

Memorandum

To: Mayor Steele and Members of Council
From: Councillor Harry Wells
Date: April 26, 2021
Re: Consultation on guidance on personal production of cannabis for medical purposes

The Cannabis Act (the Act) and the Cannabis Regulations (the Regulations) came into force on October 17, 2018 with the purpose of protecting public health and public safety. Health Canada is the agency responsible for approval of cannabis production facilities and the processing of registrations and issuing certificates for growing personal medical cannabis in Canada.

The Act was the first attempt to create a strict legal framework for controlling the production, distribution, sale and possession of cannabis across Canada. The Act aimed to achieve 3 goals:

- keep cannabis out of the hands of youth,
- keep profits out of the pockets of criminals,
- protect public health and safety by allowing adults access to legal cannabis.

One intent of the Act was to provide reasonable access to cannabis for medical purposes for patients that have a signed medical prescription from their health care practitioner. To achieve this the following options were provided:

- purchase quality-controlled cannabis from a wide variety of federally licensed sellers inspected by Health Canada,
- produce a limited amount of cannabis for personal medical purposes as authorized by their health care practitioner ("personal production"),
- designate someone to produce it for them ("designated production")

The Act as written with a limited number of requirements set out in the Regulations has become a problem and even Health Canada is concerned that too much cannabis is being grown at home. On December 17, 2020 Health Canada publicly raised concerns about the large quantity of medical cannabis people were growing at home. An analysis of its data showed a significant jump in the daily average production permitted by health care practitioners. Health Canada's findings show that authorizations rose 44% while average purchases from licensed producers and federal medical sellers remained constant.

Health Canada is now acknowledging that high daily authorized amounts of personal medical cannabis are leading to abuse of the access to cannabis for medical

purposes framework and are undermining the integrity of the system to achieve the goals of the Act.

On January 11, 2021 the City's Planning and Development Department presented Report Number: 2021-07 regarding Medical Cannabis Grow Operations. Planning and Development staff reviewed correspondence received from the NRP, Township of Blandford-Blenheim and other municipalities and confirmed that the majority of the concerns raised have been witnessed first-hand by City Planning and By-law Enforcement staff.

The report identified that the City's only mechanism to control land use compatibility issues between medical cannabis facilities and neighbouring properties is through the Zoning By-law. However, this mechanism is consistently overridden by the Federal Government and Health Canada when licenses are issued.

The Regional Municipality of Niagara Police Services Board letter that was sent to the Honourable Patty Hajdu regarding Medical Cannabis Grow Operations and Public Safety Concerns identified issues with the current situation and organized crime that threaten public safety. The following needs were identified:

- The need for Health Canada regulations requiring compliance and consistency with local municipal by-laws according to criteria set out for applicants in the process administered by Health Canada.
- The need for Health Canada to establish the proper regulation of the cannabis industry, specifically with regards to designated medical growers who are operating outside of their medical designations.
- The need for Health Canada to not treat certificates as medical information and require operators to provide their certificates to municipalities and police so the municipalities and police can determine if an operation is legally permitted or not.
- The need for Health Canada to implement practices that will improve the sharing of information regarding cannabis certificates with police and municipalities that outline requirements for compliance with municipal zoning by-laws, include appropriate monitoring and inspections.
- The need for Health Canada to consider the need to revisit the formula for determining the maximum number of plants permitted under a medical certificate.
- The need for Health Canada to increase oversight of Medical Cannabis Grow Operations to ensure growers are not producing in excess of the maximum licensed number of plants and are not funneling product to the illicit market which is mostly controlled by organized crime.

Based on the correspondence reviewed and the actual issues the City has experienced and is encountering, staff recommend that Council endorse the Police Services Board letter and the resolution received from the Township of Blandford-Blenheim for Health Canada to amend the legislation for medical cannabis facilities to ensure the safety and rights of the local communities are respected.

City Council approved the recommendation to support the Regional Municipality of Niagara Police Services Board's and the Township of Blandford-Blenheim's efforts to have Health Canada make the appropriate changes to the Act that threaten public safety.

Currently the Federal Government is conducting a consultation on guidance on personal production of cannabis for medical purposes. In order to submit a joint response and to demonstrate the City's support and commitment to public health and safety,

I am requesting that Council approve the below resolution:

THAT WHEREAS the Government of Canada introduced Bill C-45 (the Cannabis Act) to create the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession;

AND WHEREAS unlicensed and unmonitored cannabis grow operations have increasingly become a problem in communities in Ontario as well as across the Country;

AND WHEREAS these operations are allowed to establish with little or no consultation with the local community and municipalities are often only made aware of their existence after conflicts arise with neighboring land owners;

AND WHEREAS there is no direct communication or dedicated effort to provide a communication channel between Municipal government staff or Police Agencies for dealing with Health Canada Registrations and Licenses;

AND WHEREAS the City of Port Colborne has not been consulted by Health Canada prior to the issuance of licenses for properties not in compliance with municipal zoning by-laws;

AND WHEREAS loopholes in existing Federal legislation allow these large scale grow op's to establish and operate without any of the regulations or protocols that licensed and monitored operations need to adhere to;

AND WHEREAS the police have not been given lawful authority to lay charges under the Cannabis Act to appropriately respond to violations of Health Canada Registrations and Licenses;

NOW THEREFORE BE IT RESOLVED THAT the City of Port Colborne urges the Federal Government and Health Canada to amend the legislation under which these facilities operate to ensure the safety and rights of the local communities in which they are situated are respected;

Limit the authorization to produce cannabis plants for personal medicinal use to the maximum daily quantity as prescribed by a professional medical practitioner to members of the immediate family living in the same residence;

Prohibit the ability for an individual to designate the growing and processing of medical cannabis plants and cannabis products by another individual on their behalf unless that individual is a member of the immediate family and resides in the same residence;

Issue one license to the property where the growing of medical cannabis for personal purposes is to be permitted;

Require Federal Licenses and Registrations for Designated Growers to conform with local zoning and control by-laws. Make it mandatory as part of the registration that the applicant provide a signed and dated declaration from the local municipality providing consent to the production and quantity of cannabis plants and products prior to approval of a licence to grow medical cannabis plants for personal consumption;

Ensure local authorities are provided with notification of any licence issuance, amendment, suspension, reinstatement or revocation within their region;
Provide dedicated communication with local governments and Police services;
Provide lawful authority to Police agencies to lay charges when registered or licences operations grow in excess of their registration or licence through Health Canada; and,
Provide enforcement support and guidance to local municipalities for dealing with land use complaints relating to Cannabis.

AND FURTHER BE IT RESOLVED THAT the City of Port Colborne forward this motion to the following;

cannabis.consultation@canada.ca

The Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness

The Honourable David Lametti, Minister of Justice and Attorney General of Canada

MP Dean Allison, Niagara West

MP Chris Bittle, St. Catharines

MP Tony Baldinelli, Niagara Falls

MP Vance Badawey, Niagara Centre

President Micki Ruth, Canadian Association of Police Governance

Chief of Police Bryan Larkin, President, Canadian Association of Chiefs of Police

The Honourable Christine Elliott, Deputy Premier and Minister of Health

The Honourable Doug Downey, Attorney General

The Honourable Sylvia Jones, Minister of the Solicitor General

MPP Sam Oosterhoff, Niagara West

MPP Jennie Stevens, St. Catharines

MPP Wayne Gates, Niagara Falls

MPP Jeff Burch, Niagara Centre

Chair Patrick Weaver, Ontario Association of Police Services Boards
Chief of Police Paul Pedersen, President, Ontario Association of Chiefs of Police
Regional Chair Jim Bradley and Members of Council, Niagara Region
Mayor Dave Bylsma and Members of Council, Town of West Lincoln
Mayor Frank Campion and Members of Council, City of Welland
Mayor Jim Diodati and Members of Council, City of Niagara Falls
Mayor Betty Disero and Members of Council, Town of Niagara-on-the-Lake
Mayor Sandra Easton and Members of Council, Town of Lincoln
Mayor Kevin Gibson and Members of Council, Township of Wainfleet
Mayor Jeff Jordan and Members of Council, Town of Grimsby
Mayor Marvin Junkin and Members of Council, Town of Pelham
Mayor Wayne Redekop and Members of Council, Town of Fort Erie
Mayor Walter Sendzik and Members of Council, City of St Catharines
Mayor Bill Steele and Members of Council, City of Port Colborne
Mayor Terry Ugulini and Members of Council, City of Thorold
Board Members, Niagara Police Services Board

Thank you for your consideration,

Harry Wells
Ward 4 Councillor