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Brock Carleton  
Ottawa, ON

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Cannabis Legalization and Regulation Secretariat  
Address locator 0602E  
Ottawa, ON  
K1A 0K9

Dear members of the Task Force:

On behalf of the Federation of Canadian Municipalities, I would like to thank you for the opportunity to provide input in to the work of the Task Force on Marijuana Legalization and Regulation. The municipal sector has a unique perspective to offer on the future legal and regulatory framework for marijuana use in Canada.

FCM has been the national voice of municipal government since 1901. With 2,000 member municipalities, FCM represents the interests of municipal governments on policy and program matters that fall within federal jurisdiction. Members include Canada's largest cities, small urban and rural communities, and 18 provincial and territorial municipal associations.

FCM has long engaged in the matter of medical marijuana, and has consistently advanced a policy position that focuses on consultation, information-sharing and clear roles and responsibilities between orders of government with respect to enforcement and safety. These key elements form the main pillars of the FCM's perspective on broader legalization and regulation.

FCM has developed the following four principles that should inform the development of the legalization framework in the context of its likely impact on municipalities:

**Consultation and Communication:** Close communication and consultation with municipalities during the development and implementation of a marijuana legalization framework is necessary to ensure that the framework is responsive to the needs of Canadian citizens at the community level. The terms of reference for the Task Force on Marijuana Legalization and Regulation calls for consultation with municipalities, and that should involve meaningful and ongoing engagement throughout both the development and implementation of the framework.

.../2

24, rue Clarence Street,  
Ottawa, Ontario, K1N 5P3

T. 613-241-5221  
F. 613-241-7440

www.fcm.ca



**Respect for municipal authority:** Local governments are best positioned to determine local implementation plans for the production, distribution and consumption of marijuana within their boundaries. A new federal marijuana legalization framework must recognize and respect the autonomy and authority of municipalities to make and enforce local bylaws related to the production and distribution of marijuana, as well as to manage the health and safety impacts of how and where marijuana is consumed.

**Coordinated implementation and enforcement:** A coordinated implementation plan across all orders of government will be essential to rolling out a legalized marijuana framework. Municipalities will be on the front lines of implementing and enforcing this new regulatory regime for the production, distribution and consumption of marijuana, so there must be clear information-sharing between orders of government, and clear roles and responsibilities and coordination on enforcement, compliance with health, safety and building codes, and emergency response. Furthermore, the additional costs to municipalities of enforcing the framework must be recognized and addressed.

**Fair distribution of a new revenue generation streams:** Based on the experience of other jurisdictions, legalizing marijuana for recreational use may lead to new revenue generation for Canada's three orders of governments. Municipalities are ready to work in partnership with the federal and provincial governments to develop a revenue sharing model for these potential new revenues.

These principles will help forge a strong partnership between municipalities with all orders of government in developing a safe, equitable and sustainable legalized marijuana framework for Canada and Canadians.

### **The municipal experience to date**

Canada's municipalities have been on the front lines of this issue, and have as a result developed a broad range of expertise and experience to contribute to the development of an effective legalization framework. To complement the sector's concrete recommendations to the Task Force (below), as well as to highlight the value of partnering with municipalities in the development of the marijuana legalization framework, this submission provides some examples of best practice and key considerations in the regulation of marijuana at the municipal level.

#### Production

There are two major categories of production to be considered in terms of municipal regulation of legalized marijuana: large scale producers, and growing small amounts of marijuana for personal consumption. The regulation of production, regardless of scale, will require clear lines of communication and coordinated information sharing across all orders of government.

**i. Large scale production**

As marijuana is legalized and the industry is developed, municipalities will be at the front lines in regulating the large-scale producers within our communities. Given the difficulties of licensing many small-scale producers and then monitoring them for adherence to safety standards and the distribution of their product only to licensed consumers and/or retailers, there may be benefits to municipalities in a framework that closely manages production.

Producers who operate plantations, greenhouses, or other grow operations with the intent of cultivating marijuana for commercial purposes should be subject to a variety of licensing and zoning requirements in order to demonstrate their capability to satisfy the health and safety regulations for growing marijuana, as well as producing edibles and other forms of legal marijuana-based substances for consumption.

In order to ensure adherence to the regulations around large scale marijuana production, as suggested by the Alberta Urban Municipal Association, “a municipality may include conditions pertaining to the operation of the production facility. These conditions form part of the license and a failure on the part of the business to comply with the conditions can lead to the license being revoked. Further, the number of licenses for any particular business to be carried on within the municipality may be capped. An advantage in the use of business licensing is that it need not be in place prior to the business commencing operation. Even if a particular type of business is in operation prior to being specifically defined as requiring a certain license that license will be required on a go-forward basis.”<sup>1</sup> Applicants who are granted a production license should also be subject to routine inspections such that public health is insulated against poor growing practices.

For an example of large-scale production regulation, the City of Calgary's Land Use bylaw 1P2007, [amendment 7P2014](#) (article 233.1) details the conditions regulating the use of land for large-scale marijuana production, which include restrictions around building facilities, zoning requirements, and other public-interest dimensions.<sup>2</sup>

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<sup>1</sup> Alberta Urban Municipal Association (AUMA), *Municipal Regulation of Federally Licensed Medical Marijuana Production Facilities*  
[https://auma.ca/sites/default/files/Advocacy/Document\\_library/municipal\\_tools\\_for\\_marijuana\\_regulation\\_oct\\_14.pdf](https://auma.ca/sites/default/files/Advocacy/Document_library/municipal_tools_for_marijuana_regulation_oct_14.pdf) , at page 3

<sup>2</sup> For an established US example, see also Alaska's Chapter 306: Regulation of the Marijuana Industry (3 AA 306.005)  
<https://www.commerce.alaska.gov/web/Portals/9/pub/MCB/StatutesAndRegulations/3AAC306.pdf>

## ii. Personal production

While large-scale production provides a more structured interface with which to monitor and regulate the production of marijuana, developing a clear framework outlining conditions and restrictions for the production of marijuana for personal use will be essential. While there are no formalized examples of Canadian municipalities addressing legalized personal production, three of the four jurisdictions in the United States that have legalized the sale of recreational marijuana ([Alaska](#) (Sec. 17.38.020), [Colorado](#) (Colo. Rev. Stat. § 18-18-406), and [Washington, D.C.](#) (D.C. Code §48-904.01—1)) allow for individuals to produce their own marijuana at home to varying degrees, subject to laws regarding the number of plants and the security of their grow operations, for example.

Adopting similar regulations in Canada will be necessary to cease the criminal conviction of Canadians. The recently announced new rules for [medical marijuana users](#) that will allow patients to grow their own at home is a positive temporary step towards legalizing and regulating personal production of marijuana; however, more clarity and collaboration is needed to refine the recent temporary measures put into place and develop a comprehensive system regulating the personal production of marijuana and marijuana-based products, both for the safety of producers as well as the general public. The roles and responsibilities related to safety and security remain unclear. This will need to be very well understood between orders of government in a broader home-grow regime.

### Distribution

Canadians currently move around \$7 billion of marijuana around the country or across national borders with no standards for storage, transport, or distribution.<sup>3</sup> Therefore, the question of distribution of legal marijuana will be a key part of the framework being developed. When managing distribution at the municipal level, one of the most important considerations municipalities have been grappling with is the regulation of local distribution facilities.

Business licensing legislation can be used to regulate the conduct of distribution facilities within the municipality, and several cities in Canada have taken steps to regulate the distribution of marijuana within their communities. The City of Vancouver's [bylaw 3575](#) provides an example of a framework for business licensing of marijuana dispensaries. In Vancouver, in order to obtain a business license to distribute marijuana, medical marijuana-related businesses must operate only in commercial zones, at least 300 m from schools, community centers, neighbourhood houses, youth facilities and other marijuana-related businesses, and requires both a community

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<sup>3</sup> <http://news.gc.ca/web/article-en.do?nid=1092399>

notification process and a signed good neighbor agreement. The fees for obtaining this type of license are also rigorous, with the license fee of \$1,000 for compassion clubs or \$30,000 for medical marijuana-related retail dealers. This set of broad requirements for Vancouver distribution centers is complemented by the recently passed [bylaw 4450](#) (article 24.5) which details the process, parameters and restrictions for running a retail marijuana business in the City of Vancouver and can serve as a useful model for other municipalities as the legalization framework is rolled out.<sup>4</sup>

When it comes to regulating the distribution of marijuana, there is an argument for using a system similar to the Liquor Control Board of Ontario, in which government owned retailers or independent pharmacies sell the drug, which may strengthen enforcement of age checks and governmental oversight of distribution. However, the use of a standalone, privately-owned retailer system such as that of Vancouver (above) or Denver (below) is effective in generating reliable tax-revenue, rigid adherence to age restrictions, and a source of revenue for municipalities through local business licenses and operating permits. The Canadian Association of Medical Cannabis Dispensaries has developed a [set of standards for dispensaries in Canada](#) which can also support the establishment of an effective and well-regulated retailer system.

Assuming a framework is developed which allows the private sector to compete in the retail marijuana market, licenses should be a basic requirement for all retailers who wish to engage in distribution of marijuana to the public. A licensing system, similar to producers, would be important to identify which retailers are operating with permission from local authorities, who may only grant permissions under conditions of physical location in the municipality which is not in the same vicinity of places where youth and children frequent, and the design of storefronts such that they do not attract attention or glamorize use of marijuana, for example. In the United States, cities such as [Denver](#) have adopted policies with this exact objective; maximizing the value leveraged from dispensaries in generating tax revenue and local business, while undermining the local black market in marijuana.

### Consumption

The legal consumption of marijuana encompasses many dimensions including health and safety, public education, zoning and employment issues to name but a few. For municipalities, other issues include taxation on consumption, and public education and safety.

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<sup>4</sup> The [City of Victoria](#) is also currently in the process of public consultation around the regulation of medical marijuana distribution.

**i. Taxation**

The legalization of marijuana will impose responsibilities on local communities, who may become the de facto enforcers of laws regarding legal marijuana, such as sanctioning impaired drivers, ticketing individuals who consume marijuana outside of their private residences, enforcing bylaws on retailers who sell marijuana, and monitoring home producers who are caught growing/manufacturing outside prescribed regulations. The costs of local regulation and enforcement must be recuperated by municipalities through cost-sharing with the federal government, who can divert some of the revenue generated from taxes, such as excise taxes, back to local governments.

Some jurisdictions outside of Canada, such as [Colorado](#), have seen tax revenues from marijuana directed to both cost associated with the regulatory regime, and as well to other dedicated priorities, such as infrastructure or public education. These options are worth examining, without losing sight of the fundamental need to ensure that municipalities are not bearing additional costs for enforcement and safety, without some kind of compensation.

**ii. Public education and safety**

Another important role for municipalities in terms of legal marijuana consumption is ensuring community-level public health and safety, as well as disseminating locally-relevant public education about the parameters of the new regime and how it is being applied in communities across Canada.

When it comes to public safety, local law enforcement resources will be needed to police the new regime. However, additional law enforcement will not be sufficient in and of itself. There are several key issues that will need to be addressed as municipalities take up the responsibility for keeping communities safe and healthy. For example, testing for impairment is significantly harder with narcotics than with alcohol, specifically in regards to setting a specific mg/ml of blood, which has led to the use of training which allows enforcement officers to determine whether a driver is impaired based on behavioral assessments and physical signs associated with drug impairment. However, municipal law enforcement will need new tools for determining impairment in conjunction with the roll-out of the new legal regime.

In addition, municipalities will be key allies in engaging the public around the new legalization framework, as well as the risks of marijuana use. Municipal leadership in educating the public will be key to translating the federal framework into local contexts and making it comprehensible, relevant and engaging for the diversity and variety of Canadians and communities across the country.

## RECOMMENDATIONS:

- 1) **Consultation and communication** are at the heart of effective partnership between the different orders of government, and is essential to the development and execution of the Canadian marijuana legalization framework. To that end, we recommend:
  - a. Establishing regular information-sharing milestones throughout the development of the legalization framework as well as during the first 24 months of implementation to promote joint accountability for the development and implementation of the framework.
  - b. During the implementation phase, ensuring that we are developing a strategy for appropriate levels of information-sharing and data collection, relevant to the distinct and complimentary roles of the different orders of government. This includes information about production and distribution facilities, as well as data in regards to legal consumers of marijuana.
  
- 2) As evidenced above, municipalities have a great deal of experience and expertise in regulating and managing legalized marijuana in their communities. Therefore, **respect for municipal authority** in the legalization framework will be essential to building a strong implementation plan. To that end, we recommend:
  - a. Ensuring that municipalities have autonomous control over the marijuana-related regulations and bylaws in their communities to ensure that the regulations dovetail with existing structures, and are adapted to the diversity of communities across the country.
  - b. Building off of the experience and expertise of municipalities both in Canada and the United States, and working with Canadian municipalities as equal partners in the process to build a strong and streamlined legalization framework.
  
- 3) Ongoing communication and respect for autonomy are essential to **a coordinated implementation and enforcement plan** for Canada's marijuana legalization framework. To ensure a high level of quality in the coordination of implementation and enforcement plans, we recommend:
  - a. Creating enforcement structures that are well-designed and integrated across federal, provincial and municipal governments, capitalizing on the distinct strengths and autonomous powers of each order of government.
  - b. Developing coordinated and cohesive messaging around the new framework, as well as providing adequate resources for municipalities to contribute to the significant public education campaigns needed to sensitize and inform the public about the new legalization framework, and how it impacts individuals, companies and communities.

- 4) The **equitable distribution of revenue streams** generated by a legalized marijuana framework will ensure that all orders of government are empowered to maximize their distinct implementation and enforcement roles within the new framework. Municipalities expect there will be an equitable distribution of any new revenues. Therefore, we recommend:
  - a. Beginning a dialogue about how the costs incurred and revenues generated by the legalized marijuana framework will be managed, and how adequate funding will be provided to cover the costs of implementation and enforcement.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Clark Somerville". The signature is fluid and cursive, with a large initial "C" and "S".

Clark Somerville  
Councillor, Regional Municipality of Halton  
FCM President