

REGULATORY REGISTRY FEEDBACK FORM

Proposed Places of Use Regulations under the Cannabis Act, 2017

The Ontario government would like your feedback on regulatory proposals related to where cannabis can be used under the Cannabis Act, 2017.

The proposed regulations are intended to continue to support Ontario's safe and sensible framework for recreational cannabis and protect the health and well-being of all Ontarians, especially children, youth and other vulnerable populations. More information on the proposed regulations can be found in the paper provided on the Regulatory Registry.

Please use this form to submit your feedback on proposed regulations posted on the Regulatory Registry at <http://www.ontariocanada.com/registry/>.

The closing date for providing feedback is **March 5, 2018**.

Contact Information

Please provide your name, title and the full name and address of your organization (if you are submitting comments on behalf of an organization).

Linda Stobo and Rhonda Brittan

Program Managers for Tobacco Control and Substance Use
Middlesex-London Health Unit
50 King Street, London, Ontario – N6A 5L7

About You or Your Organization

(please check the appropriate box/boxes)

- Health organization
 Educator
 Law enforcement

- Municipality
 Indigenous organization/community
 Other _____

Region

(please refer to map and check appropriate box)

1. Central Ontario
 2. Eastern Ontario
 3. Greater Toronto Area
 4. Northern Ontario
 5. Southeastern Ontario
 6. Southwestern Ontario
 7. Western Ontario
 8. Provincial



Proposed Regulations

Places of Use for Medical Cannabis

It is proposed to prohibit medical cannabis users from using medical cannabis while driving or having care or control of a vehicle or boat, whether or not it is in motion. Medical cannabis users would still be permitted to consume cannabis if they are a passenger in a vehicle or boat, provided the cannabis is not smoked or vaped.

It is proposed to exempt medical cannabis users from the prohibition on transporting cannabis under the following conditions:

- The cannabis was obtained in accordance with applicable federal law respecting medical cannabis
- The person transporting the cannabis is a medical user
- The cannabis is not readily available to the driver or operator of the vehicle or boat

Do you have any comments regarding the proposed rules for medical cannabis?

- We have no comments regarding this section of the proposal.

Clarification of Places of Use Rules for Recreational Cannabis

It is proposed to prescribe the following places as additional places where recreational cannabis **cannot** be used for greater certainty without limiting the generality of the places of use rules and to ensure alignment with the *Smoke-Free Ontario Act, 2017*, where appropriate:

- A school within the meaning of the *Education Act*.
- A building or the grounds surrounding the building of a private school within the meaning of the *Education Act*, where the private school is the only occupant of the premises, or the grounds annexed to a private school, where the private school is not the only occupant of the premises.
- A child care centre within the meaning of the *Child Care and Early Years Act, 2014*.
- A place where an early years program or service is provided within the meaning of the *Child Care and Early Years Act, 2014*.

It is also proposed to restrict the smoking or vaping of recreational cannabis in any indoor or outdoor common area in a condominium, apartment building or university or college residence, including, without being limited to, elevators, hallways, parking garages, party or entertainment rooms, laundry facilities, lobbies and exercise areas. This is consistent with our safe and sensible approach to cannabis legalization and with the public health intent of the *Smoke-Free Ontario Act, 2017* to protect youth and young adults from exposure to smoke and vape. The use of other forms of recreational cannabis would not be restricted in these areas.

Do you have any comments regarding the proposal to clarify the places of use prohibition by prescribing these places?

- Under this proposal, the smoking or vaping of recreational cannabis is prohibited in any indoor or outdoor common area of a university or college residence. Since the *Smoke-*

free Ontario Act came into effect May 2006, many university and college residences have transitioned to 100% smoke-free (tobacco), ceasing the provision of designated smoking (tobacco) rooms. To reduce youth and young adult exposure to recreational cannabis use and to restrict exposure to drifting cannabis smoke, **Ontario's Cannabis Act should prohibit the use of smoking or vaping of recreational cannabis inside all university and college residences, including both common areas and individual units; the practice of providing designated smoking rooms for recreational cannabis should be prohibited by law.** This restriction would also protect university or college employees that are required to enter the residence to provide services or maintenance functions.

By prohibiting the designation of smoking rooms for recreational cannabis, Ontario has an opportunity to maintain the progress that has been made with reducing physical and social exposure to tobacco smoke, by instituting a complete ban on all forms of smoke or vapour in college and university residences.

Exemption for Hotel, Motel and Inn Rooms

It is proposed to permit registered guests or invited guests of registered guests to use recreational cannabis in a hotel, motel or inn room, provided the room is primarily designated as sleeping accommodation and the cannabis is not being smoked or vaped.

The smoking or vaping of cannabis would only be permitted in designated smoking rooms to align with the Smoke-Free Ontario Act, 2017.

Do you have any comments regarding the proposed exemption to permit cannabis use in hotel, motel and inn rooms under certain conditions?

- Since the *Smoke-free Ontario Act* came into effect May 2006, many hotels, motels and inns have transitioned to 100% smoke-free (tobacco) due to increased public demand for smoke-free accommodations and increased awareness regarding the health consequences from drifting second-hand tobacco smoke. For those hotels, motels and inns that continue to provide designated smoking rooms, employees that work in the hotel industry, namely those that work in housekeeping, maintenance and room service, are required to enter the rooms where tobacco smoke is present as a function of their job. While the evidence regarding the harms of cannabis smoke is still evolving, current evidence indicates that cannabis smoking is related to a greater incidence of cough, wheeze, aggravation of asthma, sore throat, chest tightness, shortness of breath and hoarse voice¹. Both cannabis and tobacco smoke share thirty-three known cancer-causing chemicals, and contain carbon monoxide and heavy metals^{1&2}. **Therefore, Ontario has an opportunity through the Cannabis Act to provide protection from first and second-hand cannabis smoke by restricting the smoking and vaping of recreational cannabis in hotels, motels and inns.**
- Since the *Smoke-free Ontario Act* came into effect May 2006, many university and college residences have transitioned to 100% smoke-free, ceasing the provision of designated smoking (tobacco) rooms. To reduce youth and young adult exposure to recreational cannabis use and to restrict exposure to drifting cannabis smoke, **Ontario's Cannabis Act should prohibit the use of recreational cannabis use inside all university and college residences.** This restriction would also protect employees that

are required to enter the residence to provide service or maintenance functions. University, college and residences should be 100% smoke-free, without the provision of smoking rooms.

By prohibiting the designation of smoking rooms for recreational cannabis use, Ontario has an opportunity to maintain the progress that has been made with reducing physical and social exposure to tobacco smoke, by instituting a complete ban on all forms of smoke or vapour in motels, hotels, inns and college/university residences.

¹ Canadian Centre on Substance Abuse, 2016. "Clearing the Smoke on Cannabis - Respiratory Effects of Cannabis Smoking".

² Smoking and Health Action Foundation, 2016. "Second-hand Marijuana Smoke: Health effects of exposure".

Exemptions for Vehicles and Boats used as Private Residences

It is proposed to permit the consumption of recreational cannabis in a vehicle equipped with sleeping accommodation and cooking facilities when the vehicle is parked and being used as a residence. The exemption would not apply while the vehicle is on a highway.

It is proposed to permit the consumption of recreational cannabis in boats with permanent sleeping accommodations and permanent cooking and sanitary facilities while the boat is at anchor or secured to a dock or land. The dock or land would also be exempt from the consumption prohibition, except at times where the public is invited or permitted access. Boats used to carry passengers for hire would not be included in the exemption.

Do you have any comments regarding the proposed exemptions for vehicles and boats used as private residences?

- Use of the word "highway" in the proposal does not specify whether or not the definition falls within the meaning of "highway" under the *Highway Traffic Act*. To ensure consistent application and understanding of the law, definition clarification may be required.

Exemptions for Workplaces in Private Residences

It is proposed to exempt most private residences that are also workplaces from the prohibition on consuming cannabis in workplaces. The proposed exemptions are similar to the consumption rules respecting smoking, e-cigarettes and medical cannabis in the *Smoke-Free Ontario Act, 2017*.

It is proposed to permit the smoking or vaping of recreational cannabis in the following places under the same conditions in which tobacco can be smoked:

- Long-term care homes within the meaning of the Long-Term Care Homes Act, 2017.
- A residential facility that is operated as a retirement home and that provides care, in addition to accommodation, to the residents of the home.
- A supportive housing residence funded or administered through the Ministry of Health and Long-Term Care or the Ministry of Community and Social Services.
- Homes for special care licensed under the *Homes for Special Care Act*.

- Psychiatric facilities formerly designated under the now repealed *Mental Hospitals Act*,
- Specific veterans' facilities: the Parkwood Hospital site of St. Joseph's Health Care London, and the Kilgour wing (K wing) and the George Hees wing (L wing) of the Sunnybrook and Women's College Health Sciences Centre.

Consistent with the approach under the Smoke-Free Ontario Act, 2017, and regulations proposed under that Act, the smoking or vaping of recreational cannabis would only be permitted in the abovementioned facilities under the same conditions in which tobacco smoking, the use of e-cigarettes and the smoking or vaping of medical cannabis is permitted.

The consumption of other forms of recreational cannabis would not be prohibited.

It is proposed to prohibit the smoking and vaping of recreational cannabis in places where home child care is provided whether or not children are present. Other forms of recreational cannabis would not be prohibited in these places as long as children are not present when the cannabis is being used.

Do you have any comments regarding the proposed exemptions for certain workplaces/ residences?

- The proposal to exempt most private residences that are also workplaces from the prohibition on consuming cannabis in the workplace may expose employees from small businesses that operate within a private residence to recreational cannabis smoke (e.g. accountant office, lawyer office, personal service settings, etc.). Ontario's *Cannabis Act* relies upon the definition of "workplace" under the *Occupational Health and Safety Act*. Greater clarification on protections for employees working within these types of settings is required.
- Section 9.1 of the *Smoke-free Ontario Act* provides protection to home health care workers from tobacco smoke. Under the *Smoke-Free Ontario Act*, the home health care worker can require that the individual not smoke in their presence and it provides the home health care worker with the right to leave without providing further services. The proposed changes to the *Smoke-free Ontario Act, 2017* would also protect home health care workers from exposure to vapour (e-cigarettes) and exposure to medical cannabis smoke. **The inclusion of the home health care workers section of the *Smoke-free Ontario Act* should be included in Ontario's *Cannabis Act* to protect home health care workers from the harmful effects of exposure to recreational cannabis. The *Cannabis Act* and its Regulations should mirror the procedures currently prescribed under the *Smoke-free Ontario Act* and its regulations.**

Designated Areas in Multi-Unit Dwellings and Consumption Lounges

The Ministry of the Attorney General is considering the following proposals for possible implementation post-legalization:

- Permitting licensed cannabis consumption lounges; and
- Permitting owners or operators of multi-unit dwellings to designate outdoor areas for the consumption of recreational cannabis.

Do you have any comments regarding the proposal to consider future implementation of cannabis consumption lounges and designated outdoor smoking areas for multi-unit dwellings?

Cannabis Consumption Lounges

- **Licensed cannabis consumption lounges that would allow smoking or vaping of cannabis should not be permitted.** Ontario has a history of enacting policies that aim to protect children, youth and employees from second-hand tobacco smoke. The proposed *Smoke-Free Ontario Act, 2017* will expand that protection to include vapour and medical cannabis smoke. Permitting smoking and vaping of cannabis in licensed cannabis lounges would be a step backwards from the gains that we have made to normalize a smoke-free culture. Through amendments to the *Smoke-free Ontario Act* and municipal bylaws, we have substantially reduced exposure to smoke and the use of smoking products in public spaces and workplaces.
- **The licensing of cannabis lounges for the consumption of edible products requires more consultation and careful consideration.** It has been proposed that the legalization of the retail sale of edible cannabis products would not occur until 2019 after extensive effort by the Government to establish the edible product framework. Therefore, it is difficult to provide comment on edible cannabis lounges until that framework is established. Ontario is committed to “a safe and sensible framework to govern recreational cannabis in the province”. Once the edible product framework has been drafted, stakeholders will be better positioned to provide comment from a public health perspective.

Multi-Unit Housing – designated outdoor areas for the use of recreational cannabis

- We have no comment to provide at this time.

We are interested in any other comments or suggestions you wish to make.

Exemptions for Scientific Testing and Research

Section 9(11) of the *Smoke-free Ontario Act* provides an exemption for the smoking of tobacco, and the smoking and vaping of medical cannabis in scientific research and testing facilities, if the smoking or vaping is for the purpose of conducting research or testing concerning tobacco, vapour products or cannabis. The inclusion of an exemption for smoking and vaping of recreational cannabis would enable more timely and relevant research to the harms associated with its use.

Designation of Health Unit Tobacco Enforcement Officers to Enforce – With Limitations

Tobacco Enforcement Officers, employed by public health units across Ontario, are designated as Provincial Offences Officers by the Ontario Minister of Health, to enforce the *Smoke-Free Ontario Act*. The MOHLTC’s Tobacco Compliance Protocol applies a continuum of progressive enforcement actions, starting with education and progressing from warnings to increasingly more serious charges to match the nature and frequency of contraventions under the *Smoke-Free Ontario Act*. This proactive approach to promotion and enforcement has helped to promote compliance with the legislation, reducing exposure to tobacco use and second-hand smoke in public spaces and workplaces.

It has been proposed that police will be solely responsible for the enforcement of Ontario’s *Cannabis Act*. There is an opportunity to increase promotion and enforcement capacity across Ontario by designating Tobacco Enforcement Officers to enforce the smoking or vaping of recreational cannabis in public spaces and workplaces. Tobacco Enforcement Officers routinely

respond to complaints from people who are seeking compliance with Section 9 of the *Smoke-free Ontario Act*; Tobacco Enforcement Officers conduct both complaint-based and proactive inspections at parks, playgrounds, sports fields, schools, hospital grounds, common areas of multi-unit housing, bars, restaurants and special events, and in enclosed workplaces. Under Section 21 of Schedule 1 *Cannabis Act* under Bill 174, “a power that may be exercised under this Act by a police officer, other than a power set out in section 19, may also be exercised by a person designated under subsection 1 (3) of the *Provincial Offences Act* for the purposes of this Act.” To provide a more comprehensive approach to promotion and enforcement of the prohibitions on the consumption of recreational cannabis in public spaces and workplaces, Tobacco Enforcement Officers, could be designated to enforce the restrictions on smoking or vaping of recreational cannabis in places where Tobacco Enforcement Officers already frequent to carry out their obligations under the Tobacco Compliance Protocol.

Enforcement by Section of provincial legislation is an approach that is not uncommon to Tobacco Enforcement Officers. Section 9.2 of the *Smoke-free Ontario Act*, the prohibition on smoking or holding lit tobacco in a motor vehicle while another person who is less than 16 years old is present in the vehicle, is enforced by police officers only. A similar approach could be taken with Ontario’s *Cannabis Act*; Tobacco Enforcement Officers could be designated to enforce the smoking or vaping of recreational cannabis in public spaces and workplaces to increase promotion and enforcement capacity across Ontario, and to help ensure that children, youth and employees are protected from second-hand cannabis smoke and to reduce youth exposure to recreational cannabis use.

Please submit your feedback on the Regulatory Registry by March 5, 2018

Privacy Statement

Please note that unless requested and agreed otherwise by the Ministry of the Attorney General, all materials or comments received from organizations in response to this consultation will be considered public information and may be used and disclosed by the ministry to assist the ministry in developing the proposed regulatory amendments. This may involve disclosing materials or comments, or summaries of them, to other interested parties during and after the request for public comment process.

An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified. Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by the individual. However, materials or comments from individuals may be used and disclosed by the ministry to assist in developing the proposed regulatory amendments.

Personal information of those who do not specify an organizational affiliation, such as an individual's name and contact details, will not be disclosed by the ministry without the individual's consent unless required by law. If you have any questions about the collection of this information, please contact the Ontario Legalization of Cannabis Secretariat at cannabis@ontario.ca