

Q's & A's Notification Protocol

Q: Why was Bill 128, *the Law Enforcement and Forfeited Property Management Statute Law Amendment Act, 2005* enacted?

A. The purpose of Bill 128 is, in part, to support a province-wide strategy combating the proliferation of indoor marijuana grow operations and the threat they pose to community safety. The Act requires municipalities to inspect a property upon written notification from a police service. Those conducting the inspections would take whatever actions they are authorized by law to take in order to make the building safe and to protect the public. The inspection must be conducted within a reasonable time.

Q. Was there municipal input in the development of the legislation?

A. Changes were made to the original version of the Bill to address concerns raised by municipal groups such as the Association of Municipalities of Ontario. For example, the Bill was amended to authorize other municipal officials, not just building inspectors, to conduct inspections of properties formerly used for grow operations. The amended legislation now allows the inspection to be carried out by a by-law enforcement officer, or any other officer, employee or agent of a municipality or the local board of a municipality, whose responsibilities include by-law enforcement, an Act or a regulation under an Act.

Q. Why aren't methamphetamine labs covered by this legislation?

A. Police stakeholders have indicated that the issue of crystal methamphetamine labs is best addressed separately given its complexity. The Minister has established a Crystal Meth Working Group to formulate a provincial response.

Q. Which municipal departments should be involved in inspection, enforcement and remediation?

A. Municipalities requested flexibility in determining which municipal department would be designated as the most appropriate to respond to a grow operation. For this reason, it was determined that the clerk of the local municipality would be the most appropriate point of contact for notification. The clerk would then forward the notice to whoever it is decided carries out the inspection.

Q. Do municipalities have to use their own staff to conduct the inspection?

A. An inspection may be conducted by a by-law enforcement officer, or an officer, employee or agent of any municipality or of a local board of a municipality, whose responsibilities include by-law enforcement, an Act or a regulation under an Act.

Q. How will the notification, inspection, enforcement and remediation work in two-tier municipalities?

Under section 431.2 of the *Municipal Act, 2001*, a lower-tier municipality may determine that the responsibility to ensure that an inspection is conducted is shared by both the lower-tier municipality and the upper-tier municipality of which it is a part.

Q. What is a “marijuana grow operation” for the purposes of notification under section 431.1(1) of the *Municipal Act, 2001*?

A. There is no statutory definition of a “marijuana grow operation”. Marijuana grow operations are typically properties that are converted for the purposes of growing marijuana. To make a building suitable for cultivating marijuana, significant changes may be made to its structure including the installation of high intensity lighting. The building may, as a result, become unsafe for future occupants, unless major repairs are made.

Q. What do the new provisions of the *Municipal Act, 2001*, require municipalities to do?

A. The amendments to the *Municipal Act, 2001* set out in Bill 128 require municipalities to make sure that buildings once used as marijuana grow operations are safe in order to protect the public. If municipal officials determine the property is unsafe, they can then order the remedial work needed to make it safe.

Q. Will municipal staff require training to carry out their new responsibilities, and, if so what training will be available?

A. Municipalities are in the best position to make this determination. No training has specifically been developed for Bill 128. However, the Ontario Police College is in the process of working with the Municipal Health & Safety Association of Ontario regarding development of training for municipal employees.

Q: What is the purpose of the Notification Protocol?

A. The intent is to facilitate implementation of the notification requirement in Bill 128. This will help to ensure that, once police complete their investigation of a property formerly used as a marijuana grow operation, municipalities are notified and necessary steps are taken to have the building made safe for the public.

Q. Does a municipality have to enter into such a protocol?

A. No. The Notification Protocol is a template to be used as a guide to assist municipalities and police services in developing their own agreements/protocols. Parties entering into the protocol can customize the template to meet their specific needs.