

November 30, 2017

The Honourable Mike Farnworth  
Minister of Public Safety and Solicitor General  
Parliament Buildings  
Victoria, B.C. V8V 1X4

**Re: Cannabis Legalization and Regulation in BC**

Dear Minister Farnworth,

We write to you today, as members of the Joint Provincial-Local Government Committee on Cannabis Regulation (JCCR) and representatives of the Union of BC Municipalities (UBCM) Executive, to convey local government input regarding the legalization and regulation of non-medical cannabis in British Columbia. This feedback is in response to specific questions posed to the JCCR by the provincial Cannabis Legalization and Regulation Secretariat (attached), and has been endorsed by the local government members of the JCCR and the UBCM Executive.

The attached submission should be considered the official position of UBCM. We expect this document will be forwarded to Cabinet for consideration as the provincial government strives to make key policy decisions regarding BC's framework for legalized cannabis. Additionally, we anticipate addressing other local government issues and concerns (e.g. distribution of taxation revenue, regulation of edibles) through the JCCR over the coming months.

We would like to thank the provincial government, and in particular yourself and members of the Cannabis Legalization and Regulation Secretariat, for thoroughly engaging UBCM and local governments over the past two months. We appreciate the engagement process thus far, and look forward to continued engagement with the provincial government leading up to the date of legalization and beyond.

Sincerely,



Councillor Kerry Jang  
Co-Chair, Joint Provincial-Local  
Government Committee on Cannabis  
Regulation



Director Wendy Booth  
President, UBCM

**CC:** *The Honourable Selina Robinson, Minister of Municipal Affairs and Housing*

*Lisa Anderson, Co-Chair, Joint Provincial-Local Government Committee on Cannabis Regulation, and Executive Director, Cannabis Legalization and Regulation Secretariat.*

## **Union of BC Municipalities**

On behalf of the Joint Provincial-Local Government  
Committee on Cannabis Regulation

### **Submission to the British Columbia Cannabis Legalization and Regulation Secretariat**

**Re: Local Government Feedback Towards the  
Development of a BC Regulatory Framework  
for Non-Medical Cannabis**

Submitted November 30, 2017

## 1. Introduction

The Union of British Columbia Municipalities (UBCM) represents 100% of the local governments in British Columbia (BC), as well as eight First Nations members, and has advocated for policy and programs that support its membership's needs since 1905. The UBCM Executive Board is comprised of 21 elected officials from all regions of the Province, who represent diverse communities of all sizes, from rural areas to urban centres.

UBCM and its members have been significantly involved in the process to engage and provide local government input to the provincial government regarding the development of a BC regulatory framework for legalized cannabis. At the 2017 UBCM Annual Convention, local governments endorsed Special Resolution 1, a set of principles to guide UBCM's work and provincial advocacy related to the legalization of cannabis. These principles include:

- Fulsome and meaningful provincial consultation with local governments;
- Provision of adequate provincial funding to cover any responsibilities and increase in administrative burden of any provincial framework that requires local government participation;
- Equitable sharing of tax revenues from cannabis between all orders of government; and,
- Respect for local choice, jurisdiction and authority, including but not limited to land use and zoning decisions.

These principles, in addition to other established UBCM policy requesting that the provincial and federal governments directly involve local governments in the legalization process (2016-A2); and, that cannabis taxation revenue be shared with local governments (2016-A3), provided direction prior to the tabling of federal legislation (Bills C-45 and C-46) in April 2017.

Days prior to the tabling of federal legislation, UBCM launched a survey on cannabis legalization and regulation, seeking input on a range of topics, including taxation and revenue sharing; federal and provincial consultation with local governments; potential burden on local government departments and services resulting from cannabis legalization; and, local attitudes towards cannabis retail operations, regulatory oversight and enforcement. At the conclusion of the survey period (March 29 – April 28, 2017), local government responses identified three prevalent issues:

- a) Lack of communication and consultation with other orders of government;
- b) Concerns with potential downloads to local governments without adequate corresponding funding; and,

- c) The need for other orders of government to respect local government jurisdiction and authority, and provide flexibility to local governments.<sup>1</sup>

## 2. Joint Provincial-Local Government Committee on Cannabis Regulation (JCCR)

On September 15, 2017, UBCM President Murry Krause and First Vice President Wendy Booth spoke with Premier John Horgan regarding a number of key issues, including the need for local government engagement prior to the development of a provincial regulatory framework for legalized cannabis.

Soon after, UBCM received an invitation from Minister of Public Safety and Solicitor General, Mike Farnworth, to form a standing committee on cannabis legalization. In addition to the broader provincial engagement strategy to support the development of the provincial regulatory framework for legalized cannabis, the standing committee would provide a forum for local governments to share their experiences and knowledge and discuss issues of interest or concern with the Cannabis Legalization and Regulation Secretariat. The Committee would also be used to assist in required statutory consultation if changes to local government legislation were considered.

Local government members of the Joint Provincial-Local Government Committee on Cannabis Regulation (JCCR) were officially announced on October 19, 2017:

- Councillor Kerry Jang, City of Vancouver (Co-Chair);
- Director Wendy Booth, Regional District of East Kootenay (UBCM President)<sup>2</sup>;
- Mayor Maja Tait, District of Sooke;
- Councillor Brian Frenkel, District of Vanderhoof;
- Chris Coates, City Clerk, City of Victoria;
- Kevin Cormack, Chief Administrative Officer, City of Nelson;
- Kathryn Holm, Chief Licence Inspector, City of Vancouver;
- Dave Jones, Business Licence Inspector, City of Kamloops;
- Gary MacIsaac, Executive Director, Union of BC Municipalities;
- Peter Monteith, Chief Administrative Officer, City of Chilliwack;
- Terry Waterhouse, Director of Public Safety, City of Surrey; and,
- Ian Wells, General Manager of Planning and Development, City of Prince George.

The twelve JCCR members include a mix of local government elected officials,

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<sup>1</sup> Please note that many respondents completed the survey prior to the introduction of federal legislation (Bills C-45 and C-46).

<sup>2</sup> Director Wendy Booth was acclaimed as UBCM President on September 29, 2017.

<sup>3</sup> How marijuana is sold could vary from city to city (2017, September 25), *Times Colonist*. Retrieved from <http://www.timescolonist.com/news/local/how-marijuana-is-sold-could-vary-from-city-to-city-1.23003994>.

senior staff members, and staff members with specialized skill sets and experience in planning, building inspection, bylaw enforcement and/or public safety. The provincial government also appointed several members to the JCCR, including Co-Chair Lisa Anderson, Executive Director, Cannabis Legalization and Regulation Secretariat.

With the understanding that policy decisions may be considered by Cabinet prior to the end of 2017, the JCCR undertook an intensive two-month engagement process. Members met every two weeks to consider expert opinions (including those expressed at the 2017 UBCM Convention), analyze high priority policy issues, and determine appropriate recommendations, with the objective of using this information to form a submission. JCCR members agreed to table other local government issues and concerns (e.g. distribution of taxation revenue, regulation of edibles) following the completion of this initial time-sensitive submission.

### **3. Submission Overview**

Since the federal government announced its intention to legalize cannabis, UBCM's members have placed a high priority on this policy issue. Local governments are arguably the most affected order of government, with numerous potential impacts on all communities large and small, rural and urban.

The following report addresses specific questions posed to the Joint Provincial-Local Government Committee on Cannabis Regulation by the BC Cannabis Legalization and Regulation Secretariat. The questions are related to the issues addressed in the provincial government discussion paper, *Cannabis Legalization and Regulation in British Columbia*:

- Minimum age to buy, grow and possess non-medical cannabis;
- Personal possession limits for adults and youth;
- Public consumption (e.g. smoking, vaping);
- Drug-impaired driving regulations;
- Personal cultivation (number of plants, location, security, etc.);
- Distribution model; and,
- Retail model.

The local government JCCR members' responses to these questions have informed the recommendations made by UBCM in this submission.

### **4. Local Government Responses**

This section contains the responses and recommendations made by the local government members of the JCCR, as endorsed by UBCM's Executive.

## 4.1 Minimum Age

*Q1: Does UBCM support setting the minimum age to possess, purchase, and consume non-medical cannabis in British Columbia to 19 (to correspond with British Columbia's age of majority)?*

- There was overall support among local government JCCR members that the minimum age for purchase, possession and consumption of cannabis should be 19.

## Federal Legislation

- Proposed federal Bill C-45 establishes a minimum age of 18 to possess, purchase and consume non-medical cannabis in Canada.
- Provinces and territories have the authority to establish a higher minimum age limit.

## Key Considerations

- While many health experts recommend the minimum age should be 21+, the JCCR discussed how setting the minimum age that high would potentially allow the illegal market to flourish, or push youth towards the medical market.
- The provincial Cannabis Legalization and Regulation Secretariat has expressed to the JCCR that it wishes to avoid regulations that unnecessarily push individuals towards the medical regime.
- Other provinces that have announced their frameworks (as of November 23, 2017) have aligned minimum age with the age of majority for alcohol and tobacco.

## 4.2 Personal Possession

*Q1: Does UBCM support the federal 30g possession limit for non-medical cannabis?*

- There was overall support among local government JCCR members that the Province should adopt a 30 gram adult public possession limit for non-medical cannabis.

*Q2: Does UBCM support establishing a zero limit for persons under the minimum age in British Columbia to possess non-medical cannabis?*

- There was overall support among local government JCCR members that the Province should establish a zero limit for persons under the minimum age (youth) to possess non-medical cannabis.

### **Federal Legislation**

- Proposed federal Bill C-45 places a maximum possession limit of 30 grams for adults, and 5 grams for youth (age 12-18).
- Provinces and territories have the authority to establish lower limits for adult and youth possession.

### **Key Considerations**

- The adult limit in most US jurisdictions that have legalized non-medical cannabis is one ounce (28.3 grams).
- The Cannabis Legalization and Regulation Secretariat notes that they are unaware of any other provinces or territories that are considering lowering the proposed adult possession limit (30 grams).
- The Cannabis Legalization and Regulation Secretariat indicated a ban on youth possession would be similar to the current policy for alcohol possession.

## **4.3 Public Consumption**

*Q1: Does UBCM support extending existing restrictions on public tobacco smoking/vaping to non-medical cannabis?*

- There was general support among local government JCCR members that existing public tobacco restrictions should be extended to smoking or vaping non-medical cannabis.
- There was also general support among local government JCCR members to place additional restrictions on smoking cannabis in vehicles.
- Many local government JCCR members felt that a strong provincial framework for restricting cannabis smoking/vaping would be preferred.

*Q2: Does UBCM support the development of licensed establishments where individuals can consume cannabis?*

- There was considerable support among local government JCCR members to develop dedicated places of use (licensed establishments) where individuals can consume cannabis.

## Federal Legislation

- Proposed federal Bill C-45 seeks to amend the *Non-smokers' Health Act* to prohibit public consumption of non-medical cannabis in federally regulated areas.
- Otherwise, proposed federal Bill C-45 does not address public consumption; authority to regulate lies with provinces and territories that may transfer these responsibilities to local governments.

## Key Considerations

- The JCCR local government members were mindful of potentially pushing cannabis users to the medical system based on how public consumption of non-medical cannabis was regulated. For example, restricting public consumption could potentially require medical users to obtain exemptions, and push non-medical users who wish to consume cannabis in public to also attempt to obtain these medical exemptions.
- There was also consideration towards how the regulation of public consumption could impact the use of law enforcement resources.

## 4.4 Drug-Impaired Driving

*Q1: Does UBCM support the creation of additional provincial measures to deter drug-impaired driving?*

- There was overall support among local government JCCR members that additional provincial measures to deter drug-impaired driving should be similar to those for alcohol-impaired driving (e.g. administrative penalties).

*Q2: If so, what type of measures*

- There was general support among local government JCCR members for a zero tolerance policy when it comes to youth drug-impaired driving.
- UBCM members recently endorsed a resolution (2017-B88) that requests funding for police agencies to increase the number of certified drug recognition experts.

## Federal Legislation

- The *Criminal Code* prohibits drug-impaired driving.
- Proposed federal Bill C-46 addresses penalties for cannabis-impaired driving.



## Key Considerations/Discussion

- With respect to cannabis use in the workplace, existing WorkSafe legislation already addresses impairment at work. The JCCR may look to re-visit WorkSafe and workplace cannabis use issues in future meetings.
- In addition to laying criminal charges, law enforcement also have the ability to issue administrative penalties for alcohol-impaired driving (e.g. an Immediate Roadside Prohibition or Administrative Driving Prohibition).

## 4.5 Personal Cultivation

*Q1: Does UBCM have a position on whether the Province should establish additional restrictions on personal cultivation? And if so, what type of restrictions?*

- There was overall support among local government JCCR members that the Province of BC follows the plant restrictions for personal cultivation proposed by Bill C-45 (i.e., 4 plant limit).
- There was considerable support among local government JCCR members that the Province prohibit cultivation of non-medical cannabis in buildings/homes used for commercial children's activities (e.g. daycares).
- Local government JCCR members indicated support for provincial resources and strong administrative penalties to act as a deterrent for those who violate restrictions on personal cultivation (e.g. growing more than the legal limit results in a prohibition to grow in the future or significant monetary penalty).
- There was overall support among local government JCCR members that the Province does not establish a registration requirement.
- Some local government JCCR members also indicated support for provincial regulations to limit visibility of outdoor personal cultivation.

*Q2: What, if any, type of restrictions are best established at the local level? Do local governments feel they have the authority necessary to establish those restrictions?*

- There was overall support among local government JCCR members that local governments do not have the capacity to create, maintain or enforce a personal cultivation registry.

## Federal Legislation

- Proposed federal Bill C-45 allows personal cultivation of up to 4 plants per household, with no restrictions on where plants can be grown (e.g. indoor or outdoor).

- Provinces and territories have the authority to establish lower limits for personal cultivation.

### **Key Considerations**

- Most local government JCCR members did not believe there would be any major fire, safety or building code issues associated with allowing personal cultivation of up to 4 plants per household.
- The Cannabis Legalization and Regulation Secretariat noted that individuals might seek medical cannabis cultivation permits if they are severely restricted or prohibited to legally grow non-medical cannabis. This could allow some individuals to potentially obtain authorization to grow more than 4 plants.
- As cited by the Cannabis Legalization and Regulation Secretariat, two common restrictions in the United States of America are that a) cannabis cannot be visible to the naked eye from off private property and, b) individuals take reasonable precautions to secure their personal plants against theft.
- Several local government JCCR members indicated that smell was a challenge/issue in their communities.

### **4.6 Distribution Model**

*Q1: Does UBCM support a public distribution model for non-medical cannabis, similar to that currently in place for liquor?*

- There was overall support among local government JCCR members for a public distribution model for non-medical cannabis.

### **Federal Legislation**

- Proposed federal Bill C-45 provides provinces and territories the authority to decide how cannabis will be distributed (e.g. public, private or direct distribution).

### **Key Considerations**

- Some local government JCCR members indicated concern for sufficient variety of cannabis and cannabis-related products through a public model.
- Local government JCCR members were cognisant of the fact that there may not be sufficient time to set up anything other than a public distribution regime in BC prior to July 2018.

## 4.7 Retail Model

*Q1: Does UBCM have a position on where non-medical cannabis should be sold?*

- There was general support among local government JCCR members for a hybrid retail model (including public and private retailers) that resembles the hybrid provincial liquor retail framework. This proposed model would include:
  - Swift and strong provincial enforcement to ensure compliance from private retailers.
  - Provisions to allow for local government input and some measure of control over retail operations (e.g. through bylaws, zoning, business licensing, etc.).
- There was overall support among local government JCCR members against co-location of non-medical cannabis and alcohol or tobacco retail operations.
  - Several local government JCCR members agreed that in special circumstances, smaller communities, as well as rural and remote areas, should be able to grant an exemption, given that some smaller jurisdictions lack the capacity or demand (i.e. small population) to warrant a separate location for both liquor and non-medical cannabis. Co-location may be the only feasible option for these communities.
- There was general support among local government JCCR members to authorize local governments to place additional restrictions on the number of non-medical cannabis retail operations to meet community standards.
- In general, local government JCCR members, through their discussions, strongly agreed that “one size does not fit all”<sup>3</sup>, echoing comments previously made by Minister Mike Farnworth.

## Federal Legislation

- Proposed federal Bill C-45 provides provinces and territories the authority to determine their own non-medical cannabis retail models.
- There are provisions in place that will allow for non-medical cannabis to be sold online in provinces and territories that do not establish a retail model prior to the date of legalization.

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<sup>3</sup> How marijuana is sold could vary from city to city (2017, September 25), *Times Colonist*. Retrieved from <http://www.timescolonist.com/news/local/how-marijuana-is-sold-could-vary-from-city-to-city-1.23003994>.

## Key Considerations

- As part of its research on this issue, the JCCR met with representatives from the BC Liquor Control and Licensing Branch, who provided a presentation on local government involvement in liquor licensing.
- The current provincial liquor model for distribution and retail includes strong provincial enforcement (i.e. penalties), which will also be required to appropriately manage cannabis retail and personal cultivation operations.
- The federal Task Force on Cannabis Legalization and Regulation recommended against co-location of cannabis with liquor or tobacco.
- A potential challenge with online sales in rural and remote areas is that some areas of the Province do not have sufficient internet access to access these services.
- The Cannabis Legalization and Regulation Secretariat noted that if co-location (between non-medical cannabis and liquor and/or tobacco) were to occur, federal regulations would ensure that non-medical cannabis was sold in a separate secure area.
- The Cannabis Legalization and Regulation Secretariat noted that federal advertising and promotion rules would require retailers sell cannabis in fully enclosed areas. As such, children will not be permitted in those areas, regardless of the retail model implemented in BC.
- In its discussions, the JCCR spent significant time considering the unique situation for regional districts, especially relating to the need to address zoning and business licensing challenges. The JCCR recognizes the need to address this issue once the decision is made regarding a provincial retail model for non-medical cannabis.
- Ultimately, the type of model and enforcement scheme that is adopted by the Province will have an impact on the revenues required to support it.

## 5. Conclusion

UBCM would like to thank the members of the JCCR for their service and commitment over the past two months. Additionally, the provincial government, and in particular the Cannabis Legalization and Regulation Secretariat, are to be commended for engaging in thorough and meaningful consultation with local governments. This submission is reflective of discussion and analysis that took place during JCCR meetings, and is consistent with established UBCM policy relating to the legalization and regulation of cannabis.

UBCM, and the local government members of the JCCR, appreciate the provincial government's consideration of the recommendations made in this submission, and look forward to continued engagement with the provincial Cannabis Legalization and Regulation Secretariat leading up to the date of legalization and beyond.

Joint Provincial-Local Government Committee  
On Cannabis Regulation  
KEY POLICY ISSUES – QUESTIONS

| Policy Issue          | Question  |
|-----------------------|---|
| Minimum Age           | Does UBCM support setting the minimum age to possess, purchase, and consume non-medical cannabis in British Columbia to 19 (to correspond with British Columbia's age of majority)?   |
| Personal Possession   | Does UBCM support the federal 30g possession limit for non-medical cannabis?<br><br>Does UBCM support establishing a zero limit for persons under the minimum age in British Columbia to possess non-medical cannabis?  |
| Public Consumption    | Does UBCM support extending existing restrictions on public tobacco smoking/vaping to non-medical cannabis?<br><br>Does UBCM support the development of licensed establishments where individuals can consume cannabis?   |
| Drug-Impaired Driving | Does UBCM support the creation of additional provincial measures to deter drug-impaired driving?<br><br>If so, what type of measures?   |
| Personal Cultivation  | Does UBCM have a position on whether the Province should establish additional restrictions on personal cultivation? And if so, what type of restrictions?<br><br>What, if any, type of restrictions are best established at the local level? Do local governments feel they have the authority necessary to establish those restrictions? |
| Distribution Model    | Does UBCM support a public distribution model for non-medical cannabis, similar to that currently in place for liquor?  |
| Retail Model          | Does UBCM have a position on where non-medical cannabis should be sold?   |