
Changes to Marijuana Laws

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New, pending federal legislation that controls the use and production of marijuana has many strata councils and strata managers under growing pressure from owners to adopt bylaws that prohibit the use of marijuana and the growing of marijuana plants.

Owners are concerned this is just going to make their property the local grower, resulting in falling property values and an adverse effect to their communities. Many owners complain about the smell of marijuana in buildings with the misconception that marijuana smoke, cigarette smoke or other substances that contaminate strata lots or the common property require specialized regulations. For most strata communities, existing smoking and property use bylaws may be sufficient as they address the issue of nuisance; however, the perception that federal legislation legalizing marijuana use and possession has raised broader concerns about growing products and distribution. At the time of publication, this legislation is still pending; however, anticipate some introduction through the summer of 2018.

Federal legislation determines what substances may be possessed and consumed, the quantity of what products may be possessed by individuals and if permitted, how it is grown, managed, regulated and taxed. Each province then has the jurisdiction to determine how the distribution will be managed, who will manage the distribution and the controls placed on distribution, and most important the property and real estate laws and regulations that govern how we use, sell, own and manage properties, such as the *Strata Property Act* and *Real Estate Services Act*. In addition, there are local government bylaws that will set specific zoning requirements and regulations for the facilities

that will grow marijuana, plus how local businesses may market and distribute the products.

Strata corporations are essentially private property and are permitted to adopt "local" regulations which we apply as bylaws for the use and enjoyment of property. The strata corporation cannot prohibit anyone from consuming marijuana or any substance as products are consumed in many forms that pose no nuisance to the community; however, in most strata corporations the main issue is smoking. Smoke is a serious nuisance in many multi family buildings as the smoke often migrates into other strata lots or common property and may contaminate those areas. While each strata lot is within its own climate or space, multi family buildings such as apartment, connected townhouse or high-rise style buildings are rarely air tight. Any neighbour smoking or consuming products that requires some sort of combustion will migrate to other strata lots.

Your strata corporation is permitted to adopt a bylaw that regulates nuisance, such as smoking or noise. The Schedule of Standard Bylaws contains a nuisance bylaw which may be currently enforced or your strata may adopt a bylaw that simply prohibits all smoking of any substance within strata lots and on any common property. If an owner or occupant requires the medical use of marijuana, the strata corporation is permitted to request valid documentation to grant the exemption. While the bylaws are local to each strata corporation, it is essential to remember there may be special accommodation or exemption considerations under the BC Human Rights Code for medical needs. This is both for the protection of the strata corporation, the owners, tenants and occupants in a related strata lot.

Before you consider applying your bylaws it is always beneficial to run through a review of your bylaws to verify you start from a point of enforceability. Is your smoking or nuisance bylaw enforceable? Has your strata inserted conditions into your bylaws that may result in them being complicated to enforce? Did you approve the bylaws properly at a general meeting? Did you file your bylaws in the Land Title Registry?

For more information go to the Government of Canada website at <https://www.canada.ca/en/services/policing/justice/legalization-regulation-marijuana.html> OR the Government of BC website: <https://www2.gov.bc.ca/gov/content/safety/public-safety/cannabis>