



THE CORPORATION OF THE CITY OF MISSISSAUGA

BY-LAW NUMBER 0057-2015

**A by-law to Provide for the Licensing
of Medical Marihuana Production Facilities**

WHEREAS section 8 of the *Municipal Act, 2001* S.O. 2001, c.25 (the "*Municipal Act*") provides a municipality with broad authority to pass by-laws necessary or desirable for municipal purposes;

AND WHEREAS section 151 of the *Municipal Act* provides that without limiting sections 9, 10 and 11 of the Act, a municipality may provide for a system of licences with respect to a business;

AND WHEREAS the Council for the City of Mississauga considers it necessary and desirable to license medical marihuana facilities;

AND WHEREAS section 128 of the *Municipal Act* provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS subsection 391(1) of the *Municipal Act* provides that a municipality may impose fees and charges on persons;

AND WHEREAS section 436 of the *Municipal Act* provides that a municipality may pass a by-law providing that the municipality may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the municipality has been complied with;

AND WHEREAS section 444 of the *Municipal Act* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity;

NOW THEREFORE the Council of The Corporation of the City of Mississauga hereby **ENACTS** as following:

DEFINITIONS

1. For the purpose of this By-law:

"Additional Fee" means a fee, in addition to the licence fee, imposed by the City on a Licensee at any time during the term of the Licence for costs incurred by the City attributable to the activities of the Medical Marihuana Production Facility;

"Appeal Tribunal" means the all-citizen tribunal duly appointed by Council to conduct hearings under this By-law;

"Applicant" means a Person applying for a new Licence or the renewal of a Licence under this By-law;

"City" means the Corporation of the City of Mississauga;

"Clerk" means the Clerk of the City or his/her designate;

"Council" means the Council of the City ;

“Fees and Charges By-law” means the applicable Fees and Charges By-law as enacted by the City from time to time;

“Fire Chief” means the Chief of the City’s Fire and Emergency Services Division or his/her designate;

“General Inspection Report” means a confirmation document issued by the Electrical Safety Authority to an Applicant that there are no electrical defects identified in the Premises or that all electrical defects have been corrected;

“Licence” means the certificate issued by the Licence Manager under this By-law;

“Licensee” means any Person licensed under this By-law;

“Licence Manager” means the Manager of Compliance and Licensing Enforcement Unit of the City’s Enforcement Division and includes his/her designate;

“Marihuana” means the substance referred to as “Cannabis (marihuana)” in the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19;

“Medical Marihuana Production Facility” means a building, structure or part thereof, used for altering, assembling, inspecting, processing or producing medical Marihuana, which includes but is not limited to the growing or cultivation of living organisms used in the manufacturing process of medical Marihuana;

“Notice of Additional Fee” means a written notice from the Licence Manager to a Licensee advising them of their requirement to pay an Additional Fee;

“Officer” means a duly appointed Municipal Law Enforcement Officer by Council and includes members of the Peel Regional Police;

“Person” includes an individual, a corporation and its directors and officers, or partnership and their heirs, executors, assignees and administrators;

“Premises” includes lands or buildings or similar structures where a Medical Marihuana Production Facility is located;

“Zoning Certificate” means a certificate duly issued by the City approving the use for which the Licence application has been made on the property where the business is located, in accordance with the City’s Zoning Bylaw 0225-2007, as amended;

ADMINISTRATION OF THIS BY-LAW

2. The administration of this By-law is assigned to the Licence Manager who shall perform all of the administrative functions conferred upon him or her by this By-law.
3. The Licence Manager may delegate any responsibilities conferred to the Licence Manager under this By-law.

APPLICATION FOR A NEW LICENCE

4. An application for a new Licence shall be made to the Licence Manager using the forms provided by the Licence Manager.
5. Every application for a new Licence shall be accompanied by:
 - (1) The fee as set out in Schedule A to this By-law;
 - (2) A Zoning Certificate indicating that the use for which the application has been made is an approved use for medicinal product manufacturing facility;
 - (3) A copy of a licence to produce Marihuana issued by Health Canada to the Applicant as required according to the *Medical Marihuana Production Regulations SOR/2013-119*.

- (4) If applicable, proof of an approved building permit by the City;
- (5) A letter from the Fire Chief which states that an inspection has been conducted of the Premises and confirms that the Premises is in compliance with all the provisions of the *Fire Protection and Prevention Act*, S.O. 1997 and the *Ontario Fire Code*. This letter must be dated within ninety (90) days from the date when the application for the Licence is submitted to the City;
- (6) A General Inspection Report issued by the Electrical Safety Authority which certifies that an inspection has been conducted on the Premises and confirms that there are no visible fire, shock or electrical safety hazards and the Premises is in compliance with the requirements of the *Ontario Electrical Safety Code*. The General Inspection Report must be dated within ninety (90) days from the date when the application for the Licence is submitted to the City;
- (7) If the Applicant is a corporation, a copy of the incorporating document and a copy of the last annual return filed;
- (8) If the Applicant is a registered partnership, a copy of the registered declaration of partnership and a copy of the business name registration;
- (9) Proof of insurance which the Applicant shall take out and keep in full force and effect throughout the term of the Licence and any renewals thereof which shall include general liability insurance with respect to the Medical Marijuana Production Facility against claims for personal injury, death or property damage or loss, indemnifying and protecting the Applicant, their respective employees, servants, agents, contractors, invitees or licensees, to the inclusive limit of not less than Two Million (\$2,000,000.00) Dollars on a per occurrence basis; and
- (10) Any other documentation or information as may be required by the Licence Manager to assess the application.

APPLICATION FOR A RENEWAL LICENCE

6. An application for a renewal Licence shall be made to the Licence Manager using the forms provided by the Licence Manager.
7. Every application for a renewal Licence shall be accompanied by:
 - (1) The fee as set out in Schedule A to this By-law;
 - (2) Confirmation that the licence as described in subsection 5(3) of this By-law continues to be valid and has not been revoked or suspended; and
 - (3) Any other documentation or information as may be required by the Licence Manager to assess the renewal application.
8. When an application for a renewal of a Licence is received by the Licence Manager more than one year after the expiry date of the Licence, the application will be processed as a new application.

INSPECTION

9. By submitting an application for a Licence or the renewal of a Licence, the Applicant or Licensee consents to an inspection by an Officer who may at any reasonable time enter upon the Premises to make an inspection to ensure that all the provisions of this By-law have been satisfied in order to issue or renew a Licence.
10. An Officer may at any reasonable time, during the term of the Licence, enter upon and inspect the Premises of the Licensee to ensure that the provisions of this By-law are complied with.
11. Upon an inspection, every person shall produce all relevant Licences and permits, invoices, vouchers or like documents and all documents required to be kept and maintained under this By-law which may be removed by an Officer for the purpose

of photocopying and returned within forty-eight (48) hours of removal.

12. No person shall obstruct an Officer inspecting the Premises or withhold, destroy, conceal or refuse to furnish any information or thing required by an Officer for the purpose of the inspection.

REVIEW OF APPLICATION FOR A LICENCE BY THE LICENCE MANAGER

13. The Licence Manager shall receive, process and review all applications for all new Licences and renewals of Licences under this By-law.
14. The Licence Manager shall maintain complete records showing all applications received and Licences issued.
15. The Licence Manager shall have the power and authority to:
 - (1) Issue a new or renew a Licence;
 - (2) Revoke a Licence;
 - (3) Suspend a Licence; and
 - (4) Impose terms or conditions on a Licence.

ISSUANCE OF A LICENCE

16. When an application for a new Licence or renewal of a Licence is made in accordance with sections 5 or 7 respectively and the Applicant meets all the requirements of this By-law, the Licence Manager shall issue or renew the Licence.
17. Notwithstanding section 16 of this By-law, a Licence Manager may refuse to issue or renew a Licence or may suspend a Licence on any of the grounds listed in section 24 of this By-law.
18. Notwithstanding any other provisions of this By-law, the Licence Manager may impose terms and conditions on any Licence at issuance, renewal or any time during the Licence period including but not limited to:
 - (1) Conditions restricting the hours of business;
 - (2) Conditions, as a requirement for continuing to hold a Licence at any time during the term of the Licence; and
 - (3) Special conditions that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a Licence.
19.
 - (1) Notwithstanding any other provisions of this By-law, the Licence Manager may impose Additional Fees on a Licensee, by way of a Notice of Additional Fees, at any time during the term of a Licence for costs incurred by the City attributable to the activities of the Licensee.
 - (2) The Notice of Additional Fees shall be sent to the Licensee by registered mail and shall provide the Licensee with sixty (60) days to pay the outstanding amount from the date of such notice.
20. All Licences issued pursuant to this By-law shall expire one (1) year from the date of issuance.

RETURN OF THE LICENCE

21. When a Licence has been revoked, has not been renewed or has been suspended according to section 24 of this By-law, the holder of the Licence shall return the Licence to the Licence Manager within twenty four (24) hours of service of written notice of the decision of the Licence Manager.

22. The Licence Manager or Officer may enter upon the Premises of the Licensee for the purpose of receiving or removing the said Licence, when a Licensee has his/her Licence revoked, not renewed or suspended under this By-law.
23. The Licensee shall notify the Licence Manager of any change in ownership of the Medical Marihuana Production Facility and shall surrender his, her or its Licence to the Licence Manager within seventy-two (72) hours of the completion of such change.

GROUND FOR REFUSAL TO ISSUE/RENEW, REVOKE OR SUSPEND A LICENCE

24. A Licence Manager may refuse to issue/renew, revoke, or suspend a Licence where there are reasonable grounds to believe that:
 - (1) an application or other document provided to the Licence Manager by or on behalf of the Applicant contains a false statement or false information; or
 - (2) the Applicant or Licensee has failed to pay any fine imposed by a court as a sentence arising from convictions for breach of a By-law enacted by the City; or
 - (3) any Additional Fees imposed on a Licensee as set out in section 19 remain unpaid after the due date as indicated in the Notice of Additional Fees sent to the Licensee; or
 - (4) The Applicant or Licensee does not meet any or all of the requirements of:
 - a. this By-law or any other City By-law, including the Zoning By-law 225-07, as amended; or
 - b. the *Building Code Act*, *Fire Protection and Prevention Act*, and the Regulations of both legislations;
 - c. the Ontario Electrical Safety Code; or
 - d. any other federal and provincial laws and municipal by-laws.
 - (5) The financial position of the Applicant or Licensee affords reasonable grounds to believe that the Applicant or Licensee would not operate the Medical Marihuana Production Facility in a financially responsible manner;
 - (6) The past or present conduct of the Applicant or Licensee, or any partner, in the case of an Applicant or Licensee which is a partnership, or of any director or officer of the corporation, if the Applicant or Licensee is a corporation, affords reasonable grounds for the belief that the Applicant or Licensee will not carry on the activity for which they are to be licensed or to continue to be licensed in accordance with any applicable law and with integrity and honesty; or
 - (7) The Applicant or Licensee no longer meets the insurance requirements as set out in section 5(9) of this By-law;
25. After a decision is made by the Licence Manager to refuse to issue/renew, revoke, or suspend a Licence, written notice of that decision shall be given to the Applicant or Licensee advising the Applicant or Licensee of the Licence Manager's decision with respect to the application or Licence.
26. The written notice to be given according to section 25 shall:
 - (1) Set out the grounds for the decision;
 - (2) Give reasonable particulars of the grounds;
 - (3) Be signed by the Licence Manager; and

- (4) State that the Applicant or Licensee is entitled to a hearing by the Appeal Tribunal if the Applicant or Licensee delivers to the Clerk, within ten (10) days of service of the written notice as determined under sections 42 and 43 of this By-law, a written request for a hearing before the Appeal Tribunal with the appeal fee included as set out in the Fees and Charges By-law.
27. No Person shall re-apply with the Licence Manager to obtain or renew a Licence for a minimum of one year from the later of:
- (1) the date of the Licence Manager's decision to refuse to issue, renew or revoke a Licence; or
 - (2) where the decision of the Licence Manager is appealed, the date of the Appeal Tribunal's decision if the Appeal Tribunal upholds the decision to refuse to issue, renew or revoke a Licence.
28. Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.

THE HEARING BEFORE THE APPEAL TRIBUNAL

29. The power and authority to conduct an appeal hearing under this By-law are hereby delegated to the Appeal Tribunal.
30. When the Applicant or Licensee who has been given written notice of the hearing does not attend at the appointed time and place, the Appeal Tribunal may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceedings.
31. The Appeal Tribunal may give its decision orally or reserve its decision, but in any case it shall provide its decision in writing, with reasons, within fourteen (14) days of the hearing to the Applicant or Licensee and the Licence Manager.
32. In making its decision the Appeal Tribunal may:
- (1) uphold or vary the decision of the Licence Manager; or
 - (2) make any decision that the Licence Manager was entitled to make in the first instance.
33. The decision of the Appeal Tribunal issued under this By-law is final.

GENERAL REQUIREMENTS

34. Every Licensee shall prominently display the Licence at the Premises at all times and shall produce the Licence upon request by the Licence Manager or Officer.
35. Every Licence, at all times, is owned by and is the property of the City and is valid only in respect of the Person and for the Medical Marihuana Production Facility named therein.
36. (1) When a Licensee changes his or her name or address or any information relating to the Licence including but not limited insurance requirements, he or she shall notify the Licence Manager within seven (7) days of the change of address or any other information relating to his or her Licence and shall return the Licence immediately to the Licence Manager for amendment.
- (2) When the Licensee is a corporation, and there is any change in the following information given on the application, namely: the names and addresses of officers and directors, the location of the corporate head office, and/or change of ownership of shares, the Licensee shall report the change to the Licensing Section within seven (7) days of the change, and if necessary, the Licence shall be returned immediately to the Licence Manager for amendment.

37. Every Licensee shall keep the Premises in a clean and sanitary condition at all times including removing all refuse or debris from the Premises.
38. Where a Zoning Certificate has been issued based upon the use being approved by a Committee of Adjustment decision, the Zoning Certificate is subject to all conditions and restrictions imposed by the Committee of Adjustment on the use, including the term that the use is permitted, and upon expiry of the term, as permitted by the Committee of Adjustment, the Zoning Certificate shall no longer be valid.

GENERAL PROHIBITIONS

39. No Person shall:
- (1) own or operate a Medical Marihuana Production Facility unless the Person is licensed under this By-law;
 - (2) represent to the public that the Person is licensed under this By-law if the Person is not so licensed;
 - (3) contravene or fail to comply with a term or condition of his, her or its Licence imposed under this By-law;
 - (4) operate a Medical Marihuana Production Facility while their Licence issued under this By-law is under suspension; or
 - (5) transfer a Licence issued under this By-law.
40. No Licensee shall permit any person to loiter, create a disturbance or cause undue noise while on the Premises.

GENERAL POWERS OF OFFICERS

41. Where a Licensee contravenes any provision of this By-law, an Officer may:
- (1) Serve a written notice on the Licensee, advising of the contravention and directing compliance; or
 - (2) Direct in a written order that a thing or matter is required to be done, and in default of such matter or thing being done, the matter or thing will be done at the Licensee's expense by the City and the City will recover the expense by action or in like manner as municipal taxes.

NOTICE

42. Any notice or order required to be given or served under this By-law is sufficiently given or served, if delivered personally or sent by registered mail, addressed to the Person to whom delivery or service is required to be made at the last address for service appearing on the records of the Licence Manager.
43. When service is made by registered mail, the service shall be deemed to be effected on the tenth (10th) day after the date provided on the letter, unless the Person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness, or other cause beyond his control, receive the notice or order until a later date.

PENALTY

44. Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, and the *Municipal Act, 2001*, as both may be amended from time to time.

45. In addition to section 44 of this By-law, any Person who is charged with an offence under this By-law in accordance with Part III of the *Provincial Offences Act* and is found guilty of the offence, is liable, in addition to any other penalties:

(1) If a living person, to a fine of not more than \$25,000; or

(2) If a corporation, to a fine of not more than \$50,000.

MISCELLANEOUS

46. Any section of this By-law, or any part thereof, that is found by a court of competent jurisdiction to be invalid shall be severable, and the remainder of the By-law shall continue to be valid.

47. All schedules attached to this By-law shall form part of this By-law.

48. In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine and further, the converse of the foregoing also applies where the context so requires.

SHORT TITLE

49. This By-law may be referred to as the Medical Marihuana Licensing By-law.

ENACTED AND PASSED this 11 day of March , 2015.

APPROVED AS TO FORM City Solicitor MISSISSAUGA			
R. Gensoway			
Date	2015	Mar	09

B. Crombie

MAYOR

Crystal Green

CLERK

Schedule A
Licence Fees

New Licence	\$250.00
Renewal Licence	\$200.00

*These rates shall automatically increase and be rounded to the nearest dollar on the first day of January each year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the 12-month period ending on October 1 in the year immediately preceding the rate increase. The fees listed in this Schedule will be subject to Harmonized Sales Tax (H.S.T.), where applicable.