

P.O. Box 1749
Halifax, Nova Scotia
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Item No. 14.1.10
Halifax Regional Council
June 19, 2018

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jane Fraser, A/Chief Administrative Officer

DATE: May 25, 2018

SUBJECT: By-Law N-303 Respecting Nuisances

ORIGIN

On April 24, 2018 the following motion was PUT and PASSED by Halifax Regional Council:

THAT Halifax Regional Council direct staff to prepare a report and recommendations with respect to a municipal framework in light of the upcoming legalization of cannabis including, but not limited to, creating new or updating existing bylaws and administrative orders related to:

- Commercial and personal cultivation;
- Consumption in public spaces;
- Authority and effective tools for enforcing federal and provincial rules for retailing;
- Advertising, sponsorship, and signage; and
- Other areas requiring regulation

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (Charter), subsection 188(1) as follows:

- 188 (1) The Council may make by-laws, for municipal purposes, respecting
- (a) the health, well being, safety and protection of persons;
 - (b) the safety and protection of property;
 - (c) persons, activities and things in, on or near a public place or place that is open to the public;
 - (d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing,
- ...
- (m) the enforcement of by-laws made under the authority of a statute, including
- (ii) remedies for the contravention of by-laws, including undertaking or directing the remedying of a contravention, apprehending, removing, impounding or disposing, including the sale or destruction, of plants, animals, vehicles, improvements or other things and charging and collecting the costs thereof as a first lien on the property affected,

Recommendation on Page 2

Smoke Free Places Act, 2002, c. 12, subsection 16(1) as follows:

16 (1) Nothing in this Act affects any other authority to regulate, restrict or prohibit smoking.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt By-law N-303, amending By-law N-300, the *Nuisance Bylaw*, as set out in Attachment 2 of this report.

BACKGROUND

Council's motion of April 24, 2018 directed staff to prepare a report and recommendations with respect to a municipal framework in light of the upcoming legalization of cannabis, including creating or update existing by-laws and administrative orders related to:

- Commercial and personal cultivation;
- Consumption in public spaces;
- Authority and effective tools for enforcing federal and provincial rules for retailing;
- Advertising, sponsorship, and signage; and
- Other areas requiring regulation

A breakdown of the framework of the relative responsibilities for the upcoming legalization of cannabis is as follows:

Table 1 – Cannabis Regulation: Government Responsibilities

Federal Government	Provincial Government	Halifax Regional Municipality
Responsible for: <ul style="list-style-type: none"> • Possession limits • Types of Cannabis products permitted • New criminal offences • Packaging and labelling • Serving Sizes and potency • Ingredients • Production • Advertising • Impaired driving • Medical cannabis • Age limit (Federal) • Public health • Education • Taxation • Home cultivation • Regulatory compliance 	Responsible for: <ul style="list-style-type: none"> • Sale and distribution • Retail model • Retail locations and rules • Possession • Social consumption • Public health and safety • Protecting youth • Deterring unlawful activities • Cultivation, propagation and harvesting • Taxation 	Responsible for: <ul style="list-style-type: none"> • Public safety • Locations of commercial production and testing facilities • Impacts on Neighborhoods • Enforcement • Home cultivation • Social consumption (where cannabis can be consumed) • Education
Regulations: <ul style="list-style-type: none"> • <i>Cannabis Act</i> • Laws for controlling the production, distribution, sale and possession of cannabis across Canada 	Regulations: <ul style="list-style-type: none"> • <i>Cannabis Control Act</i> 	Regulations: <ul style="list-style-type: none"> • By-law amendments <ul style="list-style-type: none"> ○ <i>Nuisance By-law</i> ○ <i>Municipal Parks By-law</i> ○ Land-use By-law(s)

In respect to the development of a municipal framework for the regulation of cannabis, there are three different sets of by-law amendments being forwarded to Council for its considerations. These amendments are in respect of the *Nuisance By-law*, the *Municipal Parks By-law* and the *Land Use By-laws*.

This report is recommending amendments to the *Nuisance By-law* to prohibit smoking on all municipal land, except in designated areas, and to prohibit, within the serviced area, the personal cultivation of cannabis outside of a dwelling unit. A separate report and recommendation is before Council today recommending amendments to the *Municipal Parks By-law* to prohibit smoking in municipal parks. In addition, Planning and Development will be coming forward with proposed amendments to the Regional Plan and all land use by-laws to:

- regulate the location of cannabis productions facilities, including setbacks to residential and other sensitive land uses; and
- prohibit private retail sales of cannabis (excluding NLSC stores) and cannabis consumption venues to ensure the Municipality has the opportunity to carry out a thorough planning process should the province introduce legislation to permit these uses.

On November 27, 2017, the House of Commons passed Bill C-45, an Act respecting cannabis and to amend the *Controlled Drugs and Substances Act*, the *Criminal Code* and other Acts (the *Cannabis Act*). The *Cannabis Act* will provide legal access to cannabis and control and regulate its production, distribution and sale in Canada.

The *Cannabis Act* (Canada) allows an individual who is 18 years of age or older to grow no more than four cannabis plants at any one time in their dwelling-house. The *Cannabis Act* (Canada) regulates the growing of four plants by prohibiting:

- cannabis to be grown by an individual who is 18 years of age or older at a place that is not their dwelling-house or to offer to do so; or
- two or more people living in the same dwelling-house from growing more than 4 cannabis plants at any one time in their dwelling-house.

The *Cannabis Act* (Canada) defines a dwelling-house as “the dwelling-house where the individual is ordinarily resident and includes

- (a) any land that is subjacent to it and the immediately contiguous land that is attributable to it, including a yard, garden or any similar land; and
- (b) any building or structure on any land referred to in paragraph (a).”

The Province of Nova Scotia drafted legislation to further regulate cannabis and on April 18, 2018, Bill 108, An Act to Provide for the Regulation and Sale of Cannabis (the *Cannabis Control Act*) received Royal Assent. The *Cannabis Control Act*, amongst other things, amends the *Smoke Free Places Act* to add cannabis to the definition of “smoke” and, in addition to the current prohibitions already in the *Smoke Free Places Act*, prohibits smoking in the following places:

- on or within 20 metres of playgrounds located in an outdoor public space,
- on or within 20 metres of a publicly owned sport and recreation event or venue, located in an outdoor public space,
- on and within 9 metres of public trails, and
- in provincial parks and on provincial beaches, except for within the boundaries of a rented campsite

Portions of the *Cannabis Control Act*, including the amendments to the *Smoke Free Places Act*, are not yet in force as the Province is waiting for the *Cannabis Act* (Canada) to be proclaimed. As of the date of this report, the *Cannabis Act* (Canada) passed in the Senate of Canada with a number of amendments and has been returned to the House of Commons for consideration. A date for proclamation is anticipated in late summer of 2018.

Regulation of cannabis falls under all levels of government, as shown in Table 1 – Cannabis Regulation: Government Responsibilities. Now that extent of the Federal and Provincial regulations is known, staff have identified legislation to regulate cannabis at the municipal level.

DISCUSSION

The legalization of cannabis will create the following nuisances:

- the odour from the smoking of cannabis; and
- the odour stemming from the growing of cannabis.

Each nuisance will be discussed in turn.

Smoking on Municipal Property

Smoking tobacco is already regulated by the *Smoke Free Place Act*. The *Cannabis Control Act* (provincial) amends the *Smoke Free Places Act* to prohibit smoking of substances in addition to tobacco in certain places. One of those substances is cannabis.

When the provincial amendments come into force, the *Smoke Free Places Act* will prohibit smoking:

- in provincial parks,
- on provincial beaches,
- within 20 metres of playgrounds,
- within 20 metres of sport and recreation events or venues, and
- within 9 metres of public trails.

Now that the extent of the prohibitions under the *Smoke Free Places Act* are known, Council may consider regulating smoking through amendments to the *Nuisance Bylaw*. Staff recommends Council prohibit smoking on all municipal lands as a starting point and allow the CAO or delegate to designate portions of municipal land as smoking areas for the reasons set out in the following paragraphs.

Smoke and smoking are public health and safety issues and staff is recommending banning all smoking on municipal lands for two reasons. Firstly, the health impacts from the exposure to second-hand tobacco smoke have been well documented. Second-hand smoke contains the same chemicals as the smoke inhaled by a smoker¹, with over 70 of those chemicals having been shown to cause cancer. Cannabis smoke has many of the same chemicals as tobacco smoke², therefore the second-hand smoke from cannabis will have the same negative health implications as second-hand tobacco smoke. Health officials also identify that a ban on smoking will help prevent the normalization of cannabis use in children and youth.³

Secondly, a ban on smoking will allow for the effective enforcement of the smoking restrictions by increasing the likelihood of a successful prosecution. As the proposed amendments would prohibit all smoking on

¹ What is second hand smoke and how does it affect you? <http://www.cancer.ca/en/prevention-and-screening/reduce-cancer-risk/make-healthy-choices/live-smoke-free/what-is-second-hand-smoke/?region=on>

² Clearing the Smoke on Cannabis <http://www.ccsa.ca/Resource%20Library/CCSA-Clearing-the-Smoke-on-Cannabis-Highlights-2016-en.pdf>

³ Dr. Ryan Somers, MDCCFP FRCPC(PHMP), Medical Officer of Health Northern Zone, Nova Scotia Health Authority, submission to the Law Amendments Committee on Bill 108 – Cannabis Control Act.

municipal lands, with designated exemptions, the Crown will only need to lead evidence the accused was smoking on municipal land in contravention of the by-law. In contrast, if the ban only covers the smoking of cannabis, the Crown will also need to prove the substance the accused was smoking was cannabis as opposed to another permitted substance such as tobacco. This would require laboratory analysis that the substance in question was cannabis.

Odour from Growing Cannabis

The *Cannabis Act (Canada)* allows an individual 18 years of age or older to grow cannabis outside of their actual dwelling in areas such as decks, gardens, or sheds. This will allow the odour from the growing of cannabis to become a nuisance to those living or visiting in other dwellings on or near the property where it is grown. To help mitigate this nuisance within areas serviced with municipal sewer and water systems where dwellings are located close to each other, staff is recommending that the growing of cannabis be permitted only within one's dwelling. This will prohibit growing cannabis in areas outside of the person's dwelling such as decks, gardens, and sheds. This prohibition would not apply to an individual or company that holds a producer license issued by the Government of Canada.

To prohibit the growing of cannabis outside of a dwelling unit, the *Nuisance Bylaw* would need to be amended to create prohibitions against:

- growing cannabis unless it occurs within a dwelling unit;
- owning or occupying property where cannabis is grown outside of a dwelling unit; and
- permitting or allowing cannabis to be grown outside of a dwelling unit.

A corresponding definition of "dwelling unit" would need to be added that excludes a detached structure, and a structure that is attached to the exterior wall of the dwelling unit, such as a balcony or deck. A definition of "serviced area" would also be added which follows the urban service area of the Regional Subdivision By-law.

Fine Amounts

The draft by-law imposes fines for unlawfully smoking and unlawfully growing cannabis. For unlawfully smoking, the fine would be no less than \$25 and no more than \$2,000. The minimum fine amount recognizes that smoking is an addiction and that vulnerable and marginalized populations could be impacted by the smoking ban. The intent of the ban is not to impose fines and penalties that will further marginalize these groups. The \$2,000 maximum is the same maximum set in the *Smoke-Free Places Act* for everyone, except a manager or employer.

For unlawfully growing cannabis outside, the fine imposed would be at least one thousand dollars (\$1,000.00) dollars and not more than ten thousand dollars (\$10,000.00) for each offence. Ten thousand dollars is the highest fine amount Council may set under the Charter. If convicted, the judge could order the plants be removed and destroyed. The costs for this removal and destruction could be a lien on the property upon which the plants were removed.

Associated Costs

The cost of enforcing an all-out smoking ban and requiring residents within the services area to cultivate cannabis within dwelling units would be an annual estimated \$970K in ongoing costs. The costs are driven by the need for 8 additional By-law Compliance Officers, 1 Supervisor and 1 Support staff, equipment and new work space, and modification of existing signage. The expenses will be partially offset by the collection of fine revenue. The costs and revenues are unbudgeted and, depending on time of implementation, could have a direct impact on the 2018/19 operating budget.

Housekeeping Amendments

Staff are recommending the following housekeeping amendments:

- the references to the *Municipal Government Act* be updated to refer to the *Halifax Regional*

Municipality Charter; and

- the headers for sections 5, 6 and 10 be bolded for consistency with the rest of the by-law.

FINANCIAL IMPLICATIONS

There are no financial implications at this time. Although cost pressures are anticipated to provide for additional administration, increases to the budget will be sought through future budget submissions to Halifax Regional Council.

RISK CONSIDERATION

Delay in passing the proposed by-law amendments may result in the absence of a municipal framework when recreational cannabis is legalized. The lack of a municipal framework upon legalization would create confusion if the rules around public consumption of recreational cannabis are not in place. Passing the proposed by-law amendments allows communication and public education efforts to be engaged to advise the public of what is and is not allowed within the municipality.

COMMUNITY ENGAGEMENT

As part of consideration of the development of the by-law amendments, the following consultations were held:

- discussions with Nova Scotia Federation of Municipalities (formerly UNSM),
- Office of the Medical Officer of Health
- John Traves, Q.C., Director, Legal, Municipal Clerk & External Affairs, presented to the Law Amendments Committee on April 9, 2018, on Bill 108, An Act to Provide for the Regulation and Sale of Cannabis.

ENVIRONMENTAL IMPLICATIONS

None

ALTERNATIVES

Option 1

Council could refuse to adopt the amendments to the *Nuisance Bylaw*. Staff does not recommend this option as smoking will be permissible on municipal land and, within the serviced area, cannabis could be grown outside of a dwelling unit.

Option 2

Council could amend the *Nuisance Bylaw* to require a setback for the outdoor growing of cannabis on properties that are located outside of the serviced area.

If Council selects this option, one possible setback could be 20 meters from abutting properties. This would make the growing setback the same as the Provincial prohibition of smoking within 20 metres of:

- playgrounds located in an outdoor public space,
- provincial parks,
- beaches,
- the perimeter of the playground equipment in an outdoor public place; and
- the perimeter of a sports area.

To set a twenty metre setback, the motion could be amended to read:

It is recommended that Halifax Regional Council adopt By-law N-303, amending By-law N-300, the *Nuisance Bylaw*, as set out in Attachment 2 of this report, with the following amendment:

Section 5 of Attachment 2 is amended by adding section 12AA after section 12A and before section 12B as follows:

12AA (1) Outside of the serviced area and subject to subsection 2, no person shall cultivate, propagate, or harvest weed, unless the cultivation, propagation, or harvesting is located at least twenty (20) meters from any abutting property.

(2) Subsection (1) of this section shall not apply to a licensed producer.

Option 3

Council could amend the *Nuisance Bylaw* to only prohibit the smoking of cannabis on municipal property. Staff does not recommend this option for the reasons set out in the discussion section of this report.

If Council selects this option, the motion could be amended to read:

It is recommended that Halifax Regional Council adopt By-law N-303, amending By-law N-300, the *Nuisance Bylaw*, as set out in Attachment 2 of this report, with the following amendment:

Clause (i) of section 2 is amended by deleting the word “tobacco” and the words “or another substance that is intended to be smoked or inhaled” so it reads

“smoke” means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette or other device that burns or heats cannabis.

The cost of enforcing a cannabis only smoking ban is the same as enforcing an all-out smoking ban at \$970K in ongoing annual costs. A complement of 8 additional By-Law Compliance Officers would be needed to patrol HRM owned property as opposed to responding to complaints.

Option 4

If Council decides to make other substantive amendments respecting cannabis, as cannabis will be legalized sometime in the summer of 2018, staff recommends that Council proceed to adopt By-law N-303 as attached to this staff report. Council could then direct staff to draft any additional amendments to the *Nuisance Bylaw* it desires to consider, and return to Council for consideration of the resulting amendments once they are complete.

ATTACHMENTS

Attachment 1 Showing Proposed Changes to the *Nuisance By-law*
Attachment 2 By-law N-303 Amending the *Nuisance By-law*

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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ATTACHMENT 1 (REVISED)
(Showing Proposed Changes to Nuisance By-law)

HALIFAX REGIONAL MUNICIPALITY
BYLAW N-300
RESPECTING NUISANCES

The Council of the Halifax Regional Municipality under the authority vested in it by ~~Section 172~~ clauses 188 (1)(a), (b), (c) and (d) and ~~Section 174~~192(f) of the ~~Municipal Government Act~~ *Halifax Regional Municipality Charter*, and subsection 16(1) of the *Smoke Free Places Act*, enacts as follows:

Short Title

1. This Bylaw may be cited as Bylaw N-300, the “Nuisance Bylaw”.

Interpretation

2. In this Bylaw

(a) “abandon” means to leave a shopping cart on any public or private property outside the premises of the business that owns the shopping cart;

(aa) “accessory building” means a detached subordinate building, not used for human habitation, that is

(i) located on the same lot as the main building or use to which it is accessory,

(ii) wholly constructed of rigid materials such as metal, wood, or glass;

(b) Repealed;

(c) “Council” means the Regional Council of the Municipality;

(ca) “dwelling unit” means living quarters that

(i) are accessible from a private entrance, either outside the building or in a common area within the building,

(ii) are occupied or, if unoccupied, are reasonably fit for occupancy,

(iii) contain kitchen facilities within the unit, and

(iv) have toilet facilities that are not shared with the occupants of other dwelling units,

excluding any

(i) detached structure that is not an accessory building, or

(ii) structure that is attached to the exterior wall of the dwelling unit or the building containing the dwelling unit, such as a balcony, deck, patio, porch, terrace, or veranda;

(d) “Inspector” means the Inspector appointed by the Chief Administrative Officer or his designate;

(da) “licensed producer” means an individual or corporation issued a producer’s license in accordance with the *Access to Cannabis for Medical Purposes Regulations (Canada)*;

(db) “municipal property” means any land owned, occupied, or leased by the Municipality, including a street, and a park as defined by the *Municipal Parks By-law*;

(e) “Municipality” means the Halifax Regional Municipality;

(f) “owner” means,

(i) in respect of a shopping cart, a person or business who owns or provides shopping carts to its customers, or the assessed owner of the property where the business who provides shopping carts to its customers is located; or

(ii) in all other respects, as defined by clause 3(av) of the *Halifax Regional Municipality Charter*;

(g) Repealed;

(h) “parking area” means a parking lot or other property provided by a business for use by a customer of the business to park a vehicle;

(i) “premises” means the entire area owned or otherwise utilized by a business, including any parking area. For a business that is part of a shopping centre or shopping complex, “premises” shall include all business establishments in the shopping centre or complex and all areas used by the customers of those businesses in common, including all parking areas designated for use by the customers of the shopping centre or complex;

(j) “public place” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, alley, park, square, water courses including the shore of the water course, municipal, provincial or federal owned lands or any other place to which the public has access as a right or by invitation, express or implied;

(ja) “serviced area” means the urban serviced area shown on Schedule B, the service requirement map, of the *Regional Subdivision By-law*;

(k) “shopping cart” means a non-motorized basket which is mounted on wheels, or a similar device, generally used by a customer of a business for the purpose of transporting goods;

(ka) “smoke” means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;

(l) “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in the ~~Municipal Government Act~~ *Halifax Regional Municipality Charter*; and

(m) “weed” means a cannabis plant as defined by the *Cannabis Act (Canada)*.

PART 1 - NUISANCE ON STREETS

Street Nuisance Defined and Prohibited

3. (1) No person shall create, continue or suffer any nuisance to exist on or near a street.

(2) For the purposes of this Part, nuisance includes:

(a) engaging in any activity or pastime which:

(i) obstructs any person;

- (ii) creates a disturbance; or
- (iii) causes any damage to any structure, object, sod, plant or tree.

(b) interfering with, moving, damaging, or altering in any way, the operation of any barrier or fence, warning sign, signal or light placed on or near a street for purposes of closing the street or part thereof or for purposes of ensuring control of traffic or the safety of persons using the street; and

(c) entering, traveling, or driving, in along or across any closed street or within the closed portion of any street without the permission of the Director of Public Works and Transportation.

Penalty

4. Every person who violates the provisions of this Part shall be liable to a penalty of not less than Fifty Dollars (\$50.00) and not exceeding One Thousand Dollars (\$1,000.00) for each offence, and in default of payment thereof to imprisonment for a period not exceeding thirty days.

PART 1A – SMOKE ON MUNICIPAL LANDS

Smoking on Municipal Property

3A. No person shall smoke on municipal property.

Penalty

3B. Every person who violates the provisions of this Part shall be liable to a penalty of not less than One Hundred Dollars (\$100.00) and not exceeding Two Thousand Dollars (\$2,000.00) for each offence, and in default of payment thereof to imprisonment for a period not exceeding thirty days.

PART 2 - SHOPPING CARTS

Removal Or Abandonment Prohibited

5. (1) No owner shall suffer or permit a shopping cart owned or used by the business to be removed from the premises of the business without providing written consent to the person removing the shopping cart.

(2) No owner shall suffer or permit a shopping cart owned or used by the business to be abandoned upon any public or private property.

(3) No owner shall knowingly have on their premises shopping carts identified as belonging to another business.

(4) This section shall not apply to shopping carts removed as authorized by the owner for the purposes of repair, maintenance or disposal.

Information Required On Shopping Carts

6. The owner shall permanently affix to the front of each shopping cart a weather proof sign including the following information:

- (1) name of shopping cart owner or business or both;
- (2) valid published telephone number and address for returning shopping cart to owner; and
- (3) notification that removal of a shopping cart from the owner's premises, unauthorized possession of a shopping cart and abandonment of a shopping cart on public or private property is not permitted.

Parameters Of Cart Recovery Service

7. The owner of a business shall have a proactive shopping cart recovery service which shall include:

- (1) establishment of a dedicated phone line with 24 hour machine answering service (telephone number as in subsection 6(2));
- (2) conspicuous notification on premises that the following are prohibited:
 - (ii) the removal of a shopping cart from the owner's premises;
 - (iii) the unauthorized possession of a shopping cart; and
 - (iv) the abandonment of a shopping cart on public or private property.
- (3) retrieval of the shopping carts by the owner within 24 hours of receipt of notification through a dedicated phone line; and
- (4) shopping cart retrieval at the expense of the owner.

Impoundment by Municipality

8. (1) Any municipal employee or agent may retrieve and impound any shopping cart abandoned on public property.

(2) Within 48 hours, the Municipality shall inform the owner that the shopping cart has been impounded by phoning the owner's dedicated phone line.

(3) An impound fee in the amount set by Administrative Order 15, Respecting License, Permit and Processing Fees shall apply to each shopping cart impounded pursuant to subsection (1).

Retrieval By Owner

9. The Municipality shall release impounded shopping carts to the owner on the payment of the impound fee pursuant to clause 8(3).

Disposal by the Municipality

10. (1) The Municipality may sell or otherwise dispose of any impounded shopping carts not retrieved by the owner within 7 working days following the date of impoundment.

(2) The Municipality may immediately sell or otherwise dispose of any impounded shopping cart not identified as outlined in section 6.

(3) All expenses incurred by the Municipality in seizing, removing, impounding, storing and disposing of the shopping cart may be recovered as a debt due from the owner.

Penalty

11. Every person who violates the provisions of this Part shall be liable to a penalty of not less than One Hundred Dollars (\$100.00) dollars and not exceeding One Thousand Dollars (\$1,000.00) for each offense and in default of payment thereof to imprisonment for a period not exceeding sixty days.

PART 3

12. Repealed.

PART 4

12A (1) Within the serviced area and subject to subsection 2, no person shall

(a) cultivate, propagate, dry, or harvest weed, unless the cultivating, propagating, drying, or harvesting occurs wholly within a dwelling unit or an accessory building;

(b) own or occupy property where weed is cultivated, propagated, dried, or harvested, unless the weed is cultivated, propagated, or harvested wholly within a dwelling unit or an accessory building; or

(c) permit or allow weed to be cultivated, propagated, dried, or harvested on property they own or occupy, unless the weed is cultivated, propagated, or harvested wholly within a dwelling unit or an accessory building.

(2) Subsection (1) of this section shall not apply to a licensed producer.

12B (1) Every person who violates the provisions of this Part shall be guilty of an offence and shall be liable to a penalty of not less than One Thousand Dollars (\$1000.00) dollars and not exceeding Ten Thousand Dollars (\$10,000.00) for each offense and in default of payment thereof to imprisonment for a period not exceeding one year.

(2) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(3) In addition to a penalty imposed for a contravention of this By-law in accordance with subsection (1) of this section, the judge may order that the weed be removed and destroyed.

(4) Any costs incurred by the Municipality relating to an order for the removal and the destruction of the weed, shall be a first lien on the property upon which the weed was removed.

REPEAL OF BY-LAWS

13. The following by-laws are repealed:

By-Law 22104 of the former Town of Bedford, the Loitering By-Law;
By-Law 22141 of the former Town of Bedford, the discharge of Firearms By-Law;
By-Law A-300 of the Former City of Dartmouth, the Air Guns and Rifles By-Law;
By-Law F-300 of the Former City of Dartmouth, the Firearms By-law;
By-Law L-400 of the former City of Dartmouth, the Littering By-Law;
By-Law L-600 of the former City of Dartmouth, the Loitering By-Law;
By-Law N-300 of the former City of Dartmouth, the Abatement of Nuisances By-Law;
Ordinance 159 of the former City of Halifax, the discharge of Guns and Other Firearms;
Part VI of Ordinance 180 of the former City of Halifax, the Streets Ordinance;
Sections 4, 5, 5A and 6 of By-law 8 of the former Halifax County Municipality, the Mischiefs and Nuisance By-Law;
By-Law 39 of the former Halifax County Municipality, the Loitering By-Law,
By-Law 47 of the former Halifax County Municipality, the Dumping of Garbage and Litter By-law, and any amendments thereto

Done and passed in Council this 7th day of August, 2007.

MAYOR

MUNICIPAL CLERK

ATTACHMENT 2 (REVISED)
(By-law N-303 Amending Nuisance Bylaw)
HALIFAX REGIONAL MUNICIPALITY
BYLAW N-303
RESPECTING NUISANCES

BE IT RESOLVED by the Council of the Halifax Regional Municipality that By-law N-300, the *Nuisance Bylaw*, is further amended as follows:

1. The preamble is amended by:

(a) striking out the word and number “Section 172” after the word “by” and before the brackets and number “(1)”;

(b) striking out the word and number “Section 174” after the word “and” and before the brackets and letter “(f)”;

(c) adding the word and number “clauses 188” after the word “by” and before the brackets and number “(1)”;

(d) adding the word and number “clause 192” after the word “and” and before the brackets and letter “(f)”;

(e) striking out the words “*Municipal Government Act*” after the words “of the” and before the comma and word “, enacts”; and

(f) adding out the word, brackets and numbers “*Halifax Regional Municipality Charter* and subsection 16(1) of the *Smoke Free Places Act*,” after the words “of the” and before the comma and word “, enacts”.

2. Section 2 is amended by:

(a) adding clause ca after clause c and before clause d, as follows:

(ca) “dwelling unit” means living quarters that

(i) are accessible from a private entrance, either outside the building or in a common area within the building,

(ii) are occupied or, if unoccupied, are reasonably fit for occupancy,

(iii) contain kitchen facilities within the unit, and

(iv) have toilet facilities that are not shared with the occupants of other dwelling units,

excluding any

(i) detached structure **that is not an accessory building**, or

(ii) structure that is attached to the exterior wall of the dwelling unit or the building containing the dwelling unit, such as a balcony, deck, patio, porch, terrace, or veranda;

(b) adding clauses (da) and (db) after clause (d) and before clause (e) as follows:

(da) “licensed producer” means an individual or corporation issued a producer’s license in accordance with the *Access to Cannabis for Medical Purposes Regulations* (Canada);

(db) “municipal property” means any land owned, occupied, or leased by the Municipality, including a street, and a park as defined by the *Municipal Parks By-law*;

(c) striking out the comma after the word “means” in clause (f);

(d) striking out the semi-colon after the word “located” at the end of the clause (f);

(e) adding a comma and the word “, and” after the word “located” at the end of the clause (f);

(f) lettering the words after the struck comma and words “means,” as subclause (i) of clause (f);

(g) adding subclause (ii) of clause (f) after the newly lettered subclause (i) of clause (f) and before the repealed clause (g) as follows:

(ii) in all other respects, as defined by clause 3(av) of the *Halifax Regional Municipality Charter*;

(h) adding clause (ja) after clause (j) and before clause k as follows:

(ja) “serviced area” means the urban serviced area shown on Schedule B, the service requirement map, of the *Regional Subdivision By-law*;

(i) adding clause (ka) after clause (k) and before clause (l) as follows:

(ka) “smoke” means smoke, inhale or exhale smoke from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, waterpipe, electronic cigarette or other device that burns or heats tobacco, cannabis or another substance that is intended to be smoked or inhaled;

(j) striking out the words “Municipal Government Act” and the period at the end of clause (l);

(k) adding the words and semi-colon “*Halifax Regional Municipality Charter*; and” at the end of clause (l); and

(l) adding clause (m) after clause (l) and before Part I as follows:

(m) “weed” means a cannabis plant as defined by the *Cannabis Act* (Canada).

(n) adding clause aa after clause a and before clause b, as follows:

(aa) “accessory building” means a detached subordinate building, not used for human habitation, that is

(i) located on the same lot as the main building or use to which it is accessory, and

(ii) wholly constructed of rigid materials such as metal, wood, or glass;

3. Part 1A is added after Part 1 and before Part 2 as follows:

PART 1A – SMOKE ON MUNICIPAL LANDS

Smoking on Municipal Property

3A. No person shall smoke on municipal property.

Penalty

3B. Every person who violates the provisions of this Part shall be liable to a penalty of not less than One Hundred Dollars (\$100.00) and not exceeding Two Thousand Dollars (\$2,000.00) for each offence, and in default of payment thereof to imprisonment for a period not exceeding thirty days.

4. Sections 5, 6 and 10 are amended by bolding the headers before the start of each section.
5. Part 4 is added after the repealed Part 3 and before section 13 as follows:

PART 4

12A (1) Within the service area and subject to subsection 2, no person shall

(a) cultivate, propagate, **dry**, or harvest weed, unless the cultivating, propagating, **drying**, or harvesting occurs wholly within a dwelling unit **or an accessory building**;

(b) own or occupy property where weed is cultivated, propagated, **dried**, or harvested, unless the weed is cultivated, propagated, **dried**, or harvested wholly within a dwelling unit **or an accessory building**; or

(c) permit or allow weed to be cultivated, propagated, **dried**, or harvested on property they own or occupy, unless the weed is cultivated, propagated, **dried**, or harvested wholly within a dwelling unit **or an accessory building**.

(2) Subsection (1) of this section shall not apply to a licensed producer.

12B (1) Every person who violates the provisions of this Part shall be guilty of an offence and shall be liable to a penalty of not less than One Thousand Dollars (\$1000.00) dollars and not exceeding Ten Thousand Dollars (\$10,000.00) for each offense and in default of payment thereof to imprisonment for a period not exceeding one year.

(2) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(3) In addition to a penalty imposed for a contravention of this By-law in accordance with subsection (1) of this section, the judge may order that the weed be removed and destroyed.

(4) Any costs incurred by the Municipality relating to an order for the removal and the destruction of the weed, shall be a first lien on the property upon which the weed was removed.

Done and passed in Council this _____ day of _____, 2018.

MAYOR

MUNICIPAL CLERK