

LIDSTONE & COMPANY  
BARRISTERS AND SOLICITORS

MEMORANDUM

**TO:** Clients  
**FROM:** Sara Dubinsky  
**DATE:** July 13, 2018  
**RE:** Cannabis Legalization Updates

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This memo summarizes recent pertinent developments in the implementation of cannabis legalization in BC:

1. A portion of the *Cannabis Control and Licensing Act* is now in force;
2. The *Cannabis Distribution Act* is now in force;
3. Three supporting regulations have also come into effect:
  - a. the Cannabis Control and Licensing Interim Regulation,
  - b. the Cannabis Transitional Regulation and
  - c. the Cannabis Distribution Regulation.
4. The Province has published a new Guide regarding the licencing process
5. The Province has announced that local governments will be given greater authority to prohibit cannabis production in the ALR

**Cannabis Control and Licensing Act**

Many of the enabling and administrative provisions of the CCLA are now in force, including the provisions governing applications for and issuance of licences for the retail sale of cannabis.

**Cannabis Distribution Act**

This Act, now in force, authorizes the Province to operate the Provincial cannabis distribution system and conduct retail and online cannabis sales.

**Cannabis Control and Licensing Interim Regulation**

This Regulation establishes two classes of licences under the CCLA: retail store licences and marketing licences, and imposes rules and requirements in respect of each class of licence.

Only retail store licences must have the applicable local government's recommendation that the licence be issued or amended, as a mandatory prerequisite to licence issuance/ amendment.

Where issuance of the retail store licence may affect nearby residents, local governments must take into account the location of the proposed store, and must provide comments and recommendations that:

- Are in writing;
- Include the views of the local government on the general impact on the community;
- Include the views of the residents;
- Describe the method used to gather the views of the residents;
- Indicate whether the application should be approved or rejected; and
- State the reasons for the recommendation.

Additional provisions of note in the Regulation include a prohibition on federally licenced cannabis producers obtaining retail store licences, and a cap of 8 retail store licences that may be issued to a "group of related persons". Fees have also been established for licence applications, amendments and renewals. The initial application fee for a retail store licence is \$7500, and the fee is \$1500 for subsequent years.

### **Guide: BC Cannabis Retail Store Licensing Process**

This Guide contains the step by step process to apply for a retail store licence to sell cannabis. A mandatory step (step 5) is obtaining the recommendation of the local government that a licence be issued, before the Liquor and Cannabis Regulation Branch will consider whether to issue a licence. The branch is not bound by a recommendation to issue a licence and may reject an application notwithstanding local government support.

Once the Province determines that an applicant is eligible for the licence, has met all of the application requirements, and has the local government's support, conditional approval will be granted.

After obtaining conditional approval, the applicant must then finalise arrangements for securing the store location, conduct renovations if necessary, and pass a store inspection which will assess if the premises meet provincial and local government regulations and requirements. Once a licence has been finally approved, licensees must register and train employees, register with the Liquor Distribution Branch, and can then obtain and sell cannabis.

As a matter of policy, the government will not operate public cannabis retail stores in communities that have expressed opposition to having cannabis retailers in their jurisdictions.

### **Cannabis Production in the ALR**

The Province has issued an information bulletin announcing changes that impact local government control over cannabis production in the ALR.

Since May 2015, production of medical marihuana in accordance with the federal regulations has been a designated farm use, that could not be prohibited by a local government bylaw (absent ministerial approval).

Today the Province announced that going forward local governments will have authority to prohibit certain types of cannabis production, namely production that impacts the productive capacity of agricultural land, such as cement-based cannabis production “bunkers”.

Local governments must continue to allow cannabis production where the cannabis is grown in ways that preserve the productive capacity of agricultural land, such as growing in an open field or in a structure that has a soil base.

Local governments must also allow cannabis production:

- In a pre-existing structure (or structure under construction, with approved permits) as of July 13, 2018; and
- In an existing licenced production facility.