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December 7, 2017

The Honourable Bill Morneau, P.C., M.P.
Minister of Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

**FCM Submission on Proposed Excise Duty Framework
for Cannabis Products**

On behalf of the Federation of Canadian Municipalities (FCM) and the nearly 2,000 local governments we represent, I welcome this opportunity to contribute to consultations on the proposed excise duty framework for cannabis products.

Municipalities are central partners in the federal government's efforts to fulfill its commitment to legalize and regulate cannabis across Canada. Our cities and communities are where non-medical cannabis will be produced, sold and consumed—and the proposed legislation places municipalities on the front lines of keeping Canadians safe and well served.

With tight timelines, municipalities are moving forward with creating and adjusting by-laws, zoning and business practices that correspond to federal and provincial/territorial (P/T) regulations. Bills C-45 and C-46 signal that municipalities will be responsible for amending, administering and enforcing zoning and density bylaws, along with rules around smoking restrictions, public nuisance, and safety concerns related to building codes. Additional areas of shared responsibility may include enforcement of illegal activity, minimum age of purchase, possession limits, public consumption, retail location rules, home cultivation and public health including public education and prevention.

Municipalities will be preparing the bulk of Canada's police forces to enforce new cannabis rules, alongside increasingly complex new responsibilities that range from cybercrime to border security. Simultaneously, implementing the cannabis regime will require process or capacity changes in up to 17 distinct municipal departments—such as building services, community standards, fire and police services, transit, finance, human resources and customer service.



From the earliest opportunity, FCM has been clear that municipalities are ready and capable partners in fulfilling this federal commitment to Canadians. We have also been clear that success requires two federal commitments to Canadians' local governments. The first is to engage municipalities as regulatory and financial frameworks are developed at the federal and P/T levels. The second is to develop financial solutions as municipalities confront new costs—start-up and ongoing—to implement, enforce and administer the non-medical cannabis regime.

Engaging municipalities in the design of the Excise Duty Framework for Cannabis Products is an opportunity for the federal government to move forward on both commitments. Local costs must not become a barrier to keeping Canadians safe and well served. This submission outlines how the right excise tax revenue sharing model can form the core of a sustainable solution.

Cost drivers for local governments

FCM is actively working with member municipalities to estimate the range of costs that will be borne at the local level due to the legalization and regulation of cannabis. Our estimates below are preliminary. FCM will continue to refine these projections—up to and following legalization—based on factors such as outstanding policy decisions at the federal and P/T levels, variations among P/Ts, and emerging best practices for local implementation.

FCM has defined two main cost drivers for local governments: municipal administration and local policing. While the cost centres in these categories can vary somewhat among municipalities, **municipal administration** is intended to capture the following:

- land use (e.g. bylaws and zoning);
- business licensing;
- administrative enforcement (e.g. nuisance complaints related to cultivation and public consumption, enforcement of zoning by-laws, etc.);
- fire prevention (e.g. fire prevention officers, fire inspection for retail and manufacturing/production facilities);
- health and education (e.g. signage, health outcome assessments, harm reduction and prevention);
- legal costs related to legalization and enforcement of illegal activities; and
- public engagement and communications (e.g. public consultations related to zoning).

Estimated costs for **local policing** include capital and operational costs to administer the federal framework in Bills C-45 and C-46 as well as P/T frameworks. Specific costs include:

- additional or new training for drug recognition including Standard Field Sobriety Test (SFST) and Drug Recognition Expert (DRE) training—both start-up and ongoing costs;
- purchase of roadside screening equipment and supplies—both start-up and ongoing costs;
- ongoing enforcement of illegal activities (organized crime, illegal production and distribution) including establishment of illicit-market disruption teams; and

- additional staff and equipment to meet calls for service related to drug impaired traffic stops, seizures and violations, motor vehicle collisions, , road safety enforcement, , and other local policing requirements.

These cost categories may vary from year to year as a result of start-up costs, adjustments to expenditures as requirements are better understood following implementation, additional sections of federal legislation coming into force (e.g. allowing cannabis edibles), and the evolution of provincial and territorial retail models.

Costs for local governments: preliminary estimates

FCM has calculated a preliminary range of ongoing annual costs for municipal administration and local policing. This range accounts for variations in the impact of provincial and territorial policing and administrative responsibilities, as well as municipal differences such as geography and local policy choices.

These estimates derive from available data from an urban context, using Canadian and U.S. examples. Rural and remote per-capita costs may be higher, due to the nature of the delivery of rural and remote policing in particular, and geographical considerations in general. This is particularly likely to be the case in northern and remote regions.

This estimated range of policing costs encompasses only local policing responsibilities and assumes these costs are fully paid at the local level. It does not account for federal or P/T policing expenditures or activities related to cannabis legalization that would occur in parallel to local policing. Nor does it account for scenarios where federal and/or P/T governments assume specific responsibilities related to local policing. For instance, policing in the territories is already delivered in large part with limited contributions from the local tax base.

The higher-end cost estimate for policing assumes that training is delivered via currently available training and certification programs based in the United States There is also uncertainty related to the costs of roadside screening equipment: no testing device has yet been approved for Canadian use.

<i>Preliminary estimated costs</i> <i>(*annual basis, per 500,000 population)</i>		
Municipal administration	Policing	Total
\$0.75–1.5 million*	\$2.25–3.25 million*	\$3–4.75 million*

These annual per capita costs can be extrapolated to the full Canadian population. This would represent a range of approximately **\$210 to \$335 million** per year in costs incurred by local governments across Canada, assuming costs are relatively similar on a per capita basis.

Addressing municipal costs through the Proposed Excise Duty Framework

FCM recognizes the careful balance that's required to ensure combined federal and provincial taxation does not drive the legal price of cannabis to a point where it cannot reasonably compete with—and ultimately supplant—the illicit market. We therefore appreciate the federal proposal for a coordinated approach.

FCM also recognizes that estimating the annual excise tax revenue generated on cannabis products is challenging. Initial steps to address municipal costs through revenue-sharing will need to evolve as more information about both costs and revenues becomes available over time. FCM is committed to ongoing coordination with member municipalities and data collection to inform future dialogue across all orders of government.

The federal government has proposed a cannabis excise tax revenue-sharing formula with the provinces and territories to support ongoing costs. Given municipalities' central role in administration and enforcement, municipalities should be meaningful participants in these revenue-sharing conversations. This revenue stream can and should address legalization-related costs borne by all orders of government—municipal, provincial, territorial and federal. To reflect the shared costs and responsibilities of implementing the legalization framework,

FCM recommends that one-third (33%) of total annual excise tax revenue collected on cannabis sales be allocated to municipal governments to address municipal administration and policing costs.

An estimate of potential tax revenue released by the Parliamentary Budget Officer (PBO) in November 2016 estimated \$618 million in revenue in 2018, assuming average legal and illicit market prices of \$9.00 per gram. One-third of the estimated revenues, as calculated by the PBO, would provide approximately \$206 million annually to municipalities, which is consistent with the low-end of FCM's preliminary cost estimates.

While it is impossible to determine actual excise tax revenues until the cannabis regime is in place, the costs borne by municipalities will remain. We cannot allow public safety and quality-of-life to depend on the volume of cannabis sales. FCM therefore recommends that the federal government, in partnership with municipalities, explore additional funding mechanisms to support costs incurred by municipalities should excise tax revenues be insufficient and/or costs higher than FCM's preliminary estimates.

FCM recognizes the Budget 2017 commitment of \$81 million over 5 years that is being made available to provinces and territories to support police training and other capacity building related to enforcement. This type of program could be scaled up to better reflect policing costs, start-up and ongoing, particularly where excise tax revenue is lower than anticipated.

In sum, implementing this federal commitment requires a strong partnership among all orders of government. In this respect, legalizing cannabis is not unlike other national challenges that governments are tackling together, from strengthening core public infrastructure to tackling Canada's housing crisis. What this new challenge offers is a fresh opportunity to innovate—to build a goal-driven inter-governmental partnership that incorporates durable, long-term financial tools from the outset.

Sincerely,

A handwritten signature in dark ink, appearing to read "J Gerbasi". The signature is fluid and cursive, with the first letter "J" being particularly large and stylized.

Jenny Gerbasi
Deputy Mayor, City of Winnipeg
FCM President