

FAQs

Kahnawà:ke Cannabis Control Law

Q1	Is cannabis currently legal in Canada? Who can possess cannabis at this time?
A1	<p>Currently, only those who require cannabis for medical purposes with the support of a medical practitioner are permitted to legally possess cannabis.</p> <p>Only Health Canada approved licensed producers are authorized to produce cannabis pursuant to the <i>Access to Cannabis for Medical Purposes Regulations</i></p>
Q2	Are there currently any Health Canada licensed producers in Kahnawà:ke?
A2	<p>At this time, no person or company operating in Kahnawà:ke is a licensed producer approved by Health Canada. Therefore, anyone currently selling cannabis in the Territory may be opening themselves up to criminal liability.</p>
Q3	What is the <i>Cannabis Act</i>?
A3	<p>The <i>Cannabis Act</i> is the short title for the <i>Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts</i>. This Act was adopted by the federal government to lift the prohibition on cannabis for recreational purposes in a strictly regulated manner.</p> <p>Purpose of <i>Cannabis Act</i>:</p> <ul style="list-style-type: none">• It imposes serious criminal penalties on people who break the law;• It establishes strict product safety and quality requirements;• It provides for the legal production of cannabis;• It allows adults to possess and access regulated, quality-controlled, legal cannabis; and• It delegates the authority to provinces to regulate sale/distribution of cannabis in their respective provinces.
Q4	Once the <i>Cannabis Act</i> comes into force, what will be considered legal in Kahnawà:ke?
A4	<p>Adults who are of legal age (depending on the province), will be able to legally:</p> <ul style="list-style-type: none">• purchase limited amounts of fresh cannabis, dried cannabis, cannabis oil, cannabis seeds, or cannabis plants from retailers authorized by the provinces;• possess up to 30 grams of dried legal cannabis or equivalent in non-dried form in public;

	<ul style="list-style-type: none"> • consume legal cannabis in locations authorized by local jurisdictions; • share up to 30 grams of legal dried cannabis or equivalent with other adults; or • make legal cannabis-containing products at home, such as food and drinks, provided that dangerous organic solvents are not used in making them.
Q5	What is the date of cannabis legalization?
A5	The federal <i>Cannabis Act</i> , which will lift the 95-year prohibition on cannabis for recreational purposes, comes into force on October 17, 2018. Although the term “legalization” is used, it will still be strictly regulated.
Q6	Will the <i>Cannabis Act</i> apply to Kahnawà:ke?
A6	<p>Yes, the Cannabis Act will apply to Kahnawà:ke. Kahnawà:ke cannot escape the application of the <i>Cannabis Act</i> as it is a criminal law of general application.</p> <p>The Peacekeepers have the obligation to enforce the criminal laws of general application.</p> <p>Given that cannabis is a drug, the PKs will enforce the criminal laws with respect to illegal and unlicensed cannabis within the Territory, even after legalization.</p>
Q7	Will Quebec’s <i>Cannabis Regulations Act</i> apply to Kahnawà:ke?
A7	<p>Each province is responsible for regulating distribution/sale of cannabis.</p> <p>Quebec is implementing an SAQ-type model to regulate and manage sale of cannabis in the province.</p> <p>Quebec’s cannabis regulations will <u>not</u> apply given that Chief & Council has decided that the sale of cannabis will be regulated locally. The <i>Kahnawà:ke Cannabis Control Law</i> will set aside, to the extent possible, Quebec’s rules on distribution and sale of cannabis within the Territory of Kahnawà:ke.</p> <p>Kahnawà:ke will regulate cannabis sale/distribution on the Territory and ensure that all cannabis produced, processed, distributed and sold in Kahnawà:ke is licensed by Health Canada.</p>
Q8	If the <i>Kahnawà:ke Cannabis Control Law</i> is not adopted or implemented by October 17, 2018 will there be a legal vacuum in Kahnawà:ke?
A8	Even in the absence of the <i>Kahnawà:ke Cannabis Control Law</i> , criminal laws of general application apply to the Territory. In other words, the <i>Cannabis Act</i> will apply to the Territory and the Kahnawà:ke Peacekeepers will enforce it. Therefore, only cannabis obtained from a licensed source will be permitted.

Q9	Does the <i>Kahnawà:ke Cannabis Control Law</i> replace the <i>Cannabis Act</i> or other criminal laws of general application on the Territory?
A9	<p>It is important to note that the <i>Kahnawà:ke Cannabis Control Law</i> does not constitute a full legal framework as it relates to cannabis. All criminal laws of general application, as long as they are not inconsistent with the <i>Kahnawà:ke Cannabis Control Law</i>, will continue to apply on the Territory.</p> <p>For example, criminal laws with respect to cultivation, possession above the prescribed amount, unlicensed cannabis, driving while impaired and sale of cannabis to minors will apply on the Territory regardless of the adoption of the <i>Kahnawà:ke Cannabis Control Law</i>.</p>
Q10	Where can I purchase legal cannabis as of October 17, 2018?
A10	<p>In the Province of Quebec, only the Société Québécoise du Cannabis (owned and operated by the Government of Quebec) will be authorized to sell cannabis as of October 17, 2018. The Société Québécoise du Cannabis does not intend on issuing any private licences – all stores will be government operated. No such Société Québécoise du Cannabis stores will be permitted in the Mohawk Territory of Kahnawà:ke.</p> <p>In Kahnawà:ke, only holders of a local dispensary licence (along with a Health Canada licence) will be permitted to sell legal cannabis. All other sources of cannabis are deemed illegal.</p>
Q11	What are the potential penalties with respect to the illicit possession, production and sale of cannabis after October 17, 2018?
A11	<ul style="list-style-type: none"> • Possession over the limit – up to 5 years in prison • Illegal distribution or sale – up to 14 years in prison • Illegal cannabis production – up to 14 years in prison • Taking cannabis across the border – up to 14 years in prison • Giving or selling cannabis to someone under the age of 18 – up to 14 years in prison • Using a youth to commit a cannabis related offence – up to 14 years in prison
Q12	Why was this Law categorized as Type II legislation under the Community Decision-Making Process?
A12	<p>The Law was categorized as a Type II regulatory legislation given that it is a law with respect to the regulation of a specific industry in Kahnawà:ke.</p> <p>Therefore, the Mohawk Council of Kahnawà:ke (MCK) has the responsibility to ensure the safety and well-being of the community, as well as balancing economic initiatives that have an impact on the collective interests. Within the legislative framework, it has the responsibility to set the purpose and scope of this Law.</p>

Q13	Is the proposed <i>Kahnawà:ke Cannabis Control Law</i> uniquely a Mohawk Council of Kahnawà:ke draft and initiative?
A13	<p>No. In fact, the Cannabis Working Group (which includes the technical drafting committee) includes members from the MCK and various community health and safety organizations. Throughout the drafting process, the Cannabis Working Group consulted with the following organizations, groups, stakeholders, etc.:</p> <ul style="list-style-type: none"> • Kahnawake Shakotia'takéhnhas Community Services • Kahnawà:ke Peacekeepers • Public Safety • Kateri Memorial Hospital Center • Tawatohnhi'saktha • Justice Commission • Community members (including one-on-one basis, business information session, technical survey, etc.) • Chief & Council <p>Some of these groups (Tawatohnhi'saktha, KSCS, Peacekeepers, Justice Commission, Public Safety, KMHC, etc.) all had the opportunity to provide written and verbal submissions regarding the content of the proposed law prior to the public posting phase and their input was incorporated in the law wherever possible. It should be noted that the community organizations consulted held the position that the Kahnawà:ke cannabis sector needs to be strictly-regulated with a two-tier licensing process.</p>
Q14	Given that two laws were initially submitted to the Kahnawà:ke Legislative Coordinating Committee (KLCC) (one by a community member and one by the cannabis working group), how did the technical drafting team proceed with drafting the proposed <i>Kahnawà:ke Cannabis Control Law</i>?
A14	<p>The starting point for the technical drafting committee was the scope and purpose of the law, via Mohawk Council Executive Directive No. 61/2017-2018, which established the parameters of the law. The technical drafting committee incorporated many elements from both of the initial drafts submitted to the KLCC. The community member that submitted a draft law was invited to meet with Chief Rhonda Kirby and members of the technical drafting committee to provide his vision of the law.</p> <p>The technical drafting committee, along with the other members of the Cannabis Working Group, also met with many other stakeholders in the community. The input from <u>all</u> the various stakeholders was taken into consideration.</p>
Q15	Was the technical drafting committee bound by the two initial submissions to the KLCC? Why?
A15	No. The technical drafting committee was not bound by the two initial submissions to the

	KLCC. It was only bound to follow the mandate, scope, and purpose of the law, as established by MCED No. 61/2017-2018. Otherwise, any specific interest group without a mandate from the community would be able to submit laws for their private benefit, which would constitute a major conflict of interest.
Q16	Under what authority can Kahnawà:ke implement its own laws and regulations to strictly regulate cannabis activities in its Territory?
A16	<ul style="list-style-type: none"> • Exclusive jurisdiction over the Territory; • Existing, inherent and inalienable rights which include the right of self-determination; the right to promote and control economic development; and the right to preserve peace, order and good government within the Territory; • Rights as recognized and affirmed in the domestic laws of Canada, including the <i>Constitution Act, 1982</i> and other federal and provincial legislation; • Rights as recognized and affirmed in international law, including the <i>United Nations Declaration on the Rights of Indigenous Peoples</i>; • As production, distribution, sale, possession and use of cannabis have a significant impact on socio-economic development, health, safety and peace, order and good government within the Territory, the Mohawks of Kahnawà:ke have the ultimate and exclusive right and jurisdiction to regulate and control cannabis within the Territory; • Given that jurisdictions surrounding Kahnawà:ke are creating legislation that directly impacts the well-being of our community, the Mohawks of Kahnawà:ke have the obligation to regulate and control cannabis in a way that protects and preserves the best interests of our community; • The Mohawk Council of Kahnawà:ke, as a governing body in and for the Territory, has the power and authority to enact this Law on behalf of the Mohawks of Kahnawà:ke.
Q17	What is the general purpose of the <i>Kahnawà:ke Cannabis Control Law</i>?
A17	<ul style="list-style-type: none"> • Protect the health and safety of community members, especially young persons, first and foremost; • Protect the jurisdictional integrity of the Territory by ensuring mutual respect and cooperation in relation to jurisdiction, economic advancement and enforcement of Kahnawà:ke's domestic affairs; • Facilitate a strictly-regulated and controlled cannabis industry that will promote and enhance the socio-economic development, fiscal self-sufficiency and tangible benefits for the collective; • Ensure any cannabis in the Territory derives from a legal and quality-controlled source; • Deter illicit and illegal activities in relation to cannabis in the Territory;

	<ul style="list-style-type: none"> • Balance the interests of community members who are opposed to cannabis with those who are seeking regulated production and sale of cannabis.
Q18	What type of licencing system is being contemplated under the <i>Kahnawà:ke Cannabis Control Law</i>?
A18	<p>Kahnawà:ke will implement a two-tiered licencing system, which requires both a Health Canada licence and local Kahnawà:ke licence. The local licence is conditional on obtaining and retaining a Health Canada licence.</p> <p>Moreover, holders of provincial or federal licences, where applicable, must also apply and obtain a local licence to be able to operate legally in the Territory.</p>
Q19	Why does the <i>Kahnawà:ke Cannabis Control Law</i> require a Health Canada licence?
A19	<p>Cannabis is a drug and without strict regulation or control can become a major health hazard. Public health and safety is the foremost preoccupation and that could only be achieved by establishing a strict regulatory process. The Health Canada licence requirement, which imposes very strict standards for health and safety (via security, product testing and control, labelling and packaging, etc.), is thus an integral component to reaching this end.</p> <p>Despite legalization of cannabis for recreational purposes, cannabis will remain a strictly controlled substance and will continue to be regulated under the <i>Criminal Code of Canada</i> and <i>Controlled Drugs and Substances Act</i>, which the Kahnawà:ke Peacekeepers are obligated to enforce. Under the proposed federal <i>Cannabis Act</i>, only licensed cannabis (meaning cannabis produced by Health Canada licensed producers) will be deemed legal, both on and off the Territory. If Kahnawà:ke were to permit unlicensed product to be developed in the Territory, the following is likely to occur:</p> <ul style="list-style-type: none"> - Attraction of undesirable criminal elements which are often attracted to legal vacuums and jurisdictions that circumvent criminal regulations; - Kahnawà:ke producers would not be permitted to export any of the product produced in the Territory, which would severely undercut any chance of generating a profit; - The jurisdictional integrity of the Territory would be undermined as external law enforcement and governments may be forced to intervene in Kahnawà:ke's local affairs (there have been a number of police raids on Indigenous territories where unlicensed dispensaries have popped up); - There would be no enforcement mechanism to control the quality and quantity of cannabis in the Territory and thereby affect public health and safety; - The sellers, cultivators and the MCK could be deemed liable for any harm caused by the unlicensed products consumed.
Q20	Why is Kahnawà:ke requiring a local licence <u>and</u> a Health Canada licence?

A20	<p>Given the absence of municipal-type zoning regulations in Kahnawà:ke, the requirement for a local Kahnawà:ke licence is the best way to ensure that commercial cannabis activities are efficiently and safely controlled within the Territory.</p> <p>Otherwise, external governments may unilaterally issue licences without consulting the community.</p> <p>The local licence will allow the Cannabis Control Board to control both the number of cannabis operations in the Territory and the location of these activities (i.e. ensure they are a certain distance from schools, residential areas, etc.).</p>
Q21	<p>Can I circumvent the <i>Kahnawà:ke Cannabis Control Law</i> by simply obtaining a Health Canada licence?</p>
A21	<p>No. Under the current Health Canada application process, applicants must demonstrate approval for their proposed operations at the local level. Health Canada is unlikely to issue a licence, unless local approval is obtained.</p> <p>Also, pursuant to the principles of the Two Row Wampum, Kahnawà:ke will be taking steps to ensure that the federal and provincial laws are not unilaterally imposed on Kahnawà:ke. However, steps will be taken to harmonize its licencing process with the external governments to ensure its recognition enforcement on and off the Territory to ensure the enforcement of the Kahnawà:ke Cannabis Control Law in outside jurisdictions.</p>
Q22	<p>Does Kahnawà:ke even need a cannabis law?</p>
A22	<p>Yes. At a local level, Kahnawà:ke must exercise its jurisdiction to establish land management policies, business licensing, nuisance restrictions, smoking restrictions, regulations around public consumption, personal possession, local policing and enforcement, retail locations, home cultivation, etc.</p>
Q23	<p>Why are we not proposing the banning of cannabis in Kahnawà:ke entirely?</p>
A23	<p>Often in cases of outright prohibition, the supply continues by illegal means. This would be all the more likely in the case of cannabis as the Territory will be surrounded by land where supply is legal and easily obtainable. As well, those who depend on cannabis for medical purposes or choose to consume cannabis despite the prohibition would not have access to the same quality-controlled product available off the Territory.</p>
Q24	<p>Does the <i>Kahnawà:ke Cannabis Control Law</i> contravene Kahnawà:ke's Zero Tolerance on Drugs Policy?</p>
A24	<p>No, as long as the cannabis is from a legal and licensed source, it does not contravene the wording of Kahnawà:ke's Zero Tolerance on Drugs policy.</p> <p>This policy was enshrined by Mohawk Council Resolution No. 140/1988-1989, which</p>

	<p>stipulates that “[t]he manufacture, transportation, sale and use of <u>illicit and illegal drugs</u> in the Territory of Kahnawà:ke is an offense against the Community and is hereby prohibited”. Given that <u>licensed</u> cannabis will become legal (for both recreational and medical purposes) in restricted amounts, it will no longer be deemed an illicit or illegal drug as long as the cannabis is derived from a legal source.</p> <p>It should be clarified that unlicensed cannabis activities will be in contravention of MCR No. 140/1988-1989 and the <i>Kahnawà:ke Cannabis Control Law</i> and also be subject to stiff criminal penalties.</p>
Q25	What will happen to the moratorium on cannabis sale and production, which was implemented under Mohawk Council Executive Directive No. 48/2017-2018?
A25	The moratorium was implemented as a temporary measure and will be rescinded and replaced by the <i>Kahnawà:ke Cannabis Control Law</i> .
Q26	What is the legal age limit proposed under the <i>Kahnawà:ke Cannabis Control Law</i>?
A26	<p>At the request of the local public and safety organizations, the legal age limit under the <i>Kahnawà:ke Cannabis Control Law</i> is set at 21 years old despite the fact that the legal age limit in Quebec is set to 18 years old. This was done to ensure that Kahnawà:ke’s youth would be unable to access cannabis from local licence holders until at least the age of 21, as studies show the brain remains under development until the age of 25.</p> <p>Although young people between the ages of 18 and 21 will be able to purchase licensed cannabis off of the Territory, it was deemed important to establish a higher age limit in Kahnawà:ke in order to send a clear message to dissuade Kahnawà:ke’s youth from consuming mind-altering drugs.</p>
Q27	Does the <i>Kahnawà:ke Cannabis Control Law</i> permit the growth of household plants?
A27	<p>No. For the purposes of public safety, it was determined that the only permitted production of cannabis in the Territory is by holders of a micro-cultivation licence or standard cultivation licence.</p> <p>Household cultivation will also be illegal in the Provinces of Quebec and Manitoba.</p>
Q28	What is the role of the Cannabis Control Board?
A28	<p>The role of the Cannabis Control Board will be to:</p> <ul style="list-style-type: none"> • Issue, suspend and revoke licences provided under the Law and its regulations; • Regulate, monitor and inspect all the premises and activities of licence holders; • Make any decision or take any action as necessary to fulfill the purposes of the Law; <p>and</p>

	<ul style="list-style-type: none"> • Adopt regulations, as necessary, to regulate the local industry.
Q29	What is the composition of the Cannabis Control Board?
A29	The Board will be composed of three members appointed by Council, but will function at arm's length from the MCK.
Q30	What is the role of the Health and Safety Committee?
A30	<p>The role of the Health and Safety Committee is to:</p> <ul style="list-style-type: none"> • Monitor impacts of the Law and regulations of the health and safety of the community; • Make recommendations to the MCK or the Cannabis Control Board for amendments to the Law or regulations to minimize harms to the community; and • Consult with the Cannabis Control Board to recommend a restricted number of licences to be issued in any category.
Q31	What is the composition of the Health and Safety Committee?
A31	<p>The Health and Safety Committee will be composed of one representative from each of the following organizations:</p> <ul style="list-style-type: none"> • MCK; • Kateri Memorial Hospital Centre; • Kahnawake Shakotia'takéhnhas Community Services; • Kahnawà:ke Peacekeepers; • Public Safety Commissioner (<i>to be added to proposed draft of Law</i>) • Any other appropriate agency inside or outside Kahnawà:ke
Q32	What are the licence categories under the Law?
A32	<p>The following licences are permitted under the <i>Kahnawà:ke Cannabis Control Law</i>:</p> <ul style="list-style-type: none"> • Standard cultivation licence • Micro-cultivation licence • Standard processing licence • Micro-processing licence • Distribution licence • Dispensary licence <p>The Cannabis Control Board may also adopt regulations to create new licence category as the</p>

	need arises.
Q33	How many licences will be issued by the Cannabis Control Board?
A33	The Cannabis Control Board will, based on recommendations of the Health and Safety Committee, issue a restricted number of licences for each category. A quota for the number of licences in each category will be established.
Q34	How will the number of local licences to be issued be determined?
A34	<p>In order to determine the number of licences to be issued, the Cannabis Control Board and the Health and Safety Committee will take into account factors, such as:</p> <ul style="list-style-type: none"> • Health and safety of the community; • Ensuring people under 21 are not exposed to cannabis advertisement and sales; • Ensuring the socio-economic sustainability of the cannabis market in Kahnawà:ke; • Community infrastructure (i.e. limited resources regarding land, water filtration, and electricity) <p>These factors mean that only a limited number of licences will be issued in each category.</p>
Q35	Do I need to apply for a local Kahnawà:ke licence to partake in licensed cannabis operations outside of the Territory?
A35	No. A Kahnawà:ke licence is only required if an individual wishes to operate within the Territory. Any activities off the Territory will be subject to the rules of the jurisdiction where the operation is located.
Q36	What are the economic opportunities in the cannabis domain for community members?
A36	Only a restricted number of licences will be available in each category within the Territory. Various community organizations have indicated a preference for limiting the number of licences issued for the purposes of health and safety.
Q37	How will the various licences be dispensed if there are more licence applications than licences available?
A37	It will be up to the Cannabis Control Board to determine how and to whom it will dispense the licences. If multiple proponents meet the proposed criteria for a licence, the Board may, for example, issue licences on the basis of a lottery system or establishing a point system to grade each applicant.
Q38	What type of conditions can the Cannabis Control Board impose on the licence-

Updated August 21, 2018

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	holders?
A38	The Board will have the wide discretion to impose conditions on licence holders in order to operate in the Territory.
Q39	Who can I sell my product to if I hold a micro-cultivation/micro-processing licence?
A39	<p>The holder of a micro-cultivation licence must establish his/her own sales channels. Unless they are the holder of one of the restricted number of dispensary licences, they will likely only be authorized to sell to:</p> <ul style="list-style-type: none"> • Holders of standard cultivation licences located on or off the Territory; • Off Territory retailers (in Quebec, the sole retailer is Société Québécoise du Cannabis); • Holders of a local distribution licence within Kahnawà:ke; or • International jurisdictions that have legalized medical or recreational cannabis (requires the holder to also obtain a Good Manufacturing Process (GMP) certification on top of the Health Canada and local Kahnawà:ke licence)
Q40	What is the cultivation area authorized by a micro-cultivation licence?
A40	A micro-cultivation licence will permit a community member to have a plant canopy size of up to 2,150 square feet or more in accordance with the Health Canada conditions.
Q41	Who is entitled to receive a standard cultivation/processing licence?
A41	<p>If a standard cultivation/processing licence is to be issued, it is reserved for a community-owned facility in which Council, on behalf of the community, holds an ownership interest.</p> <p>If a community cultivation facility is contemplated, the MCK will consider raising capital for the project by offering debt financing opportunities to every Mohawk of Kahnawà:ke to ensure that the collective see tangible personal investment benefits from the industry. The conditions of such financing have not yet been developed.</p>
Q42	Why is the standard cultivation/processing licence reserved for a facility in which the community has an ownership interest?
A42	<ul style="list-style-type: none"> • Large-scale facilities require a lot of resources, such as capital, land, water, and electricity and thus may not be supported by the community's current infrastructure without extensive and costly upgrades or with workaround solutions; • The technical survey revealed that community members want to ensure that the entire community benefits; • Health Canada has reserved a limited number of standard licences for First Nation communities whereby a collective benefit is an integral component.

Q43	How will the Cannabis Control Board ensure the quality of the cannabis?
A43	The product will be subject to extensive testing requirements as required by Health Canada. The Cannabis Control Board will work closely with approved agents to ensure that licence holders are compliant with all quality-control standards.
Q44	Does the <i>Kahnawà:ke Cannabis Control Law</i> apply to Tioweró:ton?
A44	<p>At this time, the Law does not apply to Tioweró:ton as it is a jointly held Territory with Kanehsatà:ke, which requires approval of both communities before the Law can be said to apply. The Law or certain parts thereof may be deemed applicable to Tioweró:ton upon a joint decision by the MCK and the Mohawk Council of Kanehsatà:ke.</p> <p>In principle, Tioweró:ton does not permit any commercial activities and therefore the licencing process contemplated in the law would not permit the licensing of any operations within Tioweró:ton. All criminal laws of general application with respect to cannabis continue to apply to Tioweró:ton and may be enforced by the Peacekeepers.</p>

Note: The proposed Kahnawà:ke Cannabis Control Law may still undergo certain changes depending on the feedback received insofar as this feedback fits the intended scope and purpose of the Law. Therefore, some of these answers in these FAQs are likely to change relative to the revisions that are made to the Law prior to its adoption.