Cannabis Control and Regulation Act* was introduced for First Reading in the Legislative Assembly of Yukon on March 8, 2018. The following table presents a summary of the key points in the proposed legislation:

*Table 15 - Yukon Recreational Marijuana Framework and Legislation Summary*

<b>Minimum age for purchase and consumption of marijuana</b>	19 years.	This is aligned with the minimum legal age for alcohol purchase in the Yukon. The minimum legal age for tobacco purchase is 18 years.
<b>Overseeing Body</b>	The Yukon Liquor Corporation will be solely responsible for importing, storing, transporting, and distributing recreational marijuana (Dolphin & English, 2018).	
<b>Buying Marijuana</b>	Government operated model. The Yukon Liquor Corporation will operate retail and online sales.	The Territory eventually intends on establishing a licencing regime for private retail sales (Dolphin & English, 2018).
<b>Possessing Marijuana</b>	Adults can possess up to 30 grams of legally produced marijuana in public.	This aligns with the federal government's proposed possession limit for adults.
<b>Growing Marijuana</b>	Four (4) plants per household for personal use.	Landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties (Legislative Assembly of Yukon, 2018).
<b>Consuming Marijuana</b>	Consumption of recreational marijuana will initially only be permitted in private residences and on adjoining properties.	The Territory will consider consumption in public spaces at a later date.  Landlords and strata councils will be able to restrict or prohibit home cultivation of recreational marijuana in tenanted and strata properties (Legislative Assembly of Yukon, 2018).

### 5.3 MUNICIPAL

A jurisdictional authority of municipalities is land use regulation. Municipalities are granted their powers through legislation enacted by higher levels of government. Therefore, for municipal legislation to be upheld, it must not result in any operational conflicts with the legislation from higher levels of government.

Municipalities will have the jurisdictional authority to control where recreational marijuana retail stores and production facilities can be located through land use planning and zoning. As recreational marijuana production facilities are licensed by the Federal Government, municipal land use legislation enacted to control the location of these uses can not result in any operational conflicts with Federal legislation. Lawyer Paula Lombardi (2018) notes that “In *P&S Holdings Ltd. V. Canada*, the Federal Court of Appeal confirmed that, while federal officials have a role in the technical suitability of a cannabis facility, the *bona fides* of an application, and the broad questions relating to public health and safety, the fundamental decision regarding the location of federally licensed cannabis facilities falls squarely within the exclusive jurisdiction of municipalities” (p. 38). Municipal land use legislation enacted to control the location of recreational marijuana retail stores must also conform to provincial and territorial legislation.

The role of municipalities may change slightly depending on whether the recreational marijuana retail sales model in the province or territory is operated by the government or private sector. According to the Federation of Canadian Municipalities (2017), if recreational marijuana retail stores are operated by a Provincial or Territorial Crown Corporation, municipalities are not able to license the retailers (Federation of Canadian Municipalities, 2017). Municipalities can license recreational marijuana retailers if there is a private operation model. Municipalities in provinces or territories with a government operated retail model can still enact land use legislation to control for these uses. The crown corporation will tend to obey this legislation as long as it does not conflict with the legislation of the federal and provincial/territorial governments.

The provinces of Alberta, Manitoba, Newfoundland and Labrador, and Saskatchewan have chosen a privately-operated retail sales model. Recreational marijuana retail stores in New Brunswick, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, and the Yukon will be operated by provincial/territorial crown corporations. British Columbia has proposed a hybrid model that will consist of both privately-run and government-operated retail stores. The following table summarizes the proposed retail sales model in each province and territory in Canada.

*Table 16: Summary Table of Provincial /Territorial Recreational Marijuana Retail Models*

Location	Retail Model		
	Government Operated Retail Stores	Privately Operated Retail Stores	Other Model
Alberta		✓	
British Columbia			✓ <sup>7</sup>
Manitoba		✓	
New Brunswick	✓		
Newfoundland and Labrador		✓	
Northwest Territories	✓		
Nova Scotia	✓		
Nunavut	✓		
Ontario	✓		
Prince Edward Island	✓		
Quebec	✓		
Saskatchewan		✓	
Yukon	✓		

There is an incentive for municipalities to update their land use legislation before marijuana is legalized to ensure they maintain as much control as possible over where they would like to see these uses located. This ensures the municipal voice is heard in the legalization process. Only a few municipalities across Canada have begun drafting legislation for recreational marijuana uses as of March 10, 2018. The following sections summarize the provincial/territorial direction that has been given to municipalities and

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<sup>7</sup> The Government of British Columbia has proposed a hybrid model that will consist of privately run retail stores, government-operated retail stores, and online sales.

some of the legislation that has been released to date. Many municipalities have legislation in place for medical marihuana related uses. A select sample of these will be summarized in the following section as well.

### **5.3.1 Directional Documents**

#### ***5.3.1.1 Municipalities in Manitoba***

Manitoba Municipal Relations (MMR) prepared a resource guide to assist municipalities in Manitoba in amending their land use policies to regulate the siting and operation of recreational marijuana production and retail sales facilities. MMR suggests that municipalities consider the following criteria before amending the municipal Zoning By-law: definitions, siting, general location, buffer, hours of operation, signs and lighting, and parking (Manitoba Municipal Relations Community and Regional Planning, 2018).

MMR recommends that municipalities in Manitoba treat indoor cultivation, warehousing, and distribution facilities like other industrial uses in the Zoning By-law (Manitoba Municipal Relations Community and Regional Planning, 2018).

For retail marijuana stores, MMR examines the two options which are available to municipalities and describes the outcome of each. The following table summarizes these options and outcomes:

Table 17 - Manitoba Municipal Relations Direction for Recreational Marijuana Retail Stores

Option	Description	Outcome
#1	Allowed in existing commercial zones either as a permitted use or conditional use.	<p><b>Permitted use:</b> Minimal changes required for the Zoning By-law and no public hearing required.</p> <p>Regulations could be added to the bylaw that address matters such as signage and hours of operation.</p> <p><b>Conditional use:</b> A public hearing is required for a marijuana retail store to locate in that zone.</p> <p>Approval may be conditional on a development agreement that addresses matters such as signage and hours of operation (Manitoba Municipal Relations Community and Regional Planning, 2018)</p>
#2	New specific zones are created for marijuana retail stores.	<p>Significant changes to the Zoning By-law will be needed.</p> <p>Public hearings will be required for rezoning applications.</p> <p>Schedule amendments will be required.</p> <p>Conditional approvals based on a development agreement may be required (Manitoba Municipal Relations Community and Regional Planning, 2018).</p>

### 5.3.1.2 Municipalities in Alberta

Brownlee LLP, at the request of Aurora Cannabis Inc., prepared a document to be used as a tool to guide municipalities in Alberta in addressing marijuana retail sales. This document was found on the Alberta Association of Municipal Districts and Counties (AAMDC) website. The document provides guidance about definitions, amending definitions, districting, special use regulations, and growing marijuana at home.

They recommend that municipalities add definitions in their legislation for cannabis, cannabis accessory, and cannabis retail sales<sup>8</sup>. This way, a municipality can specifically regulate where recreational

<sup>8</sup> Brownlee LPP provides the following definitions as suggestions:

- “**Cannabis**” means cannabis plant, fresh cannabis, dried cannabis, cannabis oil and cannabis plant seeds and any other substance defined as cannabis in the Cannabis Act (Canada) and its regulations, as amended from time to time and includes edible products that contain cannabis.” (Brownlee LPP, 2018, p. 2)
- “**Cannabis Accessory**” means cannabis accessory as defined in the Cannabis Act (Canada) and its regulations, as amended from time to time.” (Brownlee LPP, 2018, p. 2)
- “**Cannabis Retail Sales**” means a retail store licensed by the Province of Alberta where Cannabis and Cannabis Accessories are sold to individuals who attend at the premises.” (Brownlee LPP, 2018, p. 2)

marijuana stores can locate within the boundaries of the municipality (Brownlee LPP, 2018). They also recommend amending other definitions, such as retail stores, general retail stores, convenience stores, and greenhouses, to include the phrase “*This definition does not include Cannabis Retail Sales*” (Brownlee LPP, 2018). This is to ensure that cannabis retail stores remain a distinct use (Brownlee LPP, 2018).

Brownlee LPP provides two options regarding districting. The following table summarizes these two options:

*Table 18 - Brownlee LPP Guidelines for Districting Cannabis Retail Sales*

<b>Option</b>	<b>Description</b>	<b>Outcome</b>
#1	Standard Land Use District or Zone	<p>The definition of cannabis retail stores must be first added to the list of uses in existing land use districts or zones (Brownlee LPP, 2018). After this is done, the cannabis retail stores could either be a permitted use or discretionary use (Brownlee LPP, 2018).</p> <p>The municipality would have to determine which land use districts or zones are most appropriate for the cannabis retail stores (Brownlee LPP, 2018).</p>
#2	Direct Control District	<p>Cannabis retail stores are not added to the list of uses in an existing land use districts or zones (Brownlee LPP, 2018).</p> <p>Direct Control Districts would require each cannabis retail store applicant to apply to redistrict or rezone the proposed site for the store as “Direct Control”. These applications would require a public hearing be held (Brownlee LPP, 2018).</p>

The special use regulations suggested include buffer distances or separation distances, special consultation requirements, and other. Special consultation requirements would only be required if the municipality makes cannabis retail stores a discretionary use. If they are a discretionary use, the municipality could have a provision that ensures the Development Authority consults with neighbouring and adjacent property owners before a development permit is granted. Other special use regulations may include requirements that the design of the cannabis retail stores be consistent with Crime Prevention through Environmental Design (CPTED) planning principles, consideration regarding how long the development permit will remain in effect, parking, building footprint and location, and addressing nuisances such as odour (Brownlee LPP, 2018).

## 5.3.2 Recreational Marijuana Municipal Legislation

### 5.3.2.1 City of Edmonton, Alberta

The City of Edmonton has released a proposed land use framework for marijuana retail stores. The following tables summarize which zones marijuana retail sales will be permitted or may be permitted at the discretion of a development officer<sup>9</sup>. The City has also addressed the proposed distance separations that go beyond the mandated distances required by the Province<sup>10</sup>. Applicants who wish to open a recreational marijuana retail store must receive a development permit, a building permit, a business license from the City, and a licence from the AGLC.

Table 19: City of Edmonton Proposed Marijuana Retail Store Locations

<b>Proposed Marijuana Retail Store Locations</b>	
<b>Zones with Marijuana Retail Stores</b>	<b>Status</b>
(CSC) Shopping Centre Zone	Permitted
(CB1) Low Intensity Business Zone	Permitted
(CB2) General Business Zone	Permitted
(CHY) Highway Corridor Zone	Permitted
(CO) Commercial Office Zone	Permitted
(CCA) Core Commercial Arts Zone	Permitted
(JAMSC) Jasper Avenue Main Street Commercial Zone	Permitted
(UW) Urban Warehouse	Permitted
(AED) Arena & Entertainment District Zone	Permitted
Strathcona Area Redevelopment Plan (ARP) Historical Commercial DC1	Permitted
(CB3) Commercial Mixed Business Zone	Discretionary
(CMU) Commercial Mixed Use Zone	Discretionary
(HA) Heritage Area Zone	Discretionary

<sup>9</sup> The development officer will evaluate the cannabis retail store based on the potential land use impacts. These include parking and traffic impacts, and compliance with plans. The development office may also apply certain conditions to the store. Adjacent landowners will be notified (City of Edmonton , 2018).

<sup>10</sup> The provincially mandated separation distances are a 100 m buffer between a marijuana retail store and a provincial health care facility, a school, or a parcel of land designated as school reserve (AGLC, 2018).

Table 20: City of Edmonton Proposed Separation Distances

Proposed Separation Distances		
Separation Distance	Use	Purpose
200 m	Between marijuana stores	<ul style="list-style-type: none"> <li>Prevent clustering of marijuana stores on one block</li> </ul>
200 m	Schools Libraries	<ul style="list-style-type: none"> <li>Comply with provincial requirements</li> <li>Limit access of children and youth to marijuana stores</li> <li>Prevent negative health effects of combined use of marijuana and liquor products</li> </ul>
100 m	Provincial health care facilities Public parks Public recreation facilities Liquor stores	

Edmonton also changed the definition of a “*major home-based business*” to ensure that marijuana sales, production and distribution are excluded from this type of business classification (Federation of Canadian Municipalities, 2017).

No information on parking requirements for marijuana retail stores has been released.

### 5.3.3 Medical Marijuana Municipal Legislation

#### 5.3.3.1 City of Vancouver, British Columbia

As of March 10, 2018, no regulations have been released for recreational marijuana stores in the City of Vancouver. However, in 2015, the City of Vancouver implemented regulations for medical marijuana related businesses. The following table summarizes these regulations:

Table 21 - Vancouver Medical Marihuana Framework and Legislation Summary

<b>Use</b>	Medical Marihuana-related Use
<b>Definitions</b>	Compassion Club and Retail Dealer – Medical Marihuana-Related
<b>Siting</b>	Only in commercial zones.
<b>Buffer</b>	At least 300 m from schools, community centres, neighbourhood houses, youth facilities that serve vulnerable youth, and other marijuana-related businesses.
<b>Hours of Operation</b>	8am to 10 pm <sup>11</sup> (Manitoba Municipal Relations Community and Regional Planning, 2018)
<b>Signs and Lighting</b>	N/A (Manitoba Municipal Relations Community and Regional Planning, 2018)
<b>Additional Information</b>	To operate, medical marihuana-related uses must have: <ul style="list-style-type: none"> <li>• A business license;</li> <li>• A development permit that includes a standard community notification process; and</li> <li>• A signed good neighbour agreement (Council of the City of Vancouver, 2015).</li> </ul>

### 5.3.3.2 City of Toronto, Ontario

The City of Toronto has begun discussing the topic of changing land use planning policy to prepare for the legalization of recreational marijuana, however, as of March 10, 2018, no legislation has been formally introduced to Council.

The City did however amend Zoning By-law 569-2013 in 2013 after the *Marihuana for Medical Purposes Regulations* (MMPR) came into effect. The City defined Medical Marihuana Production Facilities (MMPFs) and added new regulations to address what zones the use is permitted in, open storage restrictions, loading requirements, separation distances from sensitive uses, and setbacks. While the production and distribution of medical marihuana by an MMPF is regulated by the federal government, the City is involved with zoning (Cook, 2017). The following table summarizes the City of Toronto policy regarding MMPFs:

<sup>11</sup> According to the B.C. Cannabis Retail Licensing Guide, the hours of operation of recreational cannabis stores will be between 9am and 11pm.

Table 22 - City of Toronto Medical Marihuana Production Facilities Legislation Summary

<b>Use</b>	Medical Marihuana Production Facilities (MMPFs)
<b>Definitions</b>	MMPFs are defined in the Zoning By-law as premises used for growing, producing, testing, destroying, storing, or distribution of medical marihuana authorized by a license.
<b>Siting</b>	Permitted in: <ul style="list-style-type: none"> <li>• Employment Industrial (E) zones; and</li> <li>• Employment Heavy Industrial (EH) zones.</li> </ul>
<b>Buffer</b>	A lot with a medical marihuana production facility must be: <p>(A) At least 70 m from a lot in a:</p> <ul style="list-style-type: none"> <li>• Residential Zone category;</li> <li>• Residential Apartment Zone category;</li> <li>• Commercial Zone category;</li> <li>• Commercial Residential Zone category;</li> <li>• Commercial Residential Employment Zone category;</li> <li>• Institutional Zone category; and</li> <li>• Open Space Zone category.</li> </ul> <p>(B) At least 70 m from a lot with a:</p> <ul style="list-style-type: none"> <li>• Public school;</li> <li>• Private school;</li> <li>• Place of worship; and</li> <li>• Day nursery. [ By-law: 0403-2014]</li> </ul>
<b>Hours of Operation</b>	N/A
<b>Signs and Lighting</b>	N/A
<b>Additional Information</b>	All activities must take place indoors within a highly secured facility, including loading.

## **5.4 INTERNATIONAL – UNITES STATES OF AMERICA**

While federal law in the United States prohibits growing, producing, distributing, or possessing marijuana, there are several states that have chosen to legalize recreational marijuana through state-level marijuana policies.

### **5.4.1 State of Colorado**

*Colorado Amendment 64*, was passed by voters in the State of Colorado on November 6, 2012. This Amendment led to the legalization of marijuana in January 2014. The State provides definitions for marijuana cultivation facility, marijuana establishment, marijuana product manufacturing facility, and retail marijuana store. The following table summarizes the current legislation for recreational marijuana in the State:

Table 23 - Colorado Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	21 years.	This is aligned with the minimum legal age for alcohol purchase in the State of Colorado.
<b>Regulation Procedures</b>	Municipalities in Colorado have the option of allowing the sale of recreational marijuana.	Amendment 64 noted that recreational marijuana should be regulated in a similar manner to alcohol.
<b>Buying Cannabis</b>	Private retail dispensaries.	Hours of operation must be between 8am until midnight. Municipalities can establish stricter hours of operation within these hours (State of Colorado, 2018).
<b>Possessing Cannabis</b>	Adults aged 21 years or older can possess up to 28 grams publicly (State of Colorado, 2018).	Since marijuana is still illegal under federal law, adults cannot possess or use marijuana on federal land, including national parks and national forests (State of Colorado, 2018).
<b>Growing Cannabis</b>	Six (6) plants per Colorado resident aged 21 years or older for personal use. Three (3) can be in the flowering stage in an enclosed, locked space, indoors, to prevent access from youth (State of Colorado, 2018)  Each dwelling can have up to a maximum of twelve (12) plants.	Counties and municipalities can pass stricter laws (State of Colorado, 2018)
<b>Consuming Cannabis</b>	Public consumption not permitted (State of Colorado, 2018)	Property owners can ban the use and possession of marijuana on their properties. Hotel owners can also ban the use and possession of marijuana on their properties (State of Colorado, 2018)

**5.4.1.1 City and County of Denver, Colorado**

Before operations can begin, marijuana businesses in Denver must obtain all necessary permits, including a valid zone use permit from Denver Community Planning and Development’s Zoning Division and a business license from Denver Excise and Licenses. They must also submit a site plan and a floor plan. The City and County of Denver released a Marijuana Facility Location Guide to assist marijuana businesses in determining where they may operate legally in the City and County of Denver (City and

County of Denver, 2017). The following tables summarizes the zoning provisions for retail marijuana stores and retail marijuana cultivation facilities:

Table 24 - Colorado Retail Marijuana Stores Framework and Legislation Summary

<b>Retail Marijuana Stores</b>	
<b>Distance Restrictions</b>	Cannot be located within 1,000 ft of any: <ul style="list-style-type: none"> <li>• School;</li> <li>• Child Care Center or Child Care Home;</li> <li>• Drug or Alcohol Treatment Facility; and</li> <li>• Other Marijuana Centers or Stores.</li> </ul>
<b>Zoning</b>	Prohibited Locations: <ul style="list-style-type: none"> <li>• Campus – Education/Institution;</li> <li>• Residential mixed use districts;</li> <li>• Downtown civic district;</li> <li>• Urban edge residential districts, select mixed use districts, select residential mixed use districts, and select main street districts;</li> <li>• Suburban residential districts and select mixed use districts;</li> <li>• Select open space districts; and</li> <li>• Urban residential districts, select mixed use districts, and select main street districts <sup>12</sup>.</li> </ul>
<b>Hours of operation</b>	8am to 10pm

Table 25 - Retail Marijuana Cultivation Facilities Framework and Legislation Summary

<b>Retail Marijuana Cultivation Facilities</b>	
<b>Distance Restrictions</b>	Cannot be within 1,000 ft of any: <ul style="list-style-type: none"> <li>• School; and</li> <li>• Residential District.</li> </ul>
<b>Zoning</b>	Can only be located in a: <ul style="list-style-type: none"> <li>• Light industrial district;</li> <li>• General industrial district; and</li> <li>• Open space recreation district.</li> </ul>

<sup>12</sup> Note: these locations have been summarized. For a list of all the specific prohibited locations, please refer to the Denver Zoning Code and Former Chapter 59 Zoning Code.

The City and County of Denver also have policies in place regarding:

- Cannabis Consumption Establishment and Cannabis Consumption Special Events;
- Medical and Retail Marijuana Infused Products Manufacturers;
- Medical and Retail Marijuana Transporter Facilities and Off-Premises Storage Related to Transporter Facilities; and
- Off-Premises Storage Facility Related to Non-Transporter Marijuana Facilities.

It is worth noting that after marijuana was legalized the vacancy rate for industrial space in the City and County was the lowest it had been in decades (Raabe, 2014). After legalization, the price for leased warehouse space increased by 21% over two years (Raabe, 2014). This might create added challenges for traditional warehouse tenants who are already constrained for space in rapidly intensifying environments. These existing warehouse tenants are then faced with the choice of either paying higher rents or moving to less convenient suburban locations (Raabe, 2014). Municipalities in Canada that are already facing a shortage of industrial space in urban environments should be cognisant of this possible supply constraint when recreational marijuana is legalized.

#### **5.4.2 State of Washington**

*Initiative 502* (I-502) was passed by voters in the State of Washington in November 2012. The passing of this initiative legalized recreational marijuana in the state. The first retail store under I-502 opened in July 2014 and the second in October 2014 (Cambron, Guttmanova, & Fleming, 2017). These stores are commonly referred to as I-502 shops (Cambron, Guttmanova, & Fleming, 2017). The following table summarizes the current legislation for recreational marijuana in the State:

Table 26 – Washington Recreational Marijuana Framework and Legislation Summary

<b>Minimum age for purchase and consumption of marijuana</b>	21 years.	This is aligned with the minimum legal age for alcohol purchase in the State of Washington.
<b>Overseeing Body</b>	The Washington State Liquor and Cannabis board processes licenses for producers, processors, and retailers.	
<b>Buying Marijuana</b>	The state licenses private retail stores.  Municipalities in Washington have the option of allowing the sale of recreational marijuana.	Hours of operation are typically between 8am and 12am.
<b>Possessing Marijuana</b>	28 grams of dried marijuana.  16 ounces of marijuana-infused edibles in solid form.  72 ounces of marijuana in liquid form.	
<b>Growing Marijuana</b>	Home cultivation is not allowed.	
<b>Consuming Marijuana</b>	Public consumption not permitted (Washington State Liquor and Cannabis Board, 2016 )	

### 5.4.3 City of Seattle, Washington

Under the City of Seattle’s land use code, ‘Major Marijuana Activity’ is defined as:

Table 27 - City of Seattle Definition of Major Marijuana Activity

<b>Production</b>	“Any production outside a dwelling unit.  Production inside a dwelling unit including more than 15 plants, except that 60 plants are allowed for state registered cooperatives.” (City of Seattle, 2015)
<b>Processing</b>	“Any processing outside of a dwelling unit.  Any processing within a dwelling unit other than the drying or incorporation into food of the product of 15 plants, except that the drying or incorporation into food of the product of 60 plants is allowed for state registered cooperatives.” (City of Seattle, 2015)
<b>Selling &amp; Delivery</b>	“Any selling or delivery.” (City of Seattle, 2015)

The following separation distances are required for major marijuana activity uses:

*Table 28 - Separation Requirements for Major Marijuana Activity Uses in the City of Seattle*

<b>Separation Requirement</b>	<b>Use</b>
1,000 ft	<ul style="list-style-type: none"> <li>• Elementary school;</li> <li>• Secondary school; or</li> <li>• Playground.</li> </ul>
250 ft	<ul style="list-style-type: none"> <li>• Child care center;</li> <li>• Game arcade;</li> <li>• Library;</li> <li>• Public Park;</li> <li>• Public Transit Center; or</li> <li>• Recreation Center of facility.</li> </ul>
500 ft	<ul style="list-style-type: none"> <li>• No more than one other property containing a major marijuana activity use with sales.</li> </ul>

The City of Seattle also has standards in place regarding odour control. Vents for major marijuana activity should be directed away from neighbouring uses (City of Seattle, 2015). Furthermore, the use of filters to reduce or eliminate odour causing emissions may be required (City of Seattle, 2015).

## **6 RECOMMENDATIONS**

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### **6.1 SUGGESTED BEST PRACTICES**

Municipalities will have jurisdiction over where the marijuana retail stores or production facilities can be located through land use planning and zoning. There is an incentive for municipalities to update their land use legislation before marijuana is legalized because they can have more control over where they would like to see these uses located and ensure their voice is heard in the legalization process. For municipal legislation to be upheld, it must not result in any operational conflicts with the legislation from higher levels of government.

The following sections provide a set of suggested best practices that municipalities in Canada should consider when regulating for recreational marijuana production facilities and retail stores. These best practices have been informed by information from the literature review and policy analysis.

#### **6.1.1 Recreational Marijuana Production Facilities**

Even though marijuana production facilities will be licensed under federal regulation, municipalities do have control over their Zoning By-laws to determine the best course of action to deal with this use (Dean & Hilburt, 2018). It is possible for a Chief Building Official to refuse to issue a building permit for facilities that do not comply with the provisions of a Zoning By-law (Dean & Hilburt, 2018).

The following table summarizes the three common responses to dealing with recreational marijuana production facilities in municipal land use regulations and Zoning By-laws:

Table 29 - Suggested Best Practices for Recreational Marijuana Production Facilities

Option	Description	Outcome
#1	Define 'Marijuana Production Facility' in the Zoning By-law.	<p>By defining a use, a municipality can control which zones the use is permitted within.</p> <p>A municipality must list all permitted uses explicitly or else they will be presumed to be prohibited (Dean &amp; Hilburt, 2018) <sup>13</sup>.</p> <p>Furthermore, the use could either be considered a permitted use or a conditional use.</p> <p>If the use is permitted, minimal changes are required for the Zoning By-law and no public hearing will be required.</p> <p>If the use is conditional, public hearings will be required for a marijuana production facility to locate in that zone. The development officer of the municipality may then also impose other regulations for that use.</p>
#2	<p>Define 'Marijuana Production Facility' in Zoning By-law.</p> <p>Provide detailed regulations for the use.</p>	<p>This option goes a step further than Option #1, as the municipality can include detailed regulations regarding where and how the use can be permitted or expressly prohibited.</p> <p>Through this option, the municipality can also include regulations on matters like mandatory separation distances from other 'sensitive' land uses<sup>14</sup>, lot size and dimensions, parking requirements, permitted building height, and setbacks from adjacent properties.</p> <p>This option provides greater certainty and control for municipalities than Option #1.</p>
#3	No amendments are made to the Zoning By-law.	<p>The municipality determines that a marijuana production facility use fits within existing use definitions and zoning permissions (Dean &amp; Hilburt, 2018).</p> <p>This option provides a lack of clarity for licensed producers who wish to locate within the municipality (Dean &amp; Hilburt, 2018).</p>
<b>Other Considerations</b>	<ul style="list-style-type: none"> <li>• Municipalities must ensure that their land use regulations do not conflict with federal legislation.</li> <li>• Municipalities should consult with the Federal Government regarding zoning/land use planning for production facilities.</li> <li>• Any marijuana production facility must be connected to electrical servicing and municipal water.</li> <li>• Facilities must meet federal security requirements.</li> <li>• Loading should be done in a secure place (i.e. in an enclosed zone or in the interior of the building).</li> </ul>	

<sup>13</sup> This is the case for municipalities in Ontario. It is likely that other provinces/territories have similar provisions, however, municipalities should confirm this with their provincial/territorial government.

<sup>14</sup> Under the MMPR, most municipalities went beyond the text of the MMPR (which prohibits locating an MMPF in a dwelling place) and required that MMPFs locate an appropriate distance from sensitive land uses, such as schools, and residential uses.

	<ul style="list-style-type: none"> <li>• Consider whether the use should be an industrial use, an agricultural use, or given a new designation<sup>15</sup>. How municipalities choose to designate this use will impact municipal revenue through taxation<sup>16</sup>.</li> <li>• If it is considered an industrial use, municipalities should consider the impact on the supply and rent of industrial space within the municipality.</li> <li>• Minor variance or zoning-by law amendments are possible, however, these processes do not guarantee success for the applicant, can be expensive, and would require some public process, which may generate significant community interest in the project (Dean &amp; Hilburt, 2018).</li> </ul>
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### 6.1.2 Recreational Marijuana Retail Facilities

The role of municipalities may change slightly depending on whether the recreational marijuana retail sales model in the province or territory is operated by the government or private sector, as discussed in Section 5.3. If marijuana retail stores are operated by a Provincial or Territorial Crown Corporation, municipalities are not able to licence recreational marijuana retailers. Municipalities are able to license recreational marijuana retailers if there is a private operation model.

Legislation to control for these uses can be enacted by municipalities under both models of operation. In provinces or territories with a government operated retail model, the crown corporation will tend to obey this legislation if it does not conflict with the legislation of higher levels of government.

Municipalities should ensure that they consult with the public about this new land use. This would allow the municipality to determine the public’s interest in where they would like these uses located, if there should be separation distances from other sensitive land uses, what these separation distances should be, and what uses they should be separated from, etc.

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<sup>15</sup> This was a question many municipal governments discussed under the MMPR Regulations (AUMA / AMSC, 2018). MMPFs are often considered as an industrial use rather than an agricultural use because of the energy and technical inputs required (AUMA / AMSC, 2018).

<sup>16</sup> Whether cannabis production facilities are designated agricultural, industrial, or given a designation of its own impacts the revenue generated for the municipality through assessment and taxation. In some provinces and territories, the buildings on an agricultural property are not taxed. Since the production of cannabis occurs indoors, the value of cannabis production facility is largely attached to buildings they operate within. It is recommended that whichever designation a municipality chooses, it is important that the properties are assessed at fair market value (AUMA / AMSC, 2018). Municipalities should consider how to balance the taxation revenues and potential economic development opportunities with the public interest if there is an opportunity to host a cannabis production facility within their boundaries (Alexander, 2015).

The following table presents a summary of the three options municipalities have in terms of updating their land use planning legislation to account for this new land use.

Table 30 - Suggested Best Practices for Recreational Marijuana Retail Stores

<b>Option #1</b>	Define ‘Recreational Marijuana Retail Store’ in the Zoning By-law.	<p>By defining a use, a municipality can control which zones the use is permitted within.</p> <p>A municipality must list all permitted uses explicitly or else they will be presumed to be prohibited (Dean &amp; Hilburt, 2018) <sup>17</sup>.</p> <p>Furthermore, the use could either be considered a permitted use or a conditional use.</p> <p>If the use is permitted, minimal changes are required for the Zoning By-law and no public hearing will be required.</p> <p>If the use is conditional, public hearings will be required for a recreational marijuana retail store to locate in that zone. The development officer of the municipality may then also impose other regulations for that use.</p>
<b>Option #2</b>	<p>Define ‘Recreational Marijuana Retail Store’ in Zoning By-law.</p> <p>Provide detailed regulations for the use.</p>	<p>This option goes a step further than Option #1, as the municipality can include detailed regulations regarding where and how the use can be permitted or expressly prohibited.</p> <p>Through this option, the municipality can also include regulations on matters like mandatory separation distances from other ‘sensitive’ land uses, lot size and dimensions, parking requirements, permitted building height, and setbacks from adjacent properties.</p> <p>This option provides greater certainty and control for municipalities than Option #1.</p>
<b>Option #3</b>	No amendments made to the Zoning By-law.	The municipality determines that a recreational marijuana retail store use fits within existing use definitions and zoning permissions.
<b>Other Considerations</b>	<ul style="list-style-type: none"> <li>• Municipalities must ensure that their land use regulations do not conflict with federal or provincial/territorial legislation.</li> <li>• Municipalities should consult with the Provincial/Territorial Government regarding zoning/land use planning for retail stores, especially in provinces/territories with a government-operated model.</li> <li>• The retail stores must meet strict security requirements.</li> <li>• Loading and waste disposal should be done in a secure manner.</li> </ul>	

<sup>17</sup> This is the case for municipalities in Ontario. It is likely that other provinces/territories have the same provisions, however, municipalities should confirm this with their provincial/territorial government.

## **6.2 OTHER CONSIDERATIONS**

For both recreational marijuana production facilities and retail stores, it is critical that the municipality consult the public regarding where they would prefer these uses to locate. Some municipalities, such as the City of Edmonton, have released surveys where members of the public can voice their concerns. These consultations can inform matters such as which sensitive land uses there should be separation buffers from or which zones are best suited for either facility. If a municipality chooses to update their land use regulations to include recreational marijuana production facilities and retail stores, it is recommended that they consult with the public regarding these new land uses.

Other considerations municipalities should consider include whether there has been direction from the provincial/territorial government regarding the cultivation and consumption of recreational marijuana in tenanted and strata properties, and whether the provincial/territorial government provides municipalities with the option of banning the sale of recreational marijuana upon holding a plebiscite. The only provinces/territories that allow municipalities to ban the sale of recreational marijuana upon holding a plebiscite are Manitoba and the Northwest Territories.

## 7 NEXT STEPS

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In preparation for the federal legalization of marijuana, municipalities should consider the following items and actions:

- Creating an inter-departmental municipal working group on marijuana legalization to recognize the wide-ranging impacts of marijuana legalization.
- Engaging with their provincial or territorial government to ensure that their policies for areas of shared jurisdictional responsibility are aligned.
- Consulting with the public and other key stakeholders on matters that fall under municipal jurisdiction, such as which areas would be best suited for marijuana retail stores.
- Assessing which by-laws and land use policies need to be adjusted. Areas that fall under municipal jurisdiction that should be considered include:
  - Land use planning/Zoning By-laws;
  - Business licensing; and
  - Public consumption.
- Determining how marijuana can be consumed on municipally owned land, such as parks and trails (Federation of Canadian Municipalities, 2017).

Municipalities should begin to discuss which of the three land use and zoning options, as discussed in Sections 6.1.1 and 6.1.2, they will choose for marijuana production facilities and retail stores. If municipalities choose to define the use and/or provide detailed regulations for the use, these matters should begin to be discussed by municipal staff and council as soon as possible. They should begin to discuss the definitions for the uses and what the detailed regulations for the uses will be.

Municipalities can set requirements for business licenses, such as ensuring the retail stores meet the zoning requirements and other municipal legislative requirements before they are allowed to apply for

provincial licences (Federation of Canadian Municipalities, 2017). The Federation of Canadian Municipalities notes that while density requirements are usually addressed through Zoning By-laws, they are sometimes addressed through business licenses (Federation of Canadian Municipalities, 2017).

Even though all provincial regulations have yet to be released, it is recommended that municipalities begin to draft by-laws and begin to discuss when they will be presented to council. These can be lengthy processes and the federal timeline for legalization is quickly approaching. Some steps municipalities can start right now without provincial/territorial direction include seeking legal advice, passing a motion in council for municipal staff to prepare options for land-use by-law amendments, and sorting out anticipated municipal roles and responsibilities into phases.

The Federation of Canadian Municipalities recommends the following phases: “by-laws required for Day One of legalization, by-laws required based on further provincial/territorial regulatory direction, and by-laws to be addressed further along in the process (e.g. marijuana edibles <sup>18</sup>)” (Federation of Canadian Municipalities, 2017).

A key component of successful policy creation is ensuring that municipal staff and councils are educated about the legalization process, matters within their jurisdictional responsibilities, and what approaches are available to them. Furthermore, educating the public is also key for successful policy implementation. When municipalities discuss which options to choose, they should ensure the public is consulted with. They should consult on matters such as where in the city they would like to see these uses, if separation distances should be implemented, and if so, how far the distances should be and what are the compatible and incompatible uses.

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<sup>18</sup> Bill C-45 includes a provision that will provide for the legalization of edibles and concentrates by the one-year anniversary of cannabis legalization (Government of Saskatchewan, 2018).

## 8 CONCLUSION

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The legalization of recreational marijuana will have impacts on land use planning in Canada.

Municipalities will have jurisdictional responsibility over where the recreational marijuana production facilities and retail stores can be located through land use planning and zoning. As recreational marijuana production facilities are licensed by the Federal Government, municipal land use legislation enacted to control for these uses cannot result in any operational conflicts with Federal legislation. If marijuana retail stores are operated by a Provincial or Territorial Crown Corporation, municipalities are not able to license marijuana retailers (Federation of Canadian Municipalities, 2017). Municipalities can license marijuana retailers if there is a private operation model. Municipalities in provinces or territories with a government operated retail model can still enact land use legislation to control for these uses. This legislation must conform to provincial and territorial legislation. The crown corporation will tend to obey municipal legislation as long as it does not conflict with the legislation of the federal and provincial/territorial governments.

It is critical that the land use legislation enacted by the municipalities to control for these new uses work in conjunction with the legislation of higher levels of government. As municipalities are granted their powers through legislation enacted by higher levels of government, for municipal legislation to be upheld, it must not result in any operational conflicts with the legislation from higher levels of government.

It is also critical that planners and municipalities consult with the public to gauge their opinions on these new land uses introduced through the legalization of marijuana. These consultations can inform matters such as which sensitive land uses there should be separation buffers from or which zones are best suited for the marijuana production facilities and retail stores. Public consultation can also help to educate the public about the changes that will occur when marijuana is legalized in Canada and what they can expect.

The best practices suggested in this report are intended to provide guidance to municipal decision makers and planners across Canada regarding how to regulate for the new land uses to ensure the health, safety, and well-being concerns of their communities are met. The best practices developed throughout this research can provide useful guidance to future policy makers interested in developing effective land use planning policies for the regulation of recreational marijuana land uses.

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