



Corporate Report

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DATE: June 3, 2014

TO: Chair and Members of Planning and Development Committee
Meeting Date: June 23, 2014

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Proposed Mississauga Zoning By-law Amendments and Licensing Respecting Medical Marihuana Production**

RECOMMENDATION: That a public meeting be held to consider proposed amendments to the zoning and licensing by-laws as recommended in the report titled "Proposed Mississauga Zoning By-law Amendments and Licensing Respecting Medical Marihuana Production" dated June 3, 2014, from the Commissioner of Planning and Building.

**REPORT
HIGHLIGHTS:**

- New federal regulations, *Marihuana for Medical Purposes Regulations (MMPR)*, that came into effect June 19, 2013, shift the growing of medical marihuana out of residential dwellings and into commercial-scale production facilities;
- Benefits to municipalities resulting from the new *MMPR* include eliminated residential production hazards, notification of production site addresses and activities, and the opportunity to enact zoning and/or licensing by-laws to further regulate marihuana production facilities;

- Medical marihuana production includes the cultivation and growing of the marihuana plant, but the Zoning By-law's existing "Manufacturing Facility" definition does not allow for the production of a living thing such as a plant;
- Recommended Zoning By-law amendments include:
 - A "Medicinal Product Manufacturing Facility" definition to address medicinal product-based manufacturing that may grow and use living organisms in the production process;
 - A "Medical Marihuana" definition;
 - A general provision to require that waste destruction or composting be located wholly within a building or structure;
- With these proposed amendments, medical marihuana production will be permitted as-of-right as a manufacturing use in all Employment Zones and in Employment and Corporate Centre Character Areas in Mississauga Official Plan;
- For lands designated "Business Employment" within Neighbourhood Character Areas, it is recommended that Exception Zones be developed to prohibit medical marihuana production; and
- Licensing of medical marihuana production facilities is recommended to address matters not captured through zoning or building permit and will assist in protecting public safety and enforcing property standards, noise and other City by-laws.

BACKGROUND:

Introduction

New Health Canada regulations shift the growing of medical marihuana out of residential dwellings and away from residential neighbourhoods into commercial-scale production facilities. The new regulations will result in improvements to facility security; local government, police and fire official notification; land use; and public health and safety.

Legislation

In June 2013, Health Canada updated the Marihuana Medical Access Program with the introduction of new *Marihuana for Medical Purposes Regulations (MMPR)*, replacing the *Marihuana Medical Access Regulations (MMAR)*. The new regulations aim to treat medical marihuana as much as possible like other controlled substances used for medical purposes, allowing for quality control and production under secure and sanitary conditions.

The regulation of medical marihuana production falls exclusively under federal jurisdiction. The federal government governs and prohibits the possession, production and trafficking of marihuana through the *Controlled Drugs and Substances Act*, S.C. 1996, c.19 (*CDSA*). The *MMPR* were enacted pursuant to the authority granted under section 55 (1) of the *CDSA*.

The *MMPR* do not require any action from municipalities; however using their powers to regulate or prohibit land uses, municipalities may choose to enact zoning and/or licensing by-laws to further regulate medical marihuana production. Should municipalities choose to enact by-laws, some consideration should be given to limitations that may arise that would effectively render the by-laws invalid or inapplicable. If there were a direct conflict between the federal *MMPR* and a municipal by-law, the federal regulations would be paramount.

Regulations

The new *MMPR* change the way medical marihuana is produced and accessed in Canada. Most significantly, the *MMPR* prohibit licensed medical marihuana production in dwelling places and allow only for the commercial production of medical marihuana.

The *MMPR* include regulatory requirements for indoor-only production activities and storage, physical security measures, quality control standards, record keeping of all activities including inventory of marihuana, security clearances for producer's licence applicants, and secure distribution. Appendix 1 provides more detail about the *MMPR* requirements and compares them to the previous *Marihuana Medical Access Regulations (MMAR)* requirements.

Under the *MMPR*, the only legal means to access marihuana for medical purposes is through a licensed producer. Licensed producers will sell and distribute dried marihuana directly to a client with medical documentation provided by a health care practitioner, or to the client's health care practitioner. Regarding distribution, a medical marihuana order must be securely delivered to the address of a registered client or the health care practitioner's office. There is no permission under the *MMPR* for retail sales; therefore, a client cannot pick up their medical marihuana from the producer's site or from any retail outlet (e.g. pharmacy). Appendix 1 compares the old and new processes for individuals to access marihuana.

As of April 1, 2014, the personal and designated production of medical marihuana by individuals allowed under the *MMAR* is no longer permitted and subsequently considered an illegal activity subject to law enforcement action. Following the March 31, 2014 expiration of the authorizations to possess and production licences under the *MMAR*, all marijuana (plants, seeds, dried) obtained under the *MMAR* were to be destroyed and notice provided to Health Canada to confirm destruction.

However, on March 21, 2014, a Federal Court judge issued an injunction that allows medical marihuana users licensed under the *MMAR* to continue to grow their own marihuana plants pending a future trial. On March 31, 2014, the Government of Canada issued a departmental statement that it intends to appeal the Federal Court's order and that "the persons previously authorized to grow marihuana under the *MMAR*, who meet the terms of the Court order, will be able to continue to do so on an interim basis until the Court issues a final decision."¹

Implications for Municipalities

Changes in the regulatory requirements for medical marihuana activities under the new *MMPR* provide several benefits to municipalities, including:

- The elimination of hazards associated with previously licensed residential medical marihuana production. Licensed, quality controlled and secure commercial medical marihuana facilities

¹ Government of Canada, 2014. Departmental Statement on Court Injunction and Medical Marijuana. 31 March. <http://news.gc.ca/web/article-en.do?nid=832809>

will eliminate some of the common hazards and issues associated with licensed production previously permitted in residential dwellings, including, fire, mould, odour, and security (e.g. break-ins). However, these hazards may persist for illegal marihuana production activity.

- The provision of production site addresses including a list of all activities to be conducted at the sites. Under the *MMPR*, licensed producers are required to notify their local government, police force and fire officials of their intention to apply for a license as well as upon issuance of a license, so that local authorities are aware of the proposed medical marihuana production facility location and activities. However, it is the responsibility of the municipality to keep a list of the licensed production sites, since Health Canada cannot provide such information that is protected under the *Privacy Act*.
- The opportunity to regulate the location and siting of medical marihuana production facilities. Although not specifically stated in the *MMPR*, Health Canada has confirmed that licensed producers are required to comply with municipal legislation and by-laws, including zoning by-laws. However, it is the responsibility of the municipality to ensure zoning by-law and building code compliance, since Health Canada can only inspect for compliance with the *MMPR* and any related federal legislation. Further, there are no requirements of Health Canada's producer's license to show such compliance with municipal by-law and building permit requirements.

Municipal and Industry Response

Municipalities across Canada are now evaluating ways to regulate the new medical marihuana production use, and contemplating what zones may be best suited for the use. The regulatory approaches range from interpretations that the use is as-of-right in industrial or agricultural zones, to specifically defining the use and allowing it in a particular zone or zones, to a blanket prohibition of the use with requirement for a site specific rezoning. In some cases, zoning by-laws include regulations such as a minimum separation distance from sensitive land uses (e.g. residences, schools) or permission of the use in a stand-alone building only. Appendix 2 outlines examples of regulatory approaches taken by various municipalities.

Simultaneously, proprietors are moving ahead with securing medical marihuana production sites and buildings, applying to Health Canada for their producer's licenses, and notifying municipalities of their intended site as required under the *MMPR*. However, the process to find a suitable business location, acquire a site and building and prepare an application for a producer's license is complex.

Significant capital investment is required for a site and production building(s), for security equipment to meet the *MMPR* requirements, and to outfit a building with commercial-scale facilities such as a ventilation system, storage vault, and potentially an on-site laboratory for product testing. The Health Canada producer's license application is scrutinized to ensure *MMPR* compliance and may result in a lengthy review timeline. Before a license can be issued, the site and facility must be available for pre-license inspection by Health Canada for compliance with the *MMPR*.

Status of Producer's Licenses in Ontario

As of January 2014, Health Canada had received over 400 applications for medical marijuana production and distribution facilities, with approximately 160 of those for facilities in Ontario. To date, a total of 13 licenses have been issued with four of these for Ontario-based facilities in Clearview, Markham, Smiths Falls, and Toronto. Several more license applications for Ontario-based facilities are in advanced stages of review, including the Lakeshore proposal and a greenhouse growing operation located in Leamington, Ontario that has received a pre-production license to commence growing.

With about 37,000 licensed medical marihuana users today and a projected approximately 435,000 users by 2024, interest from commercial producers for medical marihuana facilities will only increase.

Prospects for Production Facilities in Mississauga

The Life Sciences sector is one of the key sectors under the City of Mississauga's Economic Development Strategy, including companies involved in biotechnology, pharmaceuticals, and health care and laboratories. Medical marihuana production fits within this sector.

The medical marihuana business also supports economic development goals as an employment generator. The business requires skilled personnel such as horticulturalists, botanists and lab technicians, as well as a team of growers to cultivate the marihuana plants and customer support agents to respond to patient questions and process orders. Security personnel and information technology specialists are also required for site operations. Outreach and support job positions may also be created to help educate medical practitioners about medical marihuana and provide them with research updates. One licensed company, Tweed Inc., expects to employ about 100 people when operating at full capacity with 50,000 plants growing over a 1.6 hectare (4 acre) area.

The *MMPR* require distribution of medical marihuana orders directly to clients or to the individual responsible for a client, via a secure shipping method such as by courier. Given this, Mississauga may be a favourable business location for medical marihuana companies, given its proximity to major highways and the Toronto Pearson International Airport.

Methadone Clinics

Planning staff were directed to research methadone clinics along with the review of medical marihuana. Issues pertaining to methadone clinics are a separate matter to be addressed through licensing. Legal Services is preparing a report in response to methadone clinics.

PRESENT STATUS: Existing Official Plan and Zoning Provisions

Mississauga Official Plan (MOP) permits manufacturing, warehousing and distribution uses on lands designated “Business Employment” and “Industrial”. Based on Zoning By-law definitions for these uses, all of the activities associated with a medical marihuana production facility are permitted, with exception of commercial growing of marihuana plants.

Specific land use designations or uses that would permit commercial growing, such as “agriculture” or “horticulture”, do not exist in MOP, particularly since no agricultural lands remain in Mississauga.

In the Zoning By-law, the manufacturing, distribution and warehousing of medical marihuana would represent permitted uses in

all “Employment” zones, with the exception of commercial growing of marihuana plants. Growing, cultivating or related activities are not listed as activities under any of the permitted uses in “Employment” zones, and there are no defined “agriculture” or “horticulture” uses in the Zoning By-law.

Response to Inquiries and Committee of Adjustment Applications

The City of Mississauga (the “City”) has received several inquiries since the new *MMPR* were announced in June 2013 and has approved two applications made to the Committee of Adjustment for medical marihuana production facilities in E2 -Employment zones, with conditions that:

- Limit the variance to a temporary in effect period for up to five years;
- Limit the medical marihuana growing area (agricultural) to 20% of total Gross Floor Area (GFA) of the unit/building;
- The building shall only be tenanted by the proposed medical marihuana production facility;
- Require the applicant to obtain and maintain a valid Health Canada license for all uses associated with the operation;
- Require the applicant to certify that notice has been provided to the Peel Regional Police and Mississauga Fire Services; and
- No signage be permitted.

In response to the growing interest in medical marihuana, regulatory issues have been reviewed and a regulatory approach identified for Mississauga, in consultation with staff from Policy Planning, Development and Design, Zoning, Building, Compliance and Licensing, Fire and Emergency Services, Legal Services, and Economic Development. Peel Regional Police have also outlined the benefits and concerns associated with medical marihuana production facilities and distribution under the new *MMPR*.

This report highlights the issues considered in developing a proposed regulatory approach for Mississauga, and recommends an approach that recognizes all aspects of medical marihuana production as a manufacturing process.

COMMENTS:

In developing an approach to regulating medical marihuana production facilities, many zoning and planning issues were considered, with each addressed below.

The proposed approach is premised on the fact that medical marihuana production is a drug manufacturing process, not unlike a pharmaceutical drug manufacturing process that takes place in a highly controlled environment that includes laboratory testing, and results in a final product that is used for medical purposes.

Medical marihuana production involves the cultivation, growing, harvesting, and drying of the marihuana plant, followed by the testing, packaging and storage of the dried marihuana. The dried medical marihuana is distributed to authorized customers for medical use. Any plant waste is destroyed on-site or removed by a licensed disposal company.

Unique to medical marihuana production is the requirement for on-site plant growing since marihuana is a controlled substance subject to stringent security requirements. In contrast, other medicinal plants such as Echinacea, ginseng or goldenseal, are not controlled substances and therefore may be grown or wildcrafted (collected from the wild) in a non-secure, agricultural environment and then transported to a manufacturing facility.

1.0 Zoning

Mississauga's "Employment" zones would permit the manufacturing, distribution and warehousing of medical marihuana as-of-right, with the exception of commercial growing of marihuana plants. However, the growing of plants is an integral component of the medical marihuana production process and should be recognized as a manufacturing activity.

The current "Manufacturing Facility"² definition limits the ability to recognize the growing of plants as part of a manufacturing process since the definition only allows for the production of non-living things. The definition does not consider that the "items" being altered,

² Manufacturing Facility: means a **building, structure** or part thereof, used for altering, assembling, fabricating, finishing, inspecting, making, processing, producing, treating or repairing, items either by hand or through the **use** of machinery and may include the temporary on-site storage of **commercial motor vehicles** (ie. trucks, tractors and/or trailers) for freight handling including the pick-up, delivery and transitory storage of goods incidental to motor freight shipment directly related to the permitted **use(s)**. (*OMB, 2008 November 10*)

processed, produced, etc., could involve a living organism such as a plant.

This challenges Mississauga's life sciences sector companies that have manufacturing facilities, including those from the pharmaceutical and biotechnology industries, classified under the "Manufacturing Facility" definition. These companies may use living organisms such as cells in a biomanufacturing³ process to produce a biopharmaceutical⁴ product (e.g. vaccine, plasma proteins). The living organisms may be grown under controlled conditions within a manufacturing facility.

It is evident that a new Zoning By-law definition is required to address all medicinal product-based manufacturing that may use living organisms in the production process.

Recommendation: That the Zoning By-law be amended to include the following new definition:

*Medicinal Product Manufacturing Facility means a **building, structure** or part thereof, used for altering, assembling, fabricating, finishing, inspecting, making, processing or producing, medical products, including **medical marihuana**, or herbal or natural medicines, that may use living organisms or parts of living organisms, and includes the growing or cultivation of living organisms used in the manufacturing process, either by hand or through the **use** of machinery and may include the temporary on-site storage of **commercial motor vehicles** (ie. trucks, tractors and/or trailers) for freight handling including the pick-up, delivery and transitory storage of goods incidental to motor freight shipment directly related to the permitted **use(s)**.*

It is proposed that the term "medical marihuana" also be defined to relate back to the *MMPR*:

³ Biomanufacturing: means the manufacturing component of the biotechnology industry. Source: Wiktionary

⁴ Biopharmaceutical: means "a pharmaceutical product manufactured by biotechnology methods (involving live organisms; bioprocessing)". Source: Radar, Ronald. "What is a Biopharmaceutical? Part 1: (Bio) Technology-Based Definitions". BioExecutive International. March 2005.

Recommendation: That the Zoning By-law be amended to include the following new definition:

Medical Marihuana means marihuana, cannabis or its constituent or derivative forms, produced, tested, stored, distributed and/or sold pursuant to the Marihuana for Medical Purposes Regulations, SOR/2013-119, as amended from time to time.

2.0 Planning Considerations

2.1 Land Use Designations

MOP permits manufacturing uses on lands designated “Business Employment” and “Industrial”. A “Medicinal Product Manufacturing Facility”, as proposed for the Zoning By-law, would be considered a permitted use under the existing “manufacturing” use permission in “Business Employment” and “Industrial” designations.

Employment Areas contain diverse industrial and business employment operations. A medical marihuana production facility would be appropriate in an Employment Area amongst other manufacturing, warehouse and distribution operations.

There are a few scattered, remnant “Business Employment” designated parcels located within the Port Credit, Sheridan and Streetsville Neighbourhood Character Areas. These would not be appropriate locations for medical marihuana production facilities.

Corporate Centres contain a mix of high density employment uses with a focus on major office development. Many prestigious research and manufacturing business are found in Corporate Centres, often in facilities exhibiting high architectural and urban design standards. Medical marihuana production facility security requirements may conflict with the urban design policies for intensification areas that encourage prominent built form with active facades, reducing the likelihood that these facilities will locate in Corporate Centres.

2.2 Public Health and Safety

2.2.1 Environmental Compliance

There are no Ontario Ministry of the Environment (MOE) approval requirements specific to medical marihuana production facilities. However, similar for any industrial facility, there may be requirement for environmental compliance approvals (ECA) for air discharges or waste disposal and management, pursuant to the *Environmental Protection Act*, R.S.O. 1990, c. E.19. It is the responsibility of the proponent of a medical marihuana production facility to obtain any required MOE environmental approvals.

The *MMPR* require that in areas within a site where cannabis is present, those areas be equipped with an air filtration system to prevent the escape of odours and, if present, pollen. The filtration system is reviewed by Health Canada prior to the issuance of a producer's license.

The *MMPR* allow for the destruction of cannabis on the production site "in accordance with a method that (i) conforms with all federal, provincial and municipal environmental legislation applicable to the location at which it is to be destroyed, and (ii) does not result in any person being exposed to cannabis smoke." Destruction methods may include composting or incineration. The Zoning By-law would consider cannabis destruction as an accessory use to a "Medicinal Product Manufacturing Facility" use.

Given that the growing of plants is a large part of the medical marihuana production process, there is potential for more organic waste product than might usually result from a manufacturing facility. To address potential odour issues, it is proposed that waste destruction and specifically composting, be in an enclosed area. The following is proposed for inclusion in the General Provisions section of the Zoning By-law:

Recommendation:

Medical Marihuana Production

All uses shall be located wholly within a building or structure, or part thereof, inclusive of waste destruction or composting.

2.2.2 Separation Distances from Sensitive Land Uses

The City has the ability to impose separation distances between industrial uses and sensitive land uses to avoid or minimize the potential for land use conflicts that extend beyond the property limits of the industrial activity. Typical emissions that may affect the amenity of nearby sensitive land uses include gaseous and particulate emissions, noise, dust and odour. Although not always the case, it is generally assumed that impacts on the environment will generally decrease with increased distance from the source of the emission.

To separate medical marihuana production facilities from sensitive land uses (e.g. residences, schools, day nurseries, places of worship), some municipalities have included separation distances in their zoning by-laws that range from 70 metres up to 200 metres. Appendix 2 outlines examples of separation distances proposed by various municipalities.

The Ministry of the Environment's Guideline D-6, "Compatibility Between Industrial Facilities and Sensitive Land Uses", applies to industrial land uses "which have the potential to produce point source and/or fugitive air emissions such as noise, vibration, odour, dust and others, either through normal operations, procedures, maintenance or storage activities, and/or from associated traffic/transportation."

Guideline D-6 categorizes industrial facilities into three classes based on noise, odour and vibration outputs, the scale of the operation, the type of process, and operation intensity, and provides guidance on appropriate separation distances. A minimum separation distance and potential influence area are provided for each industrial class. Lower impact industrial uses may fall within the Class I category, with a recommended minimum 20 metre (65 ft.) separation distance and a 70 metre (230 ft.) potential influence area.

Medical marihuana production activities are wholly enclosed in a building and do not involve noisy, large scale industrial machinery; vehicle traffic is limited to employees and delivery vehicles; and sophisticated filtration and ventilation systems would eliminate air emissions and odours.

A medical marihuana production facility will have no more impact than any other manufacturing, warehouse and distribution use in an Employment zone and may in fact have less impact compared to other operations. Considering this, Guideline D-6 is not considered to be applicable and no separation distance from sensitive land uses is recommended specific to a medical marihuana production facility.

Mississauga's existing E2 and E3 Employment Zone setbacks from Residential Zones include a 30 metre (98 ft.) front yard setback and 15 metre (49 ft.) side and rear yard setbacks. Urban design guidelines in MOP provide further guidance on mitigating impacts from Employment Areas adjacent to residential areas and other sensitive land uses. Overall, the City's employment areas are intended to accommodate a wide variety of business operations, that may include truck traffic, noise, dust and odour.

However, there are a few scattered, remnant "Business Employment" designated parcels located within Neighbourhood Character Areas. While it is not likely that these parcels would be desirable for medical marihuana production due to their small or awkward parcel size or isolated location, it is recommended that Exception Zones be developed for these parcels to prohibit medical marihuana production.

Recommendation:

That Exception Zones be developed for lands designated "Business Employment" within Neighbourhood Character Areas to prohibit medical marihuana production.

2.2.3 Security Risk

Any facility that stores a controlled substance is subject to security risk. The *MMPR* remove this risk from residential neighbourhoods and introduces stringent requirements to deal with security in commercial facilities.

The *MMPR* requires that all marihuana production and storage activities must occur indoors under secure conditions. Required security measures to prevent unauthorized access include 24-hour surveillance, intrusion detection, and restricted access to areas where cannabis is present. There is no requirement for enclosed loading spaces related to product distribution; however, the shipping/receiving

area would be a secure area, separated from the overall facility operations.

Health Canada's *Directive on Physical Security Requirements for Controlled Substances* (Security Directive) also establishes security requirements for the storage of dried marihuana, marihuana seeds, and cannabis, including the requirement for a storage vault. Health Canada's Security Directive is also applicable to pharmaceutical companies that may be producing pain medication drugs such as codeine or morphine. These drugs have a higher illicit market price compared to marihuana, potentially placing them at a higher security level.

Peel Regional Police are supportive of the *MMPR* and commercial production facilities, but still have concerns regarding criminal activity (e.g. robbery), the safety of nearby residents and businesses and secure product distribution. One of the main benefits for police is the *MMPR* requirement to notify the local police force of the site address and proposed activities, allowing for monitoring and surveillance of the site. This is a significant improvement from the previous *MMAR* that had no notification requirement so police did not know the whereabouts of legal medical marihuana operations.

2.2.4 Building and Fire Protection

Medical marihuana production may be accommodated in a new or existing building that may be stand-alone or part of a multi-tenant building. To create the highly controlled environment required for growing and storing marihuana, the building will need to be outfitted with specialized grow lighting and sophisticated systems controlling heat, humidity and air filtration/ventilation. Security requirements will also influence building components such as wall construction and entranceway and storage vault specifications.

In the case of retrofitting an existing building for medical marihuana production, it is highly likely that building upgrades to accommodate security, mechanical and HVAC requirements will trigger the need for a building permit. However, building inspection, including a Fire Code compliance review, will be limited to the permitted works.

Of concern to Fire and Emergency Services (FES) is whether a building retrofitted for medical marihuana production complies with the Fire Code and if there are any combustion or explosion risks associated with the operation or product. FES would like for there to be a requirement for a Fire Code compliance review of an existing building prior to any work being undertaken.

Fire Code compliance reviews for building retrofits would be limited to the applicable code in effect when the building was constructed. However, an overall building Fire Code review would ensure compliance with the applicable code and provide FES with information about the building for emergency response awareness.

3.0 Licensing

To address matters not captured through zoning or building permitting, it is proposed that a business license be required for all medical marihuana production facilities.

Licensing will assist in protecting public safety by requiring conformity with Building and Fire Codes. Licensing will also track the total number of medical marihuana facilities in Mississauga and be an information source to police and fire services to allow for informed facility monitoring and emergency response. Hours of operation may also be imposed through licensing.

General licensing provisions may include:

- Copy of approved Health Canada license and notice within 30 days after renewal, amendment, suspension, reinstatement or revocation.
- Notifying the Licensing section of any changes of information related to the license such as name or address change.
- Right of entry for Enforcement staff to inspect the premise during the term of the license period.
- A floor plan of the building including dimensions and proposed use of each room and a site plan showing the location and dimensions of all parking spaces available on the property.
- A letter from the Fire Chief which states that an inspection has been conducted of the location, within 180 days of the date of the application for the license, and its compliance with all the provisions of the Fire Protection and Prevention Act, S.O. 1997.

- Documentation confirming the building complies with applicable provisions of the Ontario Building Code Act and the Ontario Building Code.
- A Certificate of Inspection report issued by the Electrical Safety Authority certifying that an inspection has been conducted on the location, within 180 days of the date of the application for the license and that there are no visible fire, shock or electrical hazards and the property is in compliance with the requirements of the Ontario Electrical Safety Code.
- Ensure that no construction, renovation, alteration or addition is carried out on the licensed premise without first obtaining the necessary building permit, as may be required.
- Ensure that the property owner/occupants comply with all City by-laws including the Property Standards By-law, Nuisance Weeds and Long Grass By-law, Nuisance Lighting By-law, Nuisance Noise and Noise Control By-laws and the Open Air Burning By-law; Zoning By-law and all other applicable law.

Policy Planning staff will work with Fire and Emergency Services, Building and Compliance and Licensing to further develop the licensing provisions.

OPTIONS: Not applicable.

STRATEGIC PLAN: Under the Move: Cultivating Creative and Innovative Businesses strategic pillar, the Strategic Plan identifies the need to develop knowledge-based industries including those in the life sciences sector, and the need to promote Mississauga as an international centre of health care excellence with more health care options for the community,

FINANCIAL IMPACT: Not applicable.

CONCLUSION: In response to the new *Marihuana for Medical Purposes Regulations*, Zoning By-law amendments are proposed to allow medical marihuana production as-of-right in Employment Zones, and licensing is proposed to address matters of facility tracking and building safety. The proposed amendments are made in light of the fact that medical marihuana production is a drug manufacturing process not unlike a

pharmaceutical drug manufacturing process and that the growing of plants is part of that process.

ATTACHMENTS:

- Appendix 1: Marihuana Medical Access Program (MMAP) –
Major Program Changes under New *Medical
Marihuana for Medical Purposes Regulations
(MMPR)*
- Appendix 2: Regulatory Approaches – Municipal Examples

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APPENDIX 1

Marihuana Medical Access Program (MMAP) – Major Program Changes under New Medical Marihuana for Medical Purposes Regulations (MMPR)	
<i>Marihuana Medical Access Regulations (MMAR)</i> – Repealed March 31, 2014	<i>NEW Marihuana for Medical Purposes Regulations (MMPR)</i> – In force June 2013
Process to produce medical marihuana	
<ul style="list-style-type: none"> • Require “Authorization to Possess” • Authorized individuals may be licensed to produce own medical marihuana supply or designate an individual to produce on their behalf • Personal/small scale production 	<ul style="list-style-type: none"> • Require producer’s license, subject to <i>MMPR</i> provisions • Commercial production
Process for authorized individuals to obtain dried medical marihuana	
<ul style="list-style-type: none"> • Individual submits an application to Health Canada for “Authorization to Possess” dried marihuana for a medical purpose, accompanied by a medical declaration made by the medical practitioner treating the patient. • Authorized individuals have three options to obtain dried medical marihuana supply: <ul style="list-style-type: none"> ○ Personal-Use Production License (PUPL) – Authorized individuals producing own supply. ○ Designated-Person Production License (DPPL) – Authorized individuals designating an individual to produce on their behalf. ○ Authorized individuals can purchase a single strain of dried marihuana available through Health Canada, which contracts a private company to produce and distribute marihuana for the MMAP.ⁱ 	<ul style="list-style-type: none"> • Individual obtains a medical document completed by a health care practitioner, similar to a prescription. • Individual registers with a licensed producer (licensed under the <i>MMPR</i>). Individuals will have a variety of licensed producers to choose from that will offer a variety of medical marihuana strains - licensed producers are not limited in the type or number of strains they may offer. • Licensed producer fills the order and ships via secure shipping method, the dried marihuana order directly to the individual, or to the health care practitioner, as specified. Must ship only one shipment per order. • No permission for personal pick-up (e.g. from a pharmacy).

Production Site	
<ul style="list-style-type: none"> No production site location restrictions; allow for in-home production. Allow for indoor and/or outdoor production, provided outdoor production site is not adjacent to a school, public playground, day care facility or other public place frequented mainly by persons under 18 years of age. Dried marihuana must be kept indoors.ⁱⁱ 	<ul style="list-style-type: none"> Production site limited to a building or a place in a building. All activities permitted under the <i>MMPR</i> are prohibited in a dwelling place. Production, distribution and call-centre sites can be separate, but each require separate licensing. Storefronts or retail outlets are not permitted. Indoor production and storage only and at the producer's site.
Security Requirements	
<ul style="list-style-type: none"> No security clearance for initial PUPL application (but if revoked due to a designated marihuana offence under the license, no license issued for 10 years after the revocation); Historical (10 years preceding the application, as an adult) designated drug offence check for DPPL. Non-specific building security measures, requiring only a "description of the security measures that will be implemented at the proposed production site" 	<ul style="list-style-type: none"> Security clearance for producer's license applicant. If a producer's license is sought by a corporation, each officer and director of the corporation requires a security clearance. Building security measures to prevent unauthorized access, including: physical barriers, intrusion detection system, visual monitoring and recording devices, monitoring by personnel, and secure storage of cannabis in accordance with Health Canada's Security Directive (e.g. vault).
Notify Local Authorities	
<ul style="list-style-type: none"> No requirement. 	<ul style="list-style-type: none"> Written notice required to local government, fire authority and police force officials, advising of proposed site address.
Marihuana Plants and Dried Marihuana Limits	
<ul style="list-style-type: none"> Formula used to calculate the maximum number of plants that may be under production at the production site at any time that factors in the prescribed daily 	<ul style="list-style-type: none"> No limit to number of marihuana plants or marihuana strains that can be offered by commercial producers.

<p>amount of dried marihuana.</p> <ul style="list-style-type: none"> • Formula used to calculate the maximum quantity of dried marihuana that may be stored on site. 	
Air Filtration	
<ul style="list-style-type: none"> • No requirements 	<ul style="list-style-type: none"> • Areas within a site where cannabis is present must be equipped with an air filtration system to prevent escape of odours, pollen.
Production Practices	
<ul style="list-style-type: none"> • No requirements 	<ul style="list-style-type: none"> • Requirements for dried marihuana to undergo analytical testing, quality assurance approval, and be produced, packaged, labelled and stored under sanitary conditions and in accordance with a sanitation program.

ⁱ Marihuana for Medical Purposes Regulations – Regulatory Impact Analysis Statement. Canada Gazette. Vol. 146, No. 50. December 15, 2012. <http://gazette.gc.ca/rp-pr/p1/2012/2012-12-15/html/reg4-eng.html>

ⁱⁱ Consolidation Marihuana Medical Access Regulations. SOR/2001-227. Current to September 16, 2013. Minister of Justice.

Regulatory Approaches – Municipal Examples

Municipality	Where Permitted	Distance Separation	Other Comments
Clearview Township, ON	Permitted as-of-right as a “greenhouse” primary use in agricultural and rural zones	No	
Markham, ON	Permitted as-of-right in Employment Zones as an industrial use that allows for the manufacturing of goods, with plant growing considered incidental to the principal use	No	
Smith Falls, ON	Permitted as-of-right in industrial zones (Processing plant use)	No	
City of Windsor, ON	Permitted in industrial zones	No	
Fort Erie, ON	Permitted in agricultural, industrial, rural and existing open space zones	70 m setback from residential zones and sensitive uses	Defined Medical Marihuana Grow and Production Facilities
Town of Milton, ON	Permitted in general industrial zone	70 m setback from various zones and sensitive uses	Defined Medical Marijuana Production Facility Appealed to OMB
City of Toronto, ON	Permitted in industrial zones	70 m separation distance from sensitive land uses, including residential, public/private schools, place of worship, day nursery	Defined Medical Marihuana Production Facility
City of Ottawa, ON	Permitted in industrial zones	150 m separation distance from residential and institutional zones	Defined Medical Marihuana Production Facility

Municipality	Where Permitted	Distance Separation	Other Comments
District of Maple Ridge, BC	Permitted in agricultural zones only	200 m separation distance from elementary/secondary schools	Defined Medical Marihuana, Commercial Production
City of Kamloops, BC	Permitted in industrial zones	150 m separation from sensitive land uses	Defined Medical Marihuana Grow Operation (MMGO) Permitted subject to regulations including: description of all discharges; ventilation plan; stand-alone buildings only; no ancillary uses; require Business Licence
City of Surrey, BC	Permitted only in Community Commercial B Zone, requiring site-specific rezoning for permissions outside of this zone	No	Defined medical marihuana
City of Delta, BC	Prohibited in all zones and require site-specific rezoning	No	Defined medical marihuana

NOTE: No municipalities surveyed have size restrictions

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