

FAQs

Kahnawà:ke Cannabis Control Law

Q1	Why was this Law categorized as a Type II legislation under the Community Decision-Making Process?
A1	<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 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, they also have the responsibility to set the purpose and scope of this Law.</p>
Q2	Is the proposed <i>Kahnawà:ke Cannabis Control Law</i> uniquely a Mohawk Council of Kahnawà:ke draft and initiative?
A2	<p>No. In fact, the Cannabis Working Group (which included the members of the technical drafting committee) included members from 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 Shakotiiia'takéhnhas Community Services• Kahnawà:ke Peacekeepers• Public Safety• Kateri Memorial Hospital Center• Tewatohnhi'saktha• Justice Commission• Community members (including one-on-one basis, business information session, technical survey, etc.)• Chief & Council <p>Some of these groups (Tewatohnhi'saktha, KSCS, Peacekeepers, 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 licencing process.</p>
Q3	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>?
A3	<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>
Q4	Was the technical drafting committee bound by the two initial submissions to the KLCC? Why?
A4	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.
Q5	Under what authority can Kahnawà:ke implement its own laws and regulations to strictly regulate cannabis activities in its Territory?
A5	<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 has 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 the regulate and control cannabis in a way that protects and preserves the best interests of our community;

	<ul style="list-style-type: none"> 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.
Q6	What is the general purpose of the <i>Kahnawà:ke Cannabis Control Law</i> ?
A6	<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 implementing a law which will limit interference by external governments in 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; Balance the interests of community members who are opposed to cannabis with those who are seeking regulated production and sale of cannabis.
Q7	What type of licencing system is being contemplated under the <i>Kahnawà:ke Cannabis Control Law</i>?
A7	<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>
Q8	Why does the <i>Kahnawà:ke Cannabis Control Law</i> require a Health Canada licence?
A8	<p>Public health and safety should be the foremost preoccupation and that this 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 licenced cannabis (meaning cannabis produced by Health Canada licenced producers) will be deemed legal both on and off the Territory. If Kahnawà:ke were to permit unlicenced 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 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.
Q9	Why is Kahnawà:ke requiring a local licence <u>and</u> a Health Canada licence?
A9	<p>The local licence requirement is to ensure that the community can control the number of cannabis operations in the Territory rather than allow external governments to make the determination without consulting the community.</p> <p>Unlike municipalities, Kahnawà:ke does not have zoning regulations and must develop a law to control cannabis business operations at a local level.</p>
Q10	Can I circumvent the <i>Kahnawà:ke Cannabis Control Law</i> by simply obtaining a Health Canada licence?
A10	<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</p>
Q11	Does Kahnawà:ke even need a cannabis law?
A11	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.
Q12	Why are we not banning cannabis in Kahnawà:ke entirely?
A12	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.

Q13	Does the <i>Kahnawà:ke Cannabis Control Law</i> contravene Kahnawà:ke's Zero Tolerance on Drugs Policy?
A13	<p>No. Kahnawà:ke's Zero Tolerance on Drugs policy was enshrined by Mohawk Council Resolution No. 140/1988-1989, which 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 licenced 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 unlicenced 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>
Q14	What will happen to the moratorium on cannabis sale and production, which was implemented under Mohawk Council Executive Directive No. 48/2017-2018?
A14	The moratorium was implemented as a temporary measure and will be rescinded and replaced by the <i>Kahnawà:ke Cannabis Control Law</i> .
Q15	What is the legal age limit proposed under the <i>Kahnawà:ke Cannabis Control Law</i>?
A15	<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 licenced 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>
Q16	Does the <i>Kahnawà:ke Cannabis Control Law</i> permit the growth of household plants?
A16	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 production licence. This is to ensure the deterrence of illegal production and sale of cannabis to individuals under 21 and general public and to address community concerns received from the consultation process.
Q17	What is the role of the Cannabis Control Board?

A17	<p>The roles 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; • Adopt regulations, as necessary, to regulate the local industry.
Q18	What is the composition of the Cannabis Control Board?
A18	The Board will be composed of three members appointed by Council, but will function at arm's length from the MCK.
Q19	What is the role of the Health and Safety Committee?
A19	<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 MCK or the Cannabis Control Board for amendments to the Law or regulations to minimize harms to the community; • Consult with the Cannabis Control Board to recommend a restricted number of licences to be issued in any category.
Q20	What is the composition of the Health and Safety Committee?
A20	<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
Q21	What are the licence categories under the Law?
A21	<p>The following licences are permitted under the <i>Kahnawà:ke Cannabis Control Law</i>:</p> <ul style="list-style-type: none"> • Standard production licence • Micro-cultivation licence • Distribution licence • Dispensary licence

	The Cannabis Control Board may also adopt regulations to create new licence category as the need arises.
Q22	How many licences will be issued by the Cannabis Control Board?
A22	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.
Q23	How will the number of local licences to be issued be determined?
A23	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: <ul style="list-style-type: none"> • Health and safety of the community • Ensuring people under 21 are not exposed to cannabis advertisement and sales • Socio-economic sustainability of cannabis market in Kahnawà:ke; • Community infrastructure (i.e. limited resources regarding land, water filtration, and electricity).
Q24	Do I need to apply for a local Kahnawà:ke licence to partake in licenced cannabis operations outside of the Territory?
A24	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.
Q25	What are the economic opportunities in the cannabis domain for community members?
A25	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.
Q26	How will the various licences be dispensed if there are more licence applications than licences available?
A26	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.
Q27	What type of conditions can the Cannabis Control Board impose on the licencees?
A27	The Board will have the wide discretion to impose conditions on licence holders in order to operate in the Territory.

Q28	Who can I sell my product to if I hold a micro-cultivation licence?
A28	<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 production licences located on or off the Territory; • Off Territory retailers (in Quebec, the sole retailer is Société Québécoise du Cannabis (operated by the SAQ); • Holders of a local distribution licence within Kahnawà:ke • 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)
Q29	What is the production area authorized under a micro-cultivation licence?
A29	A micro-cultivation licence will permit a community member to have a plant canopy size of up to 1,250 square feet or more in accordance with the Health Canada conditions.
Q30	Who is entitled to receive a standard production licence?
A30	<p>If a standard production 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 production 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>
Q31	Why is the standard production licence reserved for a facility in which the community has an ownership interest?
A31	<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.
Q32	How will the Cannabis Control Board ensure the quality of the cannabis?

A32	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.
Q33	Does the <i>Kahnawà:ke Cannabis Control Law</i> apply to Tioweró:ton?
A33	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. However, Tioweró:ton does not permit any commercial activities and therefore the licencing process contemplated in the law would not permit the licencing 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.

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.