



RICHMOND HILL ZONING BY-LAW REVIEW

Cannabis Cultivation and Processing

August 11, 2022

1.0	INTRODUCTION	4
2.0	LEGISLATIVE CONTEXT AND POLICY CONTEXT	6
2.1	THE FEDERAL CANNABIS ACT AND REGULATION	6
2.2	INDUSTRIAL HEMP LICENCE PERMISSIONS.....	12
2.3	ROLE OF THE MUNICIPALITY IN THE LICENSING PROCESS	12
2.4	IMPACTS OF THE FEDERAL LEGISLATION ON THE ESTABLISHMENT OF LAND USE CONTROLS	14
2.5	REGULATORY CONSIDERATIONS.....	15
3.0	AREA MUNICIPAL PLAN COMPARISON.....	36
3.1	TOWN OF HALTON HILLS	37
3.2	TOWNSHIP OF SELWYN.....	38
3.3	TOWN OF ERIN	38
3.4	COUNTY OF BRANT	39
3.5	MUNICIPALITY OF CHATHAM-KENT	39
3.6	CITY OF OTTAWA.....	40
3.7	TOWNSHIP OF HAVELOCK-BELMONT-METHUEN	40
3.8	COUNTY OF NORFOLK.....	41
3.9	THE TOWN OF BLUE MOUNTAINS.....	43
3.10	TOWNSHIP OF KING.....	43
3.11	TOWNSHIP OF BROCK.....	44
3.12	CITY OF WINDSOR	46
3.13	TOWN OF PELHAM	46
4.0	EMERGING TRENDS.....	48
4.1	OFFICIAL PLAN POLICIES.....	49

4.2	ZONE CLASSIFICATION FOR CANNABIS USES	50
4.3	DEFINING CANNABIS USES	50
4.4	OTHER ZONING PROVISIONS	51
5.0	<i>SURVEY AND OPEN HOUSE</i>	52
6.0	<i>OPTIONS FOR THE CITY TO CONSIDER TO REGULATE CANNABIS</i>	53
6.1	OPTIONS FOR THE URBAN AREA	53
6.2	OPTIONS FOR THE RURAL AREA.....	56
7.0	<i>CONCLUSION AND NEXT STEPS</i>	57

Appendix A: Cannabis Area Municipal Plan Comparison

1.0 INTRODUCTION

In Canada, legal access to dried marihuana for medical purposes was first provided in 1999 through an exemption under the Controlled Drugs and Substances Act. This was enabled through a Court decision in 2000 that held that individuals with a medical need had the right to possess marihuana for medical purposes. This led to the implementation of the Marihuana Medical Access Regulations (MMAR) in 2001. The MMAR enabled individuals with the authorization of their health care practitioner to access dried marihuana for medical purposes by producing their own plants, designating someone to produce for them or purchasing Health Canada supply.

In July of 2013, the Government of Canada implemented the Marihuana for Medical Purposes Regulations (MMPR). The MMPR established conditions for the commercial industry responsible for the production and distribution of marihuana for medical purposes. The MMPR provided access to individuals with a medical need to obtain quality-controlled dried marihuana that was produced under secure and sanitary conditions.

Following the establishment of the MMPR, a number of Ontario municipalities passed zoning by-laws to regulate medical marihuana production. In this regard, on July 7, 2014, Richmond Hill Council passed a Zoning By-law Amendment 82-14 (ZBL 82-14) to allow medical marihuana production in certain industrial zones in response to the MMPR that was in place at the time.

In June of 2015, the Supreme Court of Canada ruled that restricting legal access to only dried marihuana was unconstitutional. The Supreme Court of Canada decision also ruled that individuals that require marihuana for medical purposes had the right to use and make other cannabis products as well. In response, in July of 2015, the Minister of Health issued an exemption under the Controlled Drugs and Substances Act to allow, among other things, licensed producers to produce and sell cannabis oil and fresh marihuana buds and leaves in addition to dried marihuana, and to allow authorized users to possess and alter different forms of cannabis.

In February of 2016, the Federal Court of Canada found that requiring individuals to obtain their marihuana only from licensed producers violated their liberty and security rights provided under the Canadian Charter of Rights and Freedoms. In this regard, the Federal Court of Canada found that individuals that require marihuana for medical purposes did not have reasonable access.

In response to the above Court decisions, the Government of Canada established the Access to Cannabis for Medical Purposes Regulations (ACMPR). While the ACMPR followed a similar framework as the MMPR, it established the ability for individuals to apply to Health Canada to register to produce a limited amount of cannabis for their own medical purposes or to designate someone to produce it for them.

In April of 2016, the Health Minister announced that the Liberal Government (elected in late 2015) would introduce legislation to decriminalize cannabis for personal use in Canada. On April 13, 2017, the Liberal Party of Canada tabled Bill C-45: An Act Respecting Cannabis that intended to legalize the recreational use of cannabis by July 1, 2018. On June 21, 2018, the Federal Cannabis Act received Royal Assent and on October 17, 2018, the Federal Cannabis Act came into force. The Federal Cannabis Act created a regulatory framework for the production, distribution, sale, cultivation and possession of cannabis in Canada.

By virtue of the enactment of the Federal Cannabis Act, the Access to Cannabis for Medical Purposes Regulations was repealed when the Cannabis Act became law on October 17, 2018. All producers with a licence (commercial and personal use) under the ACMPR were allowed to continue operating until their existing licences expire, at which time they will have to apply for a licence under the new Federal Regulation.

On the basis of the above, legislation that applies to cannabis (formerly referred to as marihuana) cultivation and production has evolved in the past two decades in Canada. Since the Federal Cannabis Act came into force in 2018, there are several examples of municipalities that have updated their Official Plans and/or Zoning By-laws to regulate cannabis cultivation and processing uses.

Currently, the City of Richmond Hill Official Plan is silent on cannabis cultivation and processing, however the City passed ZBL 82-14 in 2014 to allow for medical marihuana production in certain industrial zones. In this regard, the City's existing zoning provisions need to be updated to reflect the current policy framework that applies to cannabis.

Following the enactment of the Cannabis Act, a number of concerns have been expressed about the adverse effects of cannabis facilities that have been established in accordance with the Cannabis Act. These adverse effects include odour, noise and light pollution. In this regard, in reviewing the City's zoning provisions for cannabis cultivation and processing, there is also a need to consider these issues and determine how these could be addressed by the City's current planning framework, either through the Official Plan or Zoning By-law, or both.

- a) On the basis of the above, the purpose of this Technical Paper is to:
- b) Document the current status of the Federal regulatory environment;
- c) Determine how Provincial implementation is supposed to occur;
- d) Complete a review of the planning issues and policy considerations related to cultivation and processing;
- e) Provide an area municipal plan comparison of how other municipalities are dealing with cannabis cultivation and processing;
- f) Provide an analysis of emerging trends; and,
- g) Identify next steps for the City to consider.

The intent of this Technical Paper is not to recommend a course of action. Instead, the intent of this Technical Paper is simply to identify options, and then determine which ones are feasible

and which ones are not (based on the review of these options by Council, staff, stakeholders and members of the general public and business community). Once feedback has been received, the next step involves the making of recommendations on what the appropriate course of action should be. On the basis of the above, this Technical Paper is organized as follows:

- a) Section 2 reviews the legislative and policy context for cannabis cultivation and processing and includes an overview of the Federal Cannabis Act and Regulation and regulatory considerations for the City of Richmond Hill.
- b) Section 3 provides an overview of the policies to consider and describes current medical marijuana production provisions established through Zoning By-law 82-14.
- c) Section 4 provides an area municipal plan comparison of Ontario municipalities that have implemented Official Plan policies and/or zoning provisions to regulate cannabis.
- d) Section 5 includes an overview of the responses received on the City's survey on the siting of cannabis facilities and the comments that were made at an Open House held on April 11, 2022.
- e) Section 6 discusses zoning options for the City of Richmond Hill to consider.
- f) Section 7 includes concluding remarks and describes the next steps.

2.0 LEGISLATIVE CONTEXT AND POLICY CONTEXT

2.1 The Federal Cannabis Act and Regulation

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession.

Following parliamentary review, the Cannabis Act received Royal Assent on June 21, 2018 and it became law on October 17, 2018.

As set out in section 7 of the Cannabis Act, the purpose of the Cannabis Act is to protect public health and public safety and in particular to:

- a) Protect the health of young persons by restricting their access to cannabis;
- b) Protect young persons and others from inducements to use cannabis;
- c) Provide for the legal production of cannabis to reduce illegal activities in relation to cannabis;
- d) Deter illegal activities in relation to cannabis through appropriate sanctions and enforcement measures;
- e) Reduce the burden on the criminal justice system in relation to cannabis;
- f) Provide access to a quality-controlled supply of cannabis; and,
- g) Enhance public awareness of the health risks associated with cannabis use.

In order to achieve the above, the Cannabis Act:

- a) Creates a general control framework for cannabis by establishing a series of criminal prohibitions, while providing for exceptions or authorizations to permit persons to engage in otherwise prohibited activities;
- b) Provides for the oversight and licensing of a legal cannabis supply chain;
- c) Provides for licences, that will set parameters for the operation of a legal cannabis industry;
- d) Indicates that Federal and Provincial/territorial governments will share responsibility for the oversight and licensing of the cannabis supply chain and that the federal Minister of Health will be responsible for licensing, among other activities, the production of cannabis (cultivation and processing), while Provincial and territorial governments can authorize the distribution and retail sale of cannabis in their respective jurisdictions; and,
- e) Establishes national standards to protect public health and safety through the creation of a number of legal requirements that are intended to protect against the public health and public safety risks associated with cannabis.

The Federal Cannabis Act and Regulation SOR-2018-144 ('the Cannabis Regulation') came into effect in 2018 to legalize recreational cannabis production. There are six classes of licenses related to the production of cannabis and related activities.

In addition to the above, the Industrial Hemp Regulation SOR-2018-145 ('the Industrial Hemp Regulation') also came into effect in October 2018. The Industrial Hemp Regulation applies to low-THC cannabis for industrial use that is grown under controlled circumstances. There is one type of license related to the production of industrial hemp and related activities.

2.1.1 Classes of Licences in the Cannabis Regulation

Section 8(1) of the Cannabis Regulation establishes a series of six classes of licences that authorize activities that are related to cannabis and these are as follows:

- a) A licence for cultivation;
- b) A licence for processing;
- c) A licence for analytical testing;
- d) A licence for sale (medical purposes);
- e) A licence for research; and,
- f) A cannabis drug licence.

Section 8(3) of the Cannabis Regulation includes a series of three subclasses of a licence for cultivation have also been established and they are:

- a) A licence for micro-cultivation;
- b) A licence for standard cultivation; and,
- c) A licence for a nursery.

In addition, Section 8(4) of the Cannabis Regulation includes two subclasses of a licence for processing:

- a) A licence for micro-processing; and,
- b) A licence for standard processing.

These classes of licences are new and have an impact on the regulation of various components of any cannabis-related land use in the City of Richmond Hill. Additionally, multiple licences can be held by one person or company, creating the potential for cultivation, processing and other licensed activities to occur on the same site.

According to Licensed Producers Canada ('LPC'), as of November 2021, there are 301 producers with one or more cannabis licences in Ontario. The table below provides a summary of the number of licences by type of licence.

Table 1: Summary of cannabis licences in Ontario (as of November 2021)

Type of Licence	Number of Licences
Cultivation	135
Processing	137
Analytical Testing	44
Sale (Medical Purposes)	118
Research	1
Micro-cultivation	55
Micro-processing	137

It is noted that there are many producers that hold both a licence for cultivation and for processing.

Below is a description of the licence permissions for each type of licence set out in the Regulation.

2.1.2 Licence Permissions in the Cannabis Regulation

Licence for Cultivation

Cultivation can occur indoors or outdoors and the plants can be rooted in the native soils. If grown indoors, it would be typically grown in a greenhouse type building. If grown outside, it would have the appearance of a typical cash crop.

In accordance with Section 11(1) of the Cannabis Regulation, the holder of a licence for micro-cultivation and standard cultivation is permitted to:

- a) Possess cannabis;
- b) Obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting cannabis;
- c) For the purpose of testing, to obtain cannabis by altering its chemical or physical properties by any means; and,
- d) Sell cannabis.

In accordance with Section 11(5) of the Cannabis Regulation, the holder of a licence for micro-cultivation or standard cultivation can sell cannabis to:

- a) The holder of other licences established by the Cannabis Regulation; and,
- b) Certain persons that have been granted an exemption under the Cannabis Act (such as for medical reasons for example).

However, it does not appear as if the holder of a licence for micro-cultivation or standard cultivation is authorized to sell cannabis to the general public from the facility. This means that general retail sales would not be permitted on a site where cultivation is occurring.

Section 13(1) of the Cannabis Regulation describes the threshold for a micro-cultivation. The difference between a licence for micro-cultivation and standard cultivation is that the surface area for a licence for micro-cultivation cannot exceed 200 square metres in which all cannabis plants, including all the parts of the plants, must be contained.

Section 14(1) of the Cannabis Regulation indicates that the holder of a licence for a nursery (which is a subclass of a licence for cultivation) is allowed to carry on the activities of a holder of a licence for micro-cultivation or standard cultivation, except they are not able to obtain dried cannabis or fresh cannabis. In other words, only cannabis plants or cannabis plant seeds can be used for growing cannabis in a nursery. If the holder of a licence for a nursery cultivates cannabis for the purpose of obtaining cannabis plant seeds, the total surface area that can be devoted to this purpose cannot exceed 50 square metres, as set out in Section 16(1) of the Regulation.

Some of the facilities that have been constructed in the past year are very large, such as the Aurora Sky facility in Edmonton that has an approximate floor area of about 75,000 square metres. The size of the Aurora Sky facility is at the high end and that many of the other known facilities are considerably smaller.

Based on the example noted above, such a facility shares many of the characteristics of an industrial or warehouse building. However, most of the building has the appearance of a greenhouse.

Licence for Processing

As mentioned at the end of Section 2.1.1 in this Technical Paper, there are many producers in Ontario that have obtained both a licence for cultivation and a licence for processing. In this regard, both activities can take place in the same building and/or on the same property.

Two types of licences have been established for processing – standard processing and micro processing. Section 17(1) and (2) of the Cannabis Regulation establish the authorized activities for processing and micro-processing licences, respectively. In both circumstances, the licence does not allow the cultivation, propagation or harvesting of cannabis. In other words, a processing licence only allows the licence holder to produce cannabis for sale and to sell cannabis.

The difference between a standard processing licence and a micro-processing licence is that no more than 600 kilograms of dried cannabis can be sold or distributed in a calendar year with a micro-processing licence, as described in Section 21(1) of the Regulation.

Licence for Analytical Testing

Section 22(1) of the Cannabis Regulation indicates that the holder of a licence for analytical testing is authorized to possess cannabis and to obtain cannabis by altering its chemical or physical properties by any means.

The sale or distribution of any product from the holder of a licence for analytical testing is not permitted and there are rules on how long cannabis can be kept on site before it needs to be destroyed. For example, Section 25(1) of the Cannabis Regulation requires the holder of a licence for analytical testing to destroy all samples of cannabis within 90 days of completing the testing of samples.

The holder of this licence may also have other licences.

Licence for Sale of Cannabis for Medical Purposes

Section 26 of the Cannabis Regulation indicates that the holder of a licence for sale of cannabis for medical purposes is permitted to possess cannabis products and to sell cannabis products. Section 27 of the Cannabis Regulation permits the sale of cannabis for medical purposes to other types of licence holders, a person to whom an exemption has been granted under the Cannabis Act or to a hospital employee.

The holder of this licence may also have other licences.

Licence for Research

Section 28(1)(a) of the Cannabis Regulation describes the authorized activities for the holder of a licence for research and permits the holder to possess cannabis, produce cannabis or transport, send or deliver cannabis between the sites that are established by the licence. Additionally, the licence holder can sell cannabis plants and cannabis plant seeds to other licence holders, the Minister or a person to whom an exemption has been granted under the Cannabis Act, as described in Section 28(1)(b) of the Cannabis Regulation.

As is the case with other licences described above, the holder of this licence may also have other licences.

Cannabis Drug Licence

Section 140(1) of the Cannabis Regulation indicates that the holder of a cannabis drug licence is permitted to possess cannabis and produce or sell a drug containing cannabis. Section 143(1) of the Cannabis Regulation permits the holder of a cannabis drug licence to sell or distribute the drug to other types of licence holders, a person to whom an exemption has been granted under the Cannabis Act or to a pharmacist, a practitioner or a hospital employee.

2.2 Industrial Hemp Licence Permissions

Section 3 of the Industrial Hemp Regulation sets out the requirement for a licence to authorize activities related to industrial hemp. Section 3(1) of the Industrial Hemp Regulation indicates that the holder of a licence is authorized to conduct the following activities that are authorized by a licence:

- a) Sell industrial hemp;
- b) Import or export seed or grain;
- c) Cultivate industrial hemp;
- d) Propagate industrial hemp (in the case of a plant breeder);
- e) Possess seed or grain for the purposes of cleaning it;
- f) Possess grain to the purpose of processing it; or,
- g) Obtain seed by preparing it.

Unlike the licence types under the Cannabis Regulations, the Industrial Hemp Regulation only includes one licence and the licence itself specifies the types of activities that are approved by the Federal Government.

It is important to note that not every activity that involves industrial hemp falls within the scope of the Industrial Hemp Regulation. For example, the extraction of CBD or another phytocannabinoid from flowering heads, leaves and branches of a plant falls under the Cannabis Regulation and would require a cannabis processing licence. The Federal Government includes a detailed chart on the types of licences required for each activity under the Cannabis Act in the Industrial Hemp Licensing Application Guide.

Because of nuances such as in the example above, provisions in a municipal zoning by-law should consider regulating the types of uses – cannabis uses and industrial hemp uses – in a similar manner to avoid unintended consequences of regulating one and not the other.

2.3 Role of the Municipality in the Licensing Process

It does not appear as if there is any requirement for local municipal support before a Federal licence is issued. In this regard, the Regulation only appears to require an applicant to provide written notice to municipalities and others as per Section 7(1) of the Regulation reproduced below:

Before submitting an application to the Minister for a licence for cultivation, a licence for processing or a licence for sale that authorizes the possession of cannabis, the person that intends to submit the application must provide a written notice to the following authorities in the area in which the site referred to in the application is located:

- a) The local government;

- b) The local fire authority; and,
- c) The local police force or the Royal Canadian Mounted Police detachment that is responsible for providing policing services to that area.

In addition to the above, licence holders are also required to notify the local government when a new licence has been issued as per Section 35(1) of the Regulation as set out below:

A holder of a licence for cultivation, a licence for processing or a licence for sale that authorizes the possession of cannabis must, within 30 days after the issuance, amendment, suspension, reinstatement or revocation of the licence, provide a written notice to the local authorities referred to in paragraphs 7(1)(a) to (c) in the area in which the site set out in the licence is located and provide a copy of the notice to the Minister.

In the Spring of 2018, the Federation of Canadian Municipalities (FCM) released the 'Municipal Guide to Cannabis Regulation' ('FCM Guide'). It is noted that the FCM Guide was released prior to the Regulation and there was, and continues to be, much discussion about implementation and interpretation. In this regard, the FCM Guide indicates the following:

If a business obtains a federal licence under the Cannabis Act, it will not mean that the company will not be subject to provincial/territorial or local government regulations dealing with land use management. Locally, this constitutional arrangement can provide municipalities with the authority to prohibit particular land uses. We recommend that municipalities consult their individual provincial/territorial enabling land use laws for specific direction. But generally, there is no obligation for municipalities to permit cannabis cultivation in specific areas.

Notwithstanding the above need to consult 'provincial land use laws', the FCM Guide indicates the following:

Local governments are entitled to interpret enabling legislation broadly enough to address emerging issues and respond effectively to community objectives. However, they cannot extend its scope beyond what the wording of the legislation can reasonably bear. Some enabling legislation across Canada may allow local governments to deal with particular uses on a “conditional use” or “direct control” basis, which might be particularly appropriate in the case of new land use activities (such as those associated with cannabis) whose impacts are not well-understood at the outset.

It should be noted that 'conditional use' and 'direct control' are not components of Ontario's land use planning regime. In any event, the FCM Guide concludes the following:

None of the land use activities that are expected to result from the legalization of cannabis are likely to diverge from the existing enabling legislation and interpretations noted above. The land use activities contemplated relative to the Cannabis Act are similar to activities associated with other consumable commodities such as food, beverages and tobacco.

Based on the information provided, and in the absence of other countervailing views on the matter, it is our opinion that a local municipality can regulate cannabis-related land uses that are subject to Federal licences much like any other land use.

This means that while there is no municipal role in the licensing process, there would still be a requirement for licence holders to comply with local zoning controls.

2.4 Impacts of the Federal Legislation on the Establishment of Land Use Controls

The Federal regulatory regime does not provide the basis for creating specific land use regulations. For example, there are no setback requirements specified and there are no specific requirements for any type of licence holder to carry out authorized activities away from other land uses.

The only specific part of the Cannabis Regulation that deals with adjacent land uses relates to the production of cannabis for personal medical purposes only.

In this regard, it is indicated that any outdoor cultivation (presumably in an individual's backyard) cannot be adjacent to a school, public playground, day-care facility or other public place frequented mainly by individuals less than 18 years of age. In this case, 'adjacent' means, according to Section 306 of the Cannabis Regulation, if the parcel has at least 1 point in common with the boundary of the other parcel of land with these uses.

It is not clear how this will ever be enforced or whether it will be possible to regulate the type of plants grown in a person's backyard through a Zoning By-law. It is also noted that the Federal government also permits anyone to grow up to four plants on their property for personal use. This makes it even more difficult to regulate since everyone will have this as-of-right permission.

Notwithstanding the above, local municipalities do have the ability to regulate larger licensed uses and facilities, should they choose to do so. However, any regulation would need to be based on empirical evidence particularly if a minimum setback was required.

There are however, a few requirements in the Cannabis Regulation dealing with security that could be considered through a planning approval process.

More specifically, those with cultivation, processing or sale licences are required to design their sites to prevent unauthorized access. This includes physical barriers around the perimeter, an intrusion detection system and 24-hour visual recording.

This means fencing or another suitable barrier will be required and the location and design of the fencing may need to be assessed through an approval process to lessen the impact of these barriers on the public realm and adjacent land uses. This also means that gatehouses that control the entry and exit of people accessing a property will be a key element of the use and

the location of the gatehouse may also need to be reviewed from a design perspective as well. It should be noted that the use of visual recording devices is also required along with twenty-four-hour monitoring.

Given the above, the prospect exists for the establishment of fenced in compounds that may not be compatible with adjacent land uses, such as a business park with generous landscaping around the perimeter. The prospect also exists for fenced in compounds in agricultural and rural areas as well, and this may also not be compatible with the open space character of these areas.

The above rules on security generally apply to other licence holders as well (micro-cultivation, micro-processing or a nursery).

It should be noted that there are also a number of complex exemptions to the security requirements in the Cannabis Regulation, which are designed primarily to recognize existing licences or permissions relating to cannabis for medical purposes.

The Cannabis Regulation further states that cannabis must be processed, packaged, labeled, stored, sampled and tested in a building. This requirement could be included in a Zoning By-law; however, the licence would require this in any event.

The Cannabis Regulation also requires that all buildings be equipped with a system that filters air to prevent the escape of odours. This could also be codified in a Zoning By-law; however, this would again be a requirement of the licence.

The Cannabis Regulation does expressly prohibit the holder of any licence from conducting any activity authorized by the licence in a 'dwelling-house'. This could also be expressly prohibited in the City's Zoning By-law.

Notwithstanding the above, the growing of up to four plants in a dwelling for personal use would still be permitted. As a result, a distinction would need to be made between the growing of plants pursuant to a licence and the growing of plants for personal use, if the above prohibition was contemplated.

2.5 Regulatory Considerations

There are several examples of municipalities that have amended their Official Plans and/or Zoning By-laws to regulate cannabis uses in certain agricultural and/or industrial zones. In most of these cases, setbacks were established from certain sensitive land uses. A comprehensive overview of a number of the more recent municipal initiatives is attached to this Technical Paper as Appendix A. A brief overview of municipal examples is also provided in Section 3 of this Technical Paper.

Given the distinct nature of the land use and its potential impacts, the City of Richmond Hill could consider implementing changes to the Official Plan and Zoning By-law to effectively regulate cannabis-related uses and industrial hemp-related uses under the Cannabis Act. This is discussed further in Section 5 of this Technical Paper.

2.5.1 Odour Concerns

One impact often considered is the odour from the production and processing of cannabis. A number of municipalities have passed by-laws that established setbacks ranging between 150 metres to 500 metres for these facilities from certain types of uses.

In April 2018, Public Health Ontario released an evidence brief on odours from cannabis production. It concluded the following:

- a) No studies on health effects associated with exposure to cannabis odours were identified in the scientific or grey literature.
- b) Odours can result in annoyance and complaints from nearby residents. Current practices recommend the use of appropriate ventilation and filtration systems at cannabis production/cultivation facilities to mitigate the release of substances that may result in odours.
- c) A system to report and track odours could help inform on timing and extent of the occurrence of odour to assist local authorities to remedy potential problems.

The following was also stated in the Public Health Ontario document:

The processing of cannabis and production of cannabis products can also result in odour emissions. Activities such as cannabis oil extraction/concentration can involve the use of chemical solvents such as butane or distillation using alcohol which can also contribute to the overall odour emitted from a production facility. Disposal of cannabis waste products is not expected to contribute to odour as proper disposal involves rendering the waste unusable by grinding and combining with other waste products (food, yard, paper, or plastic wastes, or soil) which will mask or dilute odour producing compounds. This waste is then disposed of according to local ordinances, which can include landfills or municipal waste incinerators which themselves are operated under licences that specify engineering controls for odour.

The Public Health Ontario document recognized that odour emission controls would be a licensing requirement. On this basis, the following recommendation was made:

The upcoming legalization of cannabis in Canada is expected to result in an increase in cannabis production or cultivation in both large and small-scale commercial facilities, and private residences. There is a potential that operation of these facilities will result in the release of odour and odorous compounds into the surrounding environment. However, environmental odours are regularly encountered from agricultural and industrial operations and odour control technologies are both readily available and widely used in these industries.

Although regulations and guidelines are still being developed for the province of Ontario, other jurisdictions have already legalized cannabis production and developed best practices and procedures to address odour issues. In general, cannabis production facilities can implement and maintain appropriate ventilation and filtration systems to satisfy applicable local odour nuisance standards. A formal system for residents to document and report nuisance odours can facilitate the enforcement of these standards or municipal bylaws. As part of the permitting process, odour control plans can be reviewed to determine whether emissions are adequately treated such that cannabis odours are not perceptible outside the exterior of the building.

On the basis of the above, it would appear as if the establishment of odour controls would be a requirement of any Federal licence under the Cannabis Act. However, and notwithstanding the above, a number of odour concerns have been raised in other municipalities in Ontario and many have taken steps to require a re-zoning for these types of uses and/or establish setbacks for cultivation from sensitive land uses.

From a local perspective, the City through a Zoning By-law Amendment or Site Plan Approval process could require an odour management plan to demonstrate that odours will not be noticeable in sensitive areas. However, if odour were a concern, it would be preferable to require a Zoning By-law Amendment to review any odour concerns rather than relying upon the Site Plan Approval process alone where the use is already established.

It is noted that many other types of industries also emit odours (particularly food processing) and there are very few examples of zoning regulations that require setbacks from sensitive land uses. However, cannabis does have a unique and recognizable smell and it could be argued that this is enough to distinguish this type of land use from others.

Notwithstanding the above, there have been a number of anecdotal reports of the impacts of the smell emanating from cannabis greenhouses (such as the Redecan facility in the Town of Pelham in June 2018). In this regard, it has been reported that residents have detected odours from the greenhouse from 1 kilometre away. Odour concerns can also be exemplified in areas with varying topography, as topography plays a role in how air moves. In terms of the nature of the smell itself, a review of a number of news articles indicates that the odour has a skunk-like smell.

It is not clear at this point if the requirements set out in the Regulation and through the granting of individual licences will satisfactorily control odours. On this basis, there may be a need through an appropriate planning approval process to consider this on a case-by-case basis.

With respect to Provincial policy and odour, Section 1.2.6.1 of the Provincial Policy Statement (PPS) indicates the following:

Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational

and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

The three definitions in Section 1.2.6.1 are below:

Major facilities: means facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.

Sensitive land uses: means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.

Adverse effects: as defined in the Environmental Protection Act, means one or more of:

- a) Impairment of the quality of the natural environment for any use that can be made of it;
- b) Injury or damage to property or plant or animal life;
- c) Harm or material discomfort to any person;
- d) An adverse effect on the health of any person;
- e) Impairment of the safety of any person;
- f) Rendering any property or plant or animal life unfit for human use;
- g) Loss of enjoyment of normal use of property; and
- h) Interference with normal conduct of business.

Based on the definitions above, a cannabis-related use or an industrial hemp-related use could be considered a 'major facility'; since any 'facility' that may require separation from sensitive land uses would be considered a 'major facility' according to the definition of such.

While it is recognized that cannabis and industrial hemp cultivation is an agricultural use, this does not mean that it cannot also be a major facility, particularly if there are known and well-documented adverse effects. In addition, the definition of a major facility in the PPS 2020 does not limit what a major facility is to the examples provided in the definition. Lastly, the definition does contemplate the inclusion of land uses and activities that are not carried out in a building, by including such examples as marine facilities and resource extraction activities.

The range of uses that would be considered sensitive as per the definition of 'sensitive use' in the PPS 2020 is extensive since any building, amenity area or outdoor space is sensitive if routine or normal activities occurring at reasonably expected times would experience adverse effects.

The focus of Section 1.2.6.1 of the PPS 2020 is on the adverse effects that may be experienced by a sensitive land use. Based on the definition of 'sensitive' in the PPS 2020, any use where people reside or gather, such as residential uses, schools, day care centres, educational and health facilities and other similar uses would be sensitive uses.

The Ministry of Environment (MOE) did come out with guidelines ('the D Series Guidelines') in the early 1990's to assist decision makers when dealing with sensitive uses. These guidelines were designed to inform the preparation of Official Plan policy and the making of *Planning Act* decisions in cases where a proposed use is potentially incompatible with an existing use.

Guideline D-6 (and the supporting guidelines contained within Guideline D-1) is the one guideline that specifically applies in this circumstance since where the intent is to prevent or limit the negative interaction of sensitive and industrial land uses. It is however noted that this guideline does not deal with nor reference cannabis cultivation and processing.

Specifically, the Guideline is intended to apply when a change of land use is proposed (the range of situations are set out in Section 2.0 (Application) of the Guideline). In Richmond Hill, this Guideline could apply to indoor cannabis related-uses or indoor industrial hemp-related uses cultivation (indoor) and could provide the basis for the establishment of setbacks on a case-by-case basis between indoor cannabis-related uses or indoor industrial hemp-related uses and a sensitive land use.

However, Section 2.3.2 (under Guideline D-1) states the Guidelines do not apply if the land use is in compliance with the existing Official Plan and Zoning By-law.

This is an important factor to consider for the City of Richmond Hill, since permitting indoor cultivation and processing as-of-right in the cannabis-related uses and indoor industrial hemp-related uses in the Zoning By-law would make it much more difficult to apply the Guideline since the principle of the use has already been established.

Lastly, Section 2.4 of Guideline D-1 indicates what adverse effects are in the context of this Guideline. Indoor cannabis-related uses and indoor industrial hemp-related uses would most likely be associated with the adverse effect of 'odours and other air emissions'.

Section 3.1 of Guideline D-1 establishes the preferred approach to dealing with adverse effects and indicates that various buffers may be used to prevent or minimize adverse effects. However, the following is clearly indicated:

Distance is often the only effective buffer, however, and therefore adequate separation distance, based on a facility's influence area, is the preferred method of mitigating adverse effects.

In our opinion, this means that the only effective way of 'preventing' adverse effects in accordance with Section 1.2.6.1 of the PPS is separation.

The following is then indicated in Section 3.2 of Guideline D-1:

The separation distance should be sufficient to permit the functioning of the two incompatible land uses without an adverse effect occurring.

Again, this supports the principle that separation is the only effective way to prevent adverse effects in accordance with Section 1.2.6.1 of the PPS.

Section 1.1 of Guideline D-6 categorizes industrial facilities into three classes according to the objectionable nature of their emissions, their physical size/scale, production volumes and/or the intensity and scheduling of operations.

The Guideline also establishes potential influence areas in Section 4.1. The influence area for a Class 1 facility is 70 metres, for a Class 2 facility it is 300 metres and for a Class 3 facility it is 1,000 metres. Section 2.0 of Guideline D-6 then defines what a Class 1, Class 2, and Class 3 facility is.

In order to determine what the classification of the use is and what the adverse effects may be, experts are typically retained, studies are completed and a reasonable determination is made on the severity of the impact, how it is measured and how it can or cannot be mitigated. While there may be some subjectivity in the analysis, it is generally limited based on the existence of policies, regulations and guidelines to deal with the issue.

In the case of indoor cannabis-related uses and indoor industrial hemp-related uses, the main issue is odour, which may be difficult to measure in a rigorous and scientific manner. This is because the odours noticed on any given property will increase and decrease based on time of day, the season, wind-speed and the location of the source of the odour. On this basis, a case-by-case analysis would therefore be preferable to deal with these subjective elements.

2.5.2 Social Considerations

There has long been a social stigma attached to the cultivation and consumption of illegal drugs.

With the legalization of cannabis, it is legally available in the same manner as alcohol. As a result, there is no basis for an outright prohibition on the location of cannabis cultivation, production and distribution because the uses are now legally permitted across Canada.

However, there may be other economic development or social reasons for not wanting certain types of uses in a community, however, the basis for prohibiting these uses and/or setting them back from other uses would have to be defensible. In addition, similar uses with the same impacts would also have to be dealt with in the same manner for consistency purposes.

2.5.3 Policy Considerations

There are a number of policies to consider in the PPS as it relates to cultivation and processing. While the majority of the City is urbanized, there are areas in the northeastern portion of the City that are within the Oak Ridges Moraine Conservation Plan and Greenbelt Plan areas. In these plans, agricultural uses are permitted in some areas.

In addition to the above, the Region of York is currently completing its Municipal Comprehensive Review (MCR) of the Regional Official Plan. As part of the MCR, the Region has prepared draft mapping of the Prime Agricultural Area, which includes an area of land in the City of Richmond Hill.

On the basis of the above, this section of the Technical Paper provides a review of the PPS policies that apply to Prime Agricultural Areas and Rural Lands as it relates the cultivation and processing of cannabis.

In addition to the above, the City's current Zoning By-law permits medical marihuana production facilities in a number of industrial zones that correspond with Employment Areas as designated by the Official Plan. This section also reviews the City's Official Plan policies that apply to Employment Areas and concludes with a review of the in-effect zoning provisions that apply to medical marihuana production facilities.

2.5.3.1 Provincial Policy Statement

Agricultural and Rural Areas

The PPS, 2020 divides the Province into two general land use categories with one being urban 'settlement areas' and the second being 'rural area', with rural areas including rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas and resource areas. Rural Lands and Prime Agricultural Areas are considered to be mutually exclusive, with Rural Lands not encompassing Prime Agricultural Areas.

The rural area in the City of Richmond Hill corresponds to the Oak Ridges Moraine Countryside (ORM Countryside) designation in the City's current Official Plan.

The City of Richmond Hill Official Plan does not currently designate any lands as Prime Agricultural Area, however the Region has identified draft Prime Agricultural Area as part of the ongoing MCR and this is discussed further in Section 2.6.2 of this Technical Paper. The area identified by the Region as draft Prime Agricultural Area is almost entirely designated as ORM Natural Linkage area in the City's current Official Plan, where agricultural uses are permitted.

The PPS recognizes rural areas as important to the economic success of the Province and to the quality of life. Section 1.1.4.1 encourages rural areas to be supported by building rural character and amenities, promoting redevelopment, accommodating a range of housing,

encouraging the conservation of the housing stock, promoting diversification, providing opportunities for tourism, conserving biodiversity and providing opportunities for economic activities in prime agricultural areas. Section 1.1.4.1 i) specifically addresses prime agricultural areas in the rural area and states:

Healthy, integrated and viable rural areas should be supported by:

i) Providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3.

Section 2.3.3 of the PPS establishes the permitted uses in prime agricultural areas. Section 2.3.3.1 states:

In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses.

Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

The PPS provides definitions for agricultural use, agriculture-related use and on-farm diversified uses as follows:

Agricultural Use: means the growing of crops, including nursery, biomass and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

Agriculture-Related Uses: means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.

On-Farm Diversified Uses: means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

The PPS does not make any distinctions between the types of crops that are grown, as long as whatever is produced is harvestable, which means that the cultivation of cannabis would be an

agricultural use. All on-farm buildings and structures associated with the growing of a harvestable crop (such as a greenhouse) would also be a permitted use.

Section 1.1.5 of the PPS establishes policies that apply to Rural Lands and these include lands outside of Settlement Areas and outside of Prime Agricultural Area. Section 1.1.5.2 sets out the permitted uses for Rural Lands as follows:

- a) the management or use of resources;
- b) resource-based recreational uses (including recreational dwellings);
- c) residential development, including lot creation, that is locally appropriate;
- d) agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards;
- e) home occupations and home industries;
- f) cemeteries; and
- g) other rural land uses.

It is noted that agricultural uses, agriculture-related uses and on-farm diversified uses are identified in the permitted uses list in Section 1.1.5.2 of the PPS and that Section 1.1.5.7 further indicates that:

1.1.5.7 Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.

Urban Areas

A number of municipalities have specifically chosen to direct cannabis facilities to industrial areas. Given that cultivation and processing can be done in wholly enclosed facilities, cannabis cultivation and processing can occur within these areas as long as land use compatibility and sensitive land uses are considered in accordance with the PPS. Section 2.5.1 of this Technical Paper includes a discussion on the applicable PPS policies.

It is noted that the City of Richmond Hill currently permits medical marijuana production facilities to locate within certain industrial zones in the Zoning By-law, subject to certain criteria, and that are also within the Employment Area designation in the City's current Official Plan.

2.5.3.2 Region of York Municipal Comprehensive Review (MCR)

York Region is currently undertaking an MCR to update its Official Plan to respond to recent Provincial policy changes. Under the current Provincial policy framework, an MCR is defined as a new official plan or official plan amendment that is initiated by an upper-tier or single-tier municipality under the provisions of the Planning Act, which comprehensively applies the policies and schedules of the Growth Plan and the policies of the Provincial Policy Statement. As part of the MCR, the Region is required to designate employment areas in the York Region

Official Plan ('YROP'). This includes the Provincial Significant Employment Zones ('PSEZ's') as mapped by the Province to implement the Growth Plan (2020). The MCR also requires York Region to assess requests for employment land conversions and prepare a Regional Employment Strategy.

On May 9, 2019, the Regional staff brought forward a Planning for Employment Background Report to the Planning and Economic Development Committee of the Whole. The purpose of the report was to provide background analysis on the state of employment in the Region and formed the basis for consultation on a proposed employment framework as part of the MCR.

Included in the above-mentioned report as Attachment 2 were a number of Employment Area Profiles. The Employment Area Profiles were prepared for each existing Employment Area in the Region of York. In the City of Richmond Hill, the Employment Areas that were reviewed include the Barker Business Park, Beaver Creek Business Park, Headford Business Park, Newkirk Business Park, and the North Leslie Business Park (includes 6 hectares of vacant land in North Leslie Secondary Plan).

The report indicates that the employment areas in Richmond Hill are located favorably along Regional Corridors and the 400-series highways and that all employment areas (except North Leslie) have experienced job growth with the majority of growth occurring within the services-producing sectors. In addition, the report notes that with 20 hectares of vacant employment lands, the employment areas within the City have the potential for future employment growth.

On November 25, 2021, the Region of York released the draft Official Plan that identifies the above-mentioned areas as employment area (in purple) (see Figure 1).



Figure 1: Excerpt of Map 1A from the Region of York Draft Official Plan (employment area in purple)

The Growth Plan (2019) introduced new policies that directed the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) to identify an Agriculture System across the Greater Golden Horseshoe. These policies were carried forward in the Growth Plan (2020).

On the basis of the above, a Province-wide agricultural system was introduced as part of these updates and the intent of this mapping is that upper-tier and single-tier municipalities use it as the basis for identifying the Agricultural Systems in Official Plans. This means that once York Region implements the policies and mapping in its Official Plan, the City of Richmond Hill would be required to implement the same mapping and policies in its Official Plan.

OMAFRA initially identified certain areas within the City of Richmond Hill to be designated as prime agricultural areas. Generally, these areas included lands outside of the City's Settlement Areas and included lands designated Oak Ridges Moraine (ORM) Natural Core, ORM Natural Linkage and ORM Countryside in the RHOP. In September 2017, City of Richmond Hill staff provided a report to Council (SRPRS.17.148) that responded to the proposed mapping with reasons to exclude the majority of the proposed lands given the existing land uses in the area and the prevalence of natural heritage features.

As part of the Region's MCR process, Regional staff retained a consultant to compare and assess the differences between the Provincial mapping of the prime agricultural areas to the

Region's current agricultural and rural mapping that exists in the current York Region Official Plan. The Region's analysis resulted in a further refinement to the Province's identified Prime Agricultural Area than what was suggested by City staff through their desktop analysis for the City of Richmond Hill

On the basis of the above, City staff met with Regional staff to discuss the agricultural system in the City of Richmond Hill. On June 13, 2019, Regional staff provided a report to Council that identified lands generally located between Leslie Street to the west, Bloomington Road to the north, Bethesda Side Road to the south and Highway 404 to the east as Prime Agricultural Area (see Figure 2.)

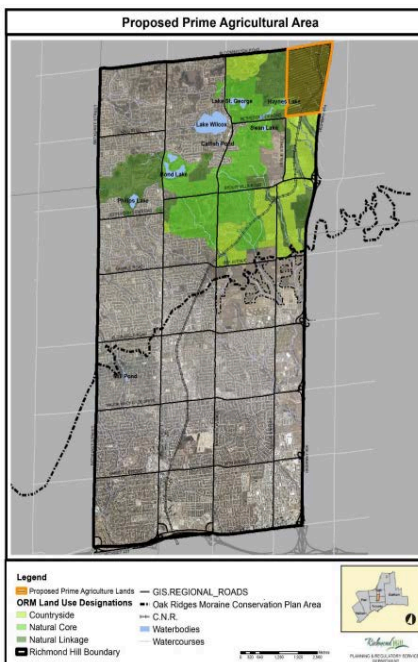


Figure 2: Proposed Prime Agricultural Area Mapping During the Region of York MCR

The mapping as shown in Figure 62 was considered by the Region for inclusion in the Region's agricultural designation. However, the Region of York did not include the proposed area as Prime Agricultural Area in the Region of York draft Official Plan, dated November 25, 2021. In this regard, the lands are identified as Regional Greenlands System. Figure 3 identifies the Prime Agricultural Area in yellow in the Region of York draft Official Plan dated November 25, 2021.



Figure 3: Agricultural System (prime agricultural area in yellow) in the Region of York Draft Official Plan.

The majority of the lands are currently designated Oak Ridges Moraine Natural Linkage Area, which permits agricultural uses. The current use of land within this area is for farming purposes or lands with farming potential. While it is recognized that cannabis and industrial hemp cultivation is an agricultural use, this does not mean that it cannot also be a major facility, particularly if there are known and well-documented adverse effects.

2.5.3.3 City of Richmond Hill Official Plan

On July 12, 2010, Council adopted a new City of Richmond Hill Official Plan ('RHOP'). The RHOP was approved, with modifications, by York Region on May 19, 2011, but was subsequently appealed to the Ontario Municipal Board (OMB), now known as the Local Planning Appeal Tribunal ('LPAT'). A number of site-specific appeals are outstanding, however a significant portion of the RHOP is now in effect.

The RHOP does not include any policies specific to cannabis or medical marihuana. However, Council passed a Zoning By-law Amendment in 2014 that permits medical marihuana in a number of industrial zones (discussed further in Section 2.6.4 of this Technical Paper). These zones correspond with the Employment Lands and the Employment Area designation in the

RHOP. In this regard, the RHOP policies that apply to the Employment Lands and Employment Areas are reviewed below.

Employment Lands, which include Employment Areas, are identified on Schedule A1: Urban Structure of the RHOP (see Figure 4) which includes Employment Areas, in light purple.

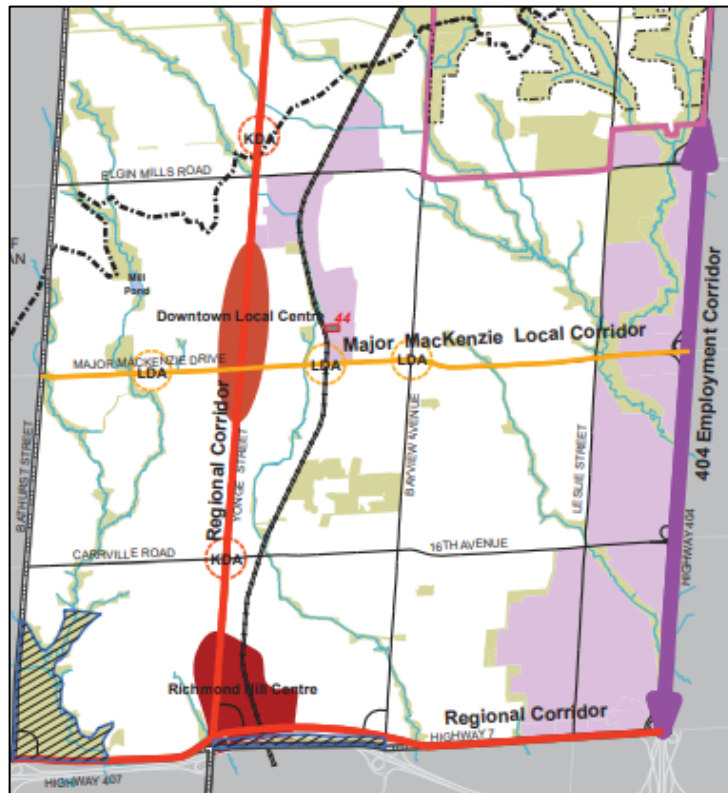


Figure 4: Schedule A1 from the City of Richmond Hill Official Plan

Section 4.8 of the RHOP includes policies that apply to Employment Lands, which are described as being integral to the City's long-term employment growth providing a balanced mix of business activities that include a range of high performance industrial activity and office uses.

With the exception of a small area located northeast of the intersection of Leslie Street and Elgin Mills Road, the lands designated for employment uses are the same as those that are identified in the medical marihuana by-law discussed in Section 2.6.4 of this Technical Paper.

Schedule A2: Land Use in the RHOP identifies the two designations that apply within the Employment Lands and these include the Employment Area and the Employment Corridor. An extract of Schedule A2 below shows the Employment Areas in dark purple (see Figure 5).

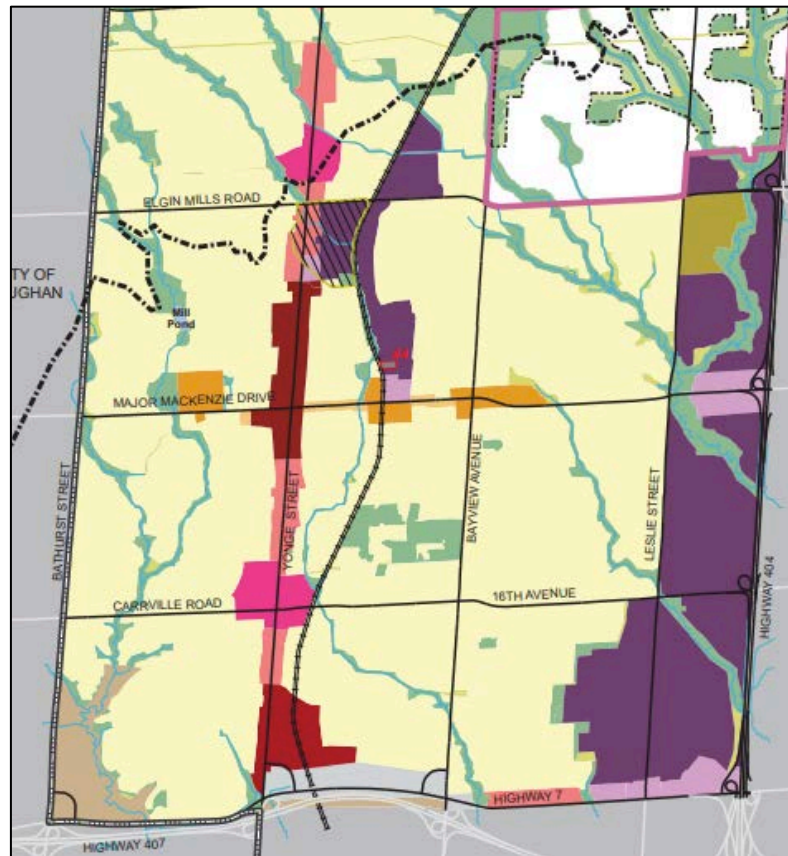


Figure 5: Extract of Schedule A2 from the Richmond Hill Official Plan

The Employment Areas are generally described as the lands located adjacent to Highway 404. (also known as the Beaver Creek, Headford and Barker Business Parks) and within Newkirk Business Park (central area of the City) (see Figure 6).

According to the 2018 Newkirk Business Park Profile prepared by the City of Richmond Hill, the Newkirk Business Park includes approximately 313 acres and has 0 acres of vacant land. Approximately 80% of the jobs within the Newkirk Business Park are considered to be small businesses with 1-19 employees. There are approximately 172 companies and over 2,600 jobs within the Newkirk Business Park. Surrounding the Newkirk Business Park are a number of older, existing residential areas that are within close proximity to the business park.

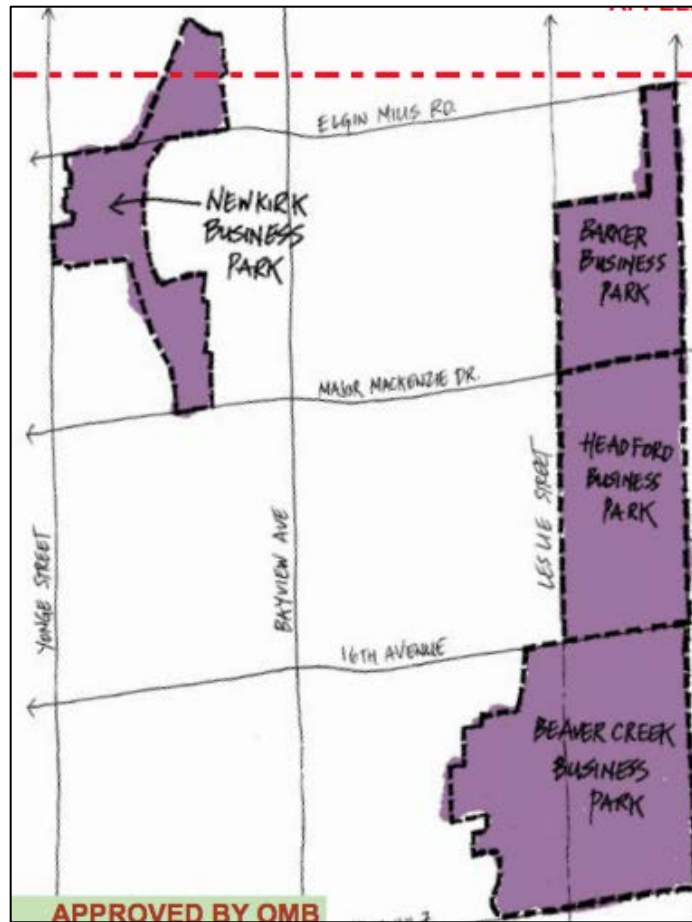


Figure 6: Employment areas in the City of Richmond Hill

It is noted that on November 20, 2019, a Member Motion was brought forward at a City Council Meeting that directed Staff to investigate the conversion of certain employment lands in the Newkirk Business Park, south of Elgin Mills Road, for mixed use and residential uses as part of the Region's ongoing MCR.

On February 26, 2020, City Staff brought forward their analysis in Report SRPRS.20.003 and recommended that an employment lands conversion for the Newkirk Business Park not be sought from the Region for a number of reasons set out in the report. City Staff indicated that a loss of jobs and loss of designated employment land could have a significant negative effect on the business park and on the City's ability to attract new employment to the community. City staff also made two important distinctions between the Newkirk Business Park and the other business parks located along the Highway 404. These distinctions are reproduced below.

- a) While the Newkirk Business Park may not be viewed as attractive for large-scale industrial-type uses like those along the Highway 404 corridor, the area provides opportunities for other employment activities that may value a central location and take advantage of the scale and design of the existing building typologies in the area. It is

therefore important to ensure that a mix and range of property sizes for employment be available across the City to support small, medium and large-scale businesses. The employment lands within Newkirk that exist between Elgin Mills Road and Centre Street East contribute positively to this range and mix of property sizes;

- b) Many of the employment uses and businesses that would be potentially displaced from this area of Newkirk would not be able to locate within the City's employment lands along Highway 404 due to the City's current OP policies. The employment uses in Newkirk are vital to the City and they provide a valuable function to residents. These uses are important and are integral in contributing to a complete community. Newkirk is home to automotive service commercial, automotive repair, outdoor storage, and other service uses including auto body repair shops and automotive garages. The City's OP limits these types of land uses specifically to the area within Newkirk along Enford Road and Industrial Road west of the CN Railway due to their propensity for conflict with other sensitive land uses. If displaced, such uses may choose to settle in other areas of the City thereby potentially creating new land use compatibility issues, or as noted above be forced out of the City completely if the OP policies are not updated to permit them elsewhere

Given the above, the Newkirk Business Park differs from the other business parks along the Highway 404 in terms of the type of existing buildings and businesses that are located there.

Other Business Park Profiles completed by the City for the business parks along the Highway 404 include statistics on size and available land for employment uses (see Table 2).

Table 2: Statistics from business park profiles

Business Park	Total Size (Acres)	Vacant Land (Acres)
Barker	253	27.2
Headford	433	175.6
Beaver Creek	614	17.4

On the basis of the above, the business parks along the Highway 404 corridor have more available land for development compared to the Newkirk Business Park. There is also a greater number of existing, larger-scale industrial buildings located on these lands compared to the smaller industrial buildings that are located in the Newkirk Business Park. Existing residential uses are generally located at a further distance from the business parks along the Highway 404 than from the Newkirk Business Park as well.

While there are some clear differences between the Newkirk Business Park area and the other business parks along the Highway 404 corridor, the Employment Area designation in the RHOP applies to all of the 4 business parks. Section 4.8.1 of the RHOP indicates that the purpose of the Employment Area designation is to:

Provide a range of high performance industrial and office uses that may not be accommodated elsewhere in the Town, such as high-tech industries and knowledge-based businesses in the

form of advanced manufacturing plants, corporate headquarters, and research and development facilities.

Section 4.8.1.1.1 of the RHOP indicates that the predominant use of land in the Employment Area designation shall be for high performance industrial, office and major uses.

Section 4.8.1.1.2 of the RHOP includes the permitted uses in the Employment Area. Section 4.8.1.1.2 a) of the RHOP provides further clarity on the type of activities that are considered as a high performance industrial use and it reads as follows:

2. The following uses shall be permitted within the Employment Area designation:

- a) High performance industrial uses contained within wholly enclosed buildings including activities such as manufacturing, assembling, processing (including information such as research and development), fabricating, servicing wholesaling, and employee training facilities;

On the basis of the above, a cannabis processing facility could be considered as a high performance industrial use and permitted in the Employment Area.

There are also several policies in the RHOP that speak to development near sensitive land uses and the need to mitigate adverse effects. These are described below.

Section 3.3.3.1 of the RHOP applies to Employment Lands, which include the City's Employment Areas. Section 3.3.3.1.4 of the RHOP reads as follows:

Minimum distance separation and mitigation policies under the applicable Federal, Provincial and Town Regulations shall be applied to uses within the Employment Area designation or the Employment Corridor designation to minimize possible adverse effects from heavy industrial uses and to avoid the introduction of additional uses which are incompatible with heavy industrial activities. Heavy industry is defined in accordance with the Ministry of Environment's land use compatibility guidelines and generally refers to those uses characterized by activities such as large volumes of materials and products, fugitive emissions, outside storage and truck traffic.

The RHOP defines fugitive emissions as follows:

Fugitive Emissions: means, as described in the Ministry of the Environment's land use compatibility guidelines, reasonably expected/predictable contaminant occurrences associated with normal operational practices and procedures (e.g. materials handling of outdoor storage) or industrial facilities, which are generally difficult to practically control at the source or on-site. These emissions are not point sources (i.e. not from stacks or vents). Fugitive emissions are from all sources and may include odour, noise, vibration and particulate such as dust.

On the basis of the above, a cannabis processing facility would be subject to mitigation policies of the RHOP and Provincial policies on adverse effects and could also be considered as a type of use that could emit fugitive emissions in accordance with the definition in the RHOP.

Section 4.8.1.1.4 of the RHOP prohibits sensitive land uses from locating near significant known air emissions sources such as controlled access Provincial 400-series highways. The RHOP defines sensitive land uses as:

Sensitive land Uses: means, in relation to an industrial use as described by the Ministry of the Environment's land use compatibility guidelines, any building or associated amenity area (i.e. may be indoor or outdoor space) which is not directly associated with an industrial use, where humans or the natural environment may be adversely affected by emissions generated by the operation of a nearby industrial facility. For example, the building or amenity area may be associated with residences, senior citizen homes, schools, day nurseries, hospitals, places of worship and other similar institutional uses or campgrounds. Residential land uses shall be considered sensitive 24 hours/day.

It is further noted that Section 4.8.1.1.4 of the RHOP also indicates that sensitive land uses shall not inhibit the development of Employment Area lands.

In addition to the above, Section 4.8.1.1.5 of the RHOP reads as follows:

The Town shall require proponents of development on lands in proximity to a residential area to undertake studies in accordance with the Ministry of Environment's land use compatibility guidelines for sensitive land uses to demonstrate how the proposed development will mitigate any adverse effects that may be caused by the employment use such as dust, odour, noise, particulate matter or lighting.

The above sets out the types of studies that are required for employment uses on lands that are designated Employment Area that may generate adverse effects in proximity to residential areas.

Section 4.8.2.1 of the RHOP contains policies that apply to the Employment Corridor and Section 4.8.2.1.4 of the RHOP reads as follows:

Sensitive land uses shall not be permitted to locate near significant known air emissions sources such as controlled access Provincial 400-series highways. Development of sensitive land uses, where permitted, shall demonstrate compliance with the Ministry of Environment's land use compatibility guidelines for sensitive land uses and shall not inhibit the development of Employment Area lands for the purposes permitted by this Plan.

With respect to noise, odour and vibration, Section 3.1.9.7.1 of the RHOP reads as follows:

It is the policy of Council that:

1. The Town shall require appropriate mitigation of adverse impacts on sensitive uses from noise, odour and vibration emanating from noise, odour and vibration generating sources such as airports, rail yards, railways, Provincial highways, arterial streets, primary transit corridors, industrial uses and commercial uses.

Section 5.3 of the RHOP outlines the types of studies that may be requested as part of a complete application for any development application. In this regard, Section 5.3.7.f includes a list of reports studies and drawings that may be required to demonstrate no impact from potential nuisances related to noise and odour.

2.5.3.4 Zoning By-law 82-14

In 2014, City Staff prepared a Town-wide Zoning By-law Amendment that dealt with a number of zoning-related matters that applied to medical marihuana production facilities, parking requirements and amenity areas for residential uses. On June 3, 2014, City Council approved the Town-wide Zoning By-law Amendment with the exception of the medical marihuana provisions and directed that the matter be referred back to staff to address Council's comments.

As a result of the above Council direction, City Staff prepared a standalone Zoning By-law Amendment that applied only to medical marihuana production facilities. On July 7, 2014, Council passed Zoning By-law 82-14 (ZBL 82-14) to allow the cultivation of medical marihuana, in accordance with the Marihuana for Medical Purposes Regulations, in the industrial zone categories.

ZBL 82-14 included a definition for a medical marihuana production facility and for sensitive land use and these read as follows:

Medical Marihuana Production Facility: means a building or facility used for the cultivation, production, shipping, transporting, testing, destroying, storing or distribution of medical marihuana or cannabis authorized by a license issued by the Minister of Health in accordance with the federal Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119, under the Controlled Drugs and Substances Act, SC 1996, c19, as amended or its successor.

Sensitive Land Use: Sensitive land uses are, but shall not be limited to, dwelling units, long term care facilities, public schools, private schools, day nurseries, community centres, parks, places of worship and hospitals.

ZBL 82-14 permits a medical marihuana production facility as-of-right in the following industrial zones:

- a) Industrial Class 1 (I-C1) (By-law 66-71);
- b) Industrial Class 2 (I-C2) (By-law 66-71);
- c) High Performance Industrial Zone (M-1) (By-law 150-80);
- d) General Industrial (M-2)(By-law 150-80);

- e) High Performance Commercial Industrial (MC-1) (By-law 150-80);
- f) High Performance Industrial Zone (M-1)(By-law 184-87); and,
- g) High Performance Commercial Industrial (MC-1)(By-law 184-87).

In order for a medical marihuana production facility to be permitted as-of-right, a property needs to be in one of the above-mentioned zones and within any of the areas identified in the hatched area on Figure 7. The map has the effect of actually not permitting the use in certain areas, which are planned to transition to higher order uses.



Figure 7: Zoning By-law 82-14 Map

ZBL 82-14 also included a number of special provisions that apply to a medical marihuana facility. In this regard, a medical marihuana production facility is:

- a) Not permitted in a dwelling unit;
- b) Not permitted on a lot that abuts an arterial road;
- c) Required to provide for a minimum setback of 70 metres from a sensitive land use (measured from lot line to lot line);
- d) Prohibited to have on-site retail sales on the same lot;
- e) Only permitted within a wholly enclosed building;
- f) Prohibited from having any outdoor storage of goods, materials or supplies; and,
- g) Required to have all loading spaces be located within a wholly enclosed building.

The minimum setback from sensitive land uses was discussed in two reports prepared by City Staff in support of the medical marihuana Zoning By-law Amendment (SRPRS.14.106 and SRPRS14.150). In the latter report, City Staff noted the following:

Staff reviewed the Ministry of Environment's Provincial D-6 Guidelines when preparing minimum distance separation criteria. The guidelines provided Staff with a basis in which to establish criteria for distance separation. The criteria represent the minimum distance that would need to be maintained in the defined industrial zones between a proposed medical marihuana production facility and a sensitive land use.

On the basis of the above, City Staff determined that a medical marihuana production facility should be classified as a Class II industrial facility which requires a minimum 70 metre separation distance from sensitive land uses in accordance with the D-6 Guidelines.

City staff's recommended separation distance from sensitive land uses was informed by a best practices review of 16 Ontario municipalities. Of the municipalities reviewed, there were 9 that included a separation distance between medical marihuana production facilities and sensitive land uses and the setbacks were either 70 metres or 150 metres. City staff contacted those municipalities that included a minimum distance separation of 150 metres to understand their reasoning. In report SRPRS.14.150 City staff noted that 150 metres was considered appropriate given the rural nature of its agricultural lands and the ability for production facilities to accommodate this distance.

In addition to the above, City Staff included a summary in report SRPRS.14.150 of the potential for a medical marihuana production facility to locate in the existing Business Parks after applying the proposed 70 metre setback from sensitive land uses. The report notes that there are properties within the Beaver Creek, Headford and Barker Business Parks that are generally able to satisfy the proposed 70 metre minimum distance separation, measured from lot line to lot line, as recommended by staff. With respect to Newkirk Business Park, staff indicated that there were also properties that could satisfy the setback from sensitive land uses. However, staff also noted that not all properties in the Business Parks were expected to meet the minimum distance separation in every circumstance.

The zoning provisions that apply to medical marihuana production facilities also require that a facility not be on an arterial street. In report SRPRS.14.106, City Staff indicated that the arterial streets within many of the designated employment areas serve as the boundary between the employment area and abutting residential areas.

3.0 AREA MUNICIPAL PLAN COMPARISON

There are several examples of municipalities in Ontario that have taken steps to regulate cannabis. In some cases, this means including policies in an Official Plan as well as provisions in a Zoning By-law, but there are also a number of municipalities that have only included provisions in their Zoning By-laws.

The purpose of this section of the Technical Paper is to provide a summary of the approaches that have been implemented in other municipalities to regulate cannabis. Below is a review of 11 Ontario municipalities and their approach to regulating cannabis.

It is noted that this section contains a summary of the approach used by a number of municipalities, however **Appendix A** to this Technical Paper includes a more detailed table of each approach.

3.1 Town of Halton Hills

The Town of Halton Hills includes policies in its Official Plan and provisions in the Zoning By-law to regulate cannabis uses. Cannabis cultivation and processing is permitted in the Agricultural and Rural designation as well as in the Employment Area. The Official Plan contains policies that require an applicant to demonstrate that the processing of cannabis is an agriculture-related use in the Agricultural and Rural designations, referring to the 4 criteria set out in the PPS guidelines.

Indoor cannabis cultivation and processing is permitted as-of-right in the General Employment Area and Prestige Industrial Area designations and is subject to site plan control. In these designations, indoor cannabis cultivation and processing is required to be set back a minimum of 150 metres from a lot that is the site of a child care centre, a private or public school, a place of worship or other institutional use, a residential use, a long term care facility, a retirement home or a public park.

Indoor cannabis cultivation is also permitted in the Agricultural Area in the Town's Official Plan, but requires a Zoning By-law Amendment to permit the use as well as Site Plan Control. A minimum setback of 150 metres from adjacent land uses is required. However, the policy permits a reduced setback if it can be demonstrated that a reduced setback is appropriate. The minimum 150 metre setback applies to all lots in the Urban, Hamlet and Rural Cluster Area where a sensitive land use is present.

Outdoor cannabis cultivation is permitted as-of-right in the Town's Official Plan and the Town's Zoning By-law, but is required to provide a minimum 50 metre setback from adjacent lot lines.

The Zoning By-law establishes a cannabis definition for each type of cannabis use licence as defined in the Regulation. Cannabis uses are permitted in certain Urban Employment zones, subject to a minimum setback of 150 metres from sensitive land uses and are required to be located within a fully enclosed building.

The Zoning By-law also requires that all loading docks be located entirely within an enclosed building and establishes a minimum parking requirement for all cannabis uses (except outdoor cannabis cultivation) of 1/100 square metres of gross floor area.

3.2 Township of Selwyn

The Township of Selwyn includes policies in the County Official Plan (which functions as the local Official Plan) as well as provisions in the Zoning By-law to regulate cannabis uses. Outdoor cannabis cultivation is permitted as-of-right in the Agricultural and Rural designations, subject to a 50 metre setback from lot lines. The Township is in the process of increasing this setback to 300 metres.

Indoor cannabis cultivation is permitted as-of-right in the Agricultural and Rural Area designations in the County's Official Plan. Indoor cannabis processing may be permitted in the Agricultural and Rural Area designations in the County's Official Plan, subject to the 4 criteria as set out in the PPS guidelines. Indoor cannabis cultivation and processing is also permitted in the Industrial designation, subject to a Zoning By-law amendment to permit the use. Site Plan control is also required for any indoor cannabis cultivation and processing.

The Zoning By-law establishes a cannabis definition for each type of cannabis use license as defined in the Federal Cannabis Regulation. A minimum setback of 150 metres from sensitive land uses is required for indoor cannabis cultivation and processing. The Township is in the process of eliminating this as-of-right use permission.

The Zoning By-law also requires that all loading docks be located entirely within an enclosed building and establishes a minimum parking requirement for all cannabis uses (except outdoor cannabis cultivation) of 1/100 square metres of gross floor area.

3.3 Town of Erin

The Town of Erin, through a Council Report on October 3, 2017, indicated that it considers cannabis production in a greenhouse as a permitted use in the Agricultural Area and an Industrial use in the Industrial Area in its Official Plan. There are no other policies that specifically address cannabis production in the Official Plan. However, the Town's Zoning By-law includes a number of provisions that apply to a cannabis production facility.

In the Zoning By-law, a cannabis production facility is only permitted in the Agricultural (A), Light Industrial (M1), General Industrial (M2) or Rural Industrial (M3) zones.

If located in the Light Industrial or General Industrial zones, then a minimum setback of 70 metres is required from residential zone or use, institutional zone or open space zone. If located in the Agricultural or Rural industrial zones, then a minimum setback of 150 metres is required from a residential zone or use, institutional zone or open space zone.

The Zoning By-law also requires that a cannabis production facility must be located within a wholly enclosed building and prohibits outdoor storage. A building or structure used exclusively

for a security guard(s) may be located in the front, side or rear yards. The establishment or expansion of a cannabis production facility requires site plan approval.

3.4 County of Brant

The County of Brant regulates cannabis through its Zoning By-law only. The County's Zoning By-law permits a cannabis production facility as-of-right within the Agricultural (A), Agricultural Employment (AE), Light Industrial (M2) and Heavy Industrial (M3) zones. A building or structure used for a licensed cannabis production facility is required to be setback a minimum of 150 metres from a residential zone or use, industrial zone or use or from an open space zone. All development in relation to the establishment or expansion to a cannabis production facility requires site plan control.

The Zoning By-law requires a minimum of 1 parking space per 100 square metres of gross floor area. In addition, the Zoning By-law requires that loading spaces and storage be located within a wholly enclosed building and only accessible through a rear yard. Outdoor storage is prohibited. The Zoning By-law permits a security building or structure for a security person to locate in a front yard.

3.5 Municipality of Chatham-Kent

The Municipality of Chatham-Kent's Official Plan permits cannabis production in the Employment, Agricultural and Rural Industrial designations. The Official Plan policies indicate that a cannabis production facility should not be located within close proximity to a sensitive land use, such as residential, institutional, open space or as more specifically outlined within the Zoning By-law. The policies also require that the construction of a new cannabis production facility is subject to site plan approval, should be located and designed in accordance with Federal regulations to mitigate potential impacts including light emissions, air emissions, odour and so forth and must be registered or licensed with Health Canada.

The Zoning By-law also permits cannabis production as-of-right in the Agricultural and Industrial zones. The following minimum separation distances apply to buildings and structures:

- a) Within the General Industrial zone: no closer than 75 metres to any residential, institutional or open space zone boundary; and,
- b) Within the Agricultural (A1) and Rural Industrial (MR) zone, no closer than 100 metres to an existing residential dwelling on a separate lot; or, no closer to any residential institutional or open space zone boundary than 100 metres.

The Zoning By-law also requires two spaces per three employees or one space per 18 square metres of floor area used for office (whichever is greater) as well as one space per 1,000 square metres of area used for production.

In addition to the above, the minimum separation distance and parking requirement do not apply to a cannabis production facility where the cultivation area is less than 200 square metres (known as micro-cultivation facilities under the Cannabis Act) or to outdoor cultivation.

3.6 City of Ottawa

In 2018, City staff began a review of the provisions that applied to medical marihuana production facilities with the intent of updating the provisions for cannabis, in accordance with the Cannabis Act. On June 12, 2019, City staff brought forward a recommendation report on the cannabis zoning by-law amendment that recommended that the previous minimum setback for medical marihuana production facilities be increased from 150 metres to 300 metres. Below is the reasoning for the increase:

Outdoor cultivation, however, will emit strong odours while the cannabis plants are flowering, whether in a green house or outdoors. For outdoor cultivation a minimum separation distance will apply of 300 metres from any residential use and Institutional and Rural Institutional zones. This separation distance is suitable because, at a distance of 300 metres, the odour from outdoor cannabis cultivation should be sufficiently diminished that it is not a nuisance. This separation distance is based on Norfolk County's Zoning By-law, which included the 300 metre distance separation standard after inspections of cannabis cultivation in outdoor areas.

It is noted that the City considers the cultivation of cannabis within a greenhouse to be outdoor cultivation, meaning that the 300-metre setback applies to outdoor cultivation and cultivation within greenhouses.

In addition to the above, smaller cannabis production facilities that meet the micro-processor, micro-cultivator, or nursery classification and are contained within a building, will be permitted in additional zones with a maximum size of 350 square metres to provide opportunities for local production comparable to a micro-brewery. These zones include light industrial zones and business park industrial zones.

The Zoning By-law also requires that no cannabis production facility that is contained entirely within a building may become a nuisance because of odour or fumes.

In addition to the above, cannabis production facilities are not permitted to have any outdoor storage and are not permitted in a dwelling.

3.7 Township of Havelock-Belmont-Methuen

The Township of Havelock-Belmont-Methuen also regulates cannabis uses in the Zoning By-law. The Township amended the definition of Agricultural use to add 'shall not include any land, building or structure for the growing of cannabis'. In addition, the Township created a definition for cannabis production facility.

The general provisions section of the Zoning By-law requires that a cannabis production facility only be permitted on lands that are zoned Restrictive Industrial on full municipal and water services with no other uses on the same lot. The Zoning By-law also applies the following regulations to cannabis production facilities:

- a) Minimum lot area: 4,000 square metres;
- b) Minimum lot frontage: 45 metres;
- c) Minimum setback from Residential, Institutional Commercial or Open Space zone: 70 metres.

3.8 County of Norfolk

The County of Norfolk regulates cannabis production and processing in the Zoning By-law as well. The County permits cannabis production and processing in the Industrial and Agricultural zones and also includes references the requirement for air treatment control, which is different from most of the other Zoning By-laws reviewed. The Zoning By-law includes a definition for cannabis production and processing facility and air treatment control.

A cannabis production and processing facility is permitted in the General Industrial (MG), Light Industrial (ML) and Rural Industrial (MR) zones, but is required to be equipped with air treatment control and be set back a minimum of 70 metres from a lot that is within a Residential, Institutional or Open Space zone. However, this minimum setback is increased to 150 metres from:

- a) A dwelling on a separate lot;
- b) Public school;
- c) Private school;
- d) Place of worship;
- e) Campground;
- f) Group home;
- g) Hotel;
- h) Long-term care facility;
- i) Mobile home park;
- j) Park;
- k) Place of assembly;
- l) Place of entertainment;
- m) Place of sports and recreation;
- n) Tent and trailer park;
- o) Tourist cabin;
- p) Hospital; or,
- q) Day care nursery.

In the Agricultural (A) zone, cannabis production and processing that is equipped with air treatment control is permitted and is required to be set back a minimum of 150 metres from a lot that is within a Residential, Institutional or Open Space zone.

When a cannabis production facility that is **not** equipped with air treatment control is situated in the Agricultural (A), General Industrial (MG), Light Industrial (ML) or Rural Industrial (MR) zones, a minimum setback of 300 metres is required from:

- a) A dwelling on a separate lot;
- b) Public school;
- c) Private school;
- d) Place of worship;
- e) Campground;
- f) Group home;
- g) Hotel;
- h) Long-term care facility;
- i) Mobile home park;
- j) Park;
- k) Place of assembly;
- l) Place of entertainment;
- m) Place of sports and recreation;
- n) Tent and trailer park;
- o) Tourist cabin;
- p) Hospital; or,
- q) Day care nursery.

The above means that any cannabis and processing facility that does not implement air treatment control is required to provide a minimum setback of 300 metres. This minimum setback of 300 metres also applies to outdoor cultivation, as confirmed in the County of Norfolk recommendation report (DCS 18-38) as follows:

The policy now includes provisions for outdoor production, which the previous policy did not contemplate. Should an applicant wish to pursue outdoor cannabis production, a larger (300 metre) setback from a sensitive land use will be required.

In addition to the above, the Zoning By-law permits a building or structure for security purpose to locate in a front yard and is not subject to the yard requirements. In addition, the Zoning By-law prohibits outdoor storage and requires Site Plan Control for the establishment of or expansion to all cannabis production and processing facilities.

3.9 The Town of Blue Mountains

The Town of Blue Mountains includes provisions in its Official Plan and Zoning By-law to regulate cannabis production.

Section B2.12 of the Official Plan permits a medical marihuana production facility on lands that are designated Rural Employment Lands, Urban Employment Lands and Rural. A medical marihuana production facility is not permitted on lands that are designated as Agricultural or Special Agricultural in the Official Plan.

The policies that apply to a medical marihuana production facility require a site-specific Zoning By-law amendment to permit the use and to establish minimum setbacks from sensitive land uses such as residential, institutional and open space. The policies also indicate that no residential use is permitted on the same lot and all associated activities are required to be within a wholly enclosed building as part of the operation.

The Zoning By-law includes a definition for a cannabis production facility; however the use is not permitted in any zone and no regulations are included. The Agricultural Use definition specifies that 'an agricultural use does not include a cannabis production facility'. On the basis of the above, a site-specific Zoning By-law amendment is required to permit a cannabis production facility and to establish the standards that would apply.

3.10 Township of King

The Township of King also regulates cannabis in the Zoning By-law. The Zoning By-law includes definitions and regulations for Industrial Cannabis Processing Facility, Agricultural Cannabis Production Facility and Medical Cannabis Production Site. Definitions are also included within the Zoning By-law for sensitive land use and air treatment control, similar to the County of Norfolk, as well as industrial cannabis production facility, agricultural cannabis production facility and medical cannabis production site.

An agricultural production facility or a medical cannabis production site is permitted on a lot that is at least 10 hectares in size. When equipped with air treatment control, a minimum setback of 150 metres is required from a sensitive land use or any residential zone, institutional zone or open space zone. This minimum setback is increased to 300 metres for a medical cannabis production site that is not equipped with air treatment control.

The same setback requirements as mentioned above apply to industrial cannabis production facilities.

The Zoning By-law also requires the following parking requirements:

- a) Industrial cannabis production facility and medical cannabis production site: 1.0 parking spaces for every 37 square metres of gross floor area up to 3,000 square metres, plus 1.0

- for each additional 100 square metres of gross floor area up to 6,000 square metres and 1.0 spaces for each 200 square metres over 6,000 square metres; and,
- b) Agricultural cannabis production facility: 1.0 parking space for every 37 square metres of gross floor area.

In addition to the above, outdoor storage and signage and advertising are prohibited. Any building required for security purposes for an agricultural cannabis production facility or industrial cannabis production facility may be located in the required front yard, subject to a minimum 2.0 metres from any property line. All development in related to the establishment or expansion to an agricultural cannabis production facility, industrial cannabis production facility or medical cannabis production site shall be subject to site plan control.

3.11 Township of Brock

Prior to March 2021, the Township of Brock Official Plan did not contemplate Cannabis Production and Processing as a land use. Consequently, many of the policies governing land use within various land use designations indirectly permitted Cannabis Production and Processing. On April 8, 2019, Council for the Township of Brock took steps to remedy this policy void and passed an Interim Control By-law (ICBL) to temporarily prohibit the establishment of new Cannabis Production or Processing Facilities or the expansion of existing Cannabis Production and Processing Facilities on any lands within the Township of Brock for a period of twelve months. The Interim Control By-law afforded the Township the opportunity to undertake a Cannabis Land Use Impact Study and draft amendments to both the Township Official Plan and Comprehensive Zoning By-law 287-78.

On March 22, 2021 Council adopted OPA No. 5 to the Township of Brock Official Plan and Zoning By-law No. 3014-2021 to permit Cannabis Production and Processing Facilities and Medical Cannabis Production Sites as independent land uses separate and distinct from agricultural uses.

OPA 5 permits Cannabis Production and Processing Facilities and Medical Cannabis Production Sites in the Rural Area including in the Agricultural and Major Open Space designations of the Region of Durham Official Plan, as well as in the Employment land use designation provided that the new uses satisfy the criteria outlined within the Official Plan and subject to the new, corresponding zoning regulations. OPA 5 established the following policy requirements:

- a) A Cannabis Production and Processing Facility or Medical Cannabis Production Site may not be permitted in conjunction with a residential use on a single lot;
- b) Applications for any new Cannabis Production and Processing Facility or Medical Cannabis Production Site shall be subject to the information requirements (studies) as provided for in the Official Plan including but not limited to environmental impact assessments, hydrogeological studies, agricultural impact studies, noise and vibration

- studies, air emissions studies, stormwater management studies and traffic impact studies;
- c) All Cannabis Production and Processing Facility or Medical Cannabis Production Site are subject to site plan control;
- d) All proposed Cannabis Production and Processing Facilities and Medical Cannabis Production Sites shall demonstrate dark sky friendly lighting and building design as part of the site plan control process; and,
- e) All proposed Cannabis Production and Processing Facilities and Medical Cannabis Production Sites are required to undertake prescribed studies for hydrogeology and servicing, an environmental impact study where ecological and hydrologic features are present – including an assessment of the impacts of waste water, and an odour screening study.

OPA 5 also adds the following definitions to the Official Plan: adverse effect, cannabis, cannabis production and processing facility, and medical cannabis production site.

Zoning By-law No. 3014-2021 implements OPA 5 and provides additional zoning regulations for the siting of new Cannabis Production and Processing Facilities and Medical Cannabis Production Sites. Zoning By-law No. 3014-2021 establishes the following zoning regulations:

- a) Amends or adds a number of definitions relevant to the regulation of cannabis
- b) production in the Township;
- c) Permits a Cannabis Production and Processing Facility and a Medical Cannabis Production Site in the Rural (RU), Restricted Industrial (M1), General Industrial (M2), and Rural Industrial (M3) Zones;
- d) Only one Cannabis Production and Processing Facility or Medical Cannabis Production Site is permitted on a single conveyable lot;
- e) Cannabis Production and Processing Facility or Medical Cannabis Production Site located within an enclosed building must be equipped with an air treatment control system as defined in the Zoning By-law;
- f) Open storage of any materials, goods or supplies associated with the cannabis operation is prohibited;
- g) A building or structure used for security purposes may be located in any required yard and is not required to comply with minimum yard setbacks;
- h) The establishment or expansion of a Cannabis Production and Processing Facility or Medical Cannabis Production Site is subject to site plan control;
- i) No minor variance to the zoning requirements for a Cannabis Production and Processing Facility or a Medical Cannabis Production Site shall be permitted by the Committee of Adjustment and shall only be considered by way of a Zoning Bylaw Amendment;
- j) Separation distances between a Cannabis Production and Processing Facility or a Medical Cannabis Production Site and any Residential Zone, Community Facility (CF) Zone, Recreation (R) Zone or Open Space (OS) Zone shall be measured from the edge of the nearest building or crop line associated with the Cannabis Production and Processing Facility or Medical Cannabis Production Site to the greater of either the nearest lot line of

- a sensitive land use or the nearest zone boundary of any Residential Zone, Community Facility (CF) Zone, Recreation (R) Zone or Open Space (OS) Zone;
- k) A Cannabis Production and Processing Facility or a Medical Cannabis Production Site equipped with an Air Treatment Control system shall be setback the greater of: 70 metres from the zone boundary of any Residential Zone, Community Facility (CF) Zone, Recreation (RE) Zone, or Open Space (OS) Zone; OR 150 metres from the nearest lot line of a sensitive land use;
 - l) An outdoor Cannabis Production and Processing Facility and a Medical Cannabis Production Site not equipped with an Air Treatment Control system shall be setback a minimum of 300 metres from the nearest lot line of a sensitive land use;
 - m) Only one building or structure having a cement-based foundation of up to a maximum of 200 square metres may be used in association with a Cannabis Production and Processing Facility or a Medical Cannabis Production Site on a single lot; and,
 - n) Existing parking standards for manufacturing, processing, assembly and/or fabrication plants, and hydro generating plants are also applied to Cannabis Production and Processing facilities.

3.12 City of Windsor

The City of Windsor also regulates cannabis production in the Zoning By-law. Cannabis production is included in the definition of a Manufacturing Facility. This means wherever a Manufacturing Facility is permitted then a cannabis production facility is also permitted. The Zoning By-law permits a Manufacturing Facility in 7 of the 8 existing Industrial zones.

The Zoning By-law does not include any specific minimum setbacks from sensitive land uses, however there are minimum yard requirements established for each of the Industrial zones that would apply to a Manufacturing Facility.

3.13 Town of Pelham

Council for the Town of Pelham passed an Interim Control By-law (ICBL) 4046-2018 that applied to all lands within the municipality, except those that are under the Development Permit Control Area of the Niagara Escarpment Commission. The ICBL had the effect of restricting the use of all land within the municipality for any cannabis- related land uses for a period of one year. On September 23, 2019, the ICBL was extended to July 15, 2020. During this time, it was intended that the Town would develop an approach to regulating cannabis.

Following the passage of the ICBL, Town planning staff began conducting research on best practices to inform an approach to regulating cannabis in the Town with the intention of bringing forward amendments to the Official Plan and Zoning By-law to implement the recommended approach. In this regard and on September 10, 2019, a statutory Public Meeting was held to consider amendments to the Town's Official Plan and Zoning By-law prepared by the Town to regulate cannabis-related uses.

In order to provide advice to the Town on this issue, Council formed an advisory committee known as the Cannabis Control Committee ('CCC') to provide advice to Council, review options provided by the Town's Community Planning and Development staff and to conduct research.

In order to provide some additional expertise on developing an appropriate policy and regulatory framework, on January 13, 2020, the Town of Pelham retained Meridian Planning Consultants to provide professional planning advice on the planning approach and planning instruments being proposed to regulate cannabis within the community.

A draft Official Plan Amendment (OPA) and a draft zoning by-law amendment (ZBA) were released on April 17, 2020. Numerous comments were received on these drafts and final versions were prepared in July 2020.

The purpose of the final OPA was to establish permissions for indoor cannabis and industrial hemp cultivation in the agricultural area, subject to a zoning by-law amendment, and to establish the criteria to be relied upon when considering such applications. The OPA recognized that as a consequence of the type of product being grown in these indoor facilities and the character of the odour, the potential for adverse effects from odour is significant and that as a first principle, the avoidance of adverse effects is preferred, however, if avoidance is not possible, adverse effects shall be minimized and appropriately mitigated.

The OPA also recognized that the cultivation of cannabis is an agricultural use and is permitted in agricultural areas by the PPS 2020, which indicates that all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with Provincial standards. However, in the absence of Provincial standards on the adverse effects of odour from indoor cannabis and industrial hemp cultivation facilities, the OPA also recognized that there is a need to control the siting of such uses in relation to sensitive uses as a result of the known adverse effects from the cultivation of cannabis.

There is already a precedent for the establishment of setbacks from sensitive uses for odour reasons in agricultural areas in the form of the Minimum Distance Separation (MDS) guidelines established by the Province. However, the MDS guidelines do not apply to cannabis and in the absence of Provincial guidance on this matter, it is up to local municipalities to establish a policy framework to avoid adverse effects, and if avoidance is not possible, to minimize and mitigate adverse effects through setbacks for indoor cannabis and industrial hemp cultivation from sensitive uses.

In this regard, the purpose of the OPA was to do just that, by establishing the study requirements to determine whether the avoidance of adverse effects is possible and if not, how adverse effects can be minimized and appropriately mitigated through the use of setbacks and other measures on a case-by-case basis.

In this regard, required studies include an Air Quality Study, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan and Traffic Impact Study. These studies

would be in addition to all other required studies typically submitted as part of an application for re-zoning or which may be required to support an application to expand a legal non-conforming indoor cannabis cultivation facility.

The results of these studies are intended to establish the minimum setback from sensitive land uses to be included, if necessary, in the required site-specific zoning by-law amendment and may establish a maximum size for the facility, if it has been determined that the siting of the facility can be supported. These studies may also establish minimum separation distances between a proposed facility and any existing indoor cannabis or industrial hemp cultivation facilities, as required, to mitigate adverse effects.

An implementing ZBA was also prepared; the effect of which is to create two new zones that would only be applied in the future to new indoor cannabis and industrial hemp cultivation facilities, subject to Council approval in accordance with the process and criteria established by the OPA.

In the case of indoor cannabis cultivation and processing in the Town of Pelham, it is was determined to be inappropriate to establish setbacks in advance and include them in a zoning by-law because of the many variables that have to be considered. These include:

- a) Whether the facility is a greenhouse or an industrial-type building and if a greenhouse is proposed, whether the proposed greenhouse is purpose built for cannabis or industrial hemp or already exists;
- b) The size and scale of the proposed use;
- c) The proximity and number of sensitive uses in the area including the potential for additional sensitive uses on vacant lots that are zoned to permit a sensitive use;
- d) The location of the proposed use in relation to prevailing winds;
- e) The nature of the adverse effects that exist at the time in relation to existing indoor cannabis and industrial hemp cultivation facilities; and,
- f) The impact of topography on the dispersion of odour.

It is noted that the ZBA also establishes a 300 metre setback for outdoor cultivation from sensitive uses as well, based on the precedent established by the County of Norfolk. Both the OPA and ZBA have been appealed to the Ontario Land Tribunal by the cannabis industry.

4.0 EMERGING TRENDS

The purpose of this section of the Technical Paper is to identify emerging trends and provide an analysis of the municipalities that were included in the area municipal plan comparison.

4.1 Official Plan Policies

Of the municipalities that were reviewed as part of the area municipal plan comparison, there are five municipalities that have Official Plan provisions that apply to cannabis uses. These include the Town of Halton Hills, the Township of Selwyn, the Municipality of Chatham-Kent, the Town of Blue Mountains and the Town of Pelham. In each of these Official Plans, cannabis uses are permitted as-of-right in specific land use designations, subject to criteria, which means an Official Plan Amendment is not required. Of the municipalities that contain Official Plan policies, the Municipality of Chatham-Kent is the only municipality that does not require a Zoning By-law Amendment to permit the use as cannabis uses are permitted as-of-right in certain zones in the Zoning By-law.

The Town of Halton Hills, Township of Selwyn and Town of Pelham permit cannabis cultivation and processing within the Agricultural Area and Rural Area designations. The Official Plans also require that an applicant demonstrate that cannabis processing is an agriculture-related use when it is being proposed as such and how it meets the four criterion for agriculture-related uses in the PPS guidelines. The Official Plans require a minimum setback from lot lines for outdoor cultivation.

The Town of Halton Hills also permits indoor cannabis cultivation and processing in the Employment Area designation. For the Township of Selwyn, the same applies but within the Industrial designation. In the Town of Pelham, the same applies to lands that are within the Rural Employment designation. All of the Official Plans require a Zoning By-law Amendment to permit the use and are subject to site plan control.

In the Municipality of Chatham-Kent, indoor cannabis production is permitted within the Employment Area and Rural Industrial designation. It is also permitted in the Zoning By-law, which means no Zoning By-law Amendment is required to permit the use, however the use is subject to setbacks. As is the case with Halton Hills and Selwyn, a cannabis production facility in Chatham-Kent is required to obtain Site Plan Approval.

The Town of Blue Mountains Official Plan has not been updated to reflect the terminology of the Cannabis Act. The Official Plan permits a medical marihuana production facility on lands that are designated Rural Employment Lands, Urban Employment Lands and Rural. However, a medical marihuana production facility is not permitted in the Agricultural or Special Agricultural designations. A Zoning By-law Amendment is required to permit the use and is subject to site plan control.

Each of the above Official Plans also require a varying number of policies that address matters such as compatibility with adjacent land uses, servicing, mitigation of potential adverse effects (odour, noise, traffic), and setbacks.

In addition to the above, the Town of Erin through a Council Report in October 2017 clarified how cannabis uses are interpreted within the Township's current Official Plan. In this regard, a cannabis production operation in a greenhouse is considered as a permitted use within the Agricultural Area designation and as an industrial use within the Industrial Area designation.

4.2 Zone Classification for Cannabis Uses

All of the municipalities that were reviewed in the area municipal plan comparison classify cannabis uses as being either an agricultural use or an industrial use in the Official Plan and/or Zoning By-law. In this regard, all of the Zoning By-laws recognize the use in either an Agricultural or Rural Zone or in some type of Industrial or Employment zone.

For the zoning by-laws that specifically permit outdoor cultivation of cannabis, it is only permitted in the Agricultural or Rural zones. In a number of municipalities, indoor cultivation and/or processing is also permitted in the Agricultural or Rural zones, subject to certain criteria.

For the zoning by-laws that permit cannabis uses in the Employment zones, the use must be within a wholly enclosed building (which in some cases does not include a greenhouse) and typically has specific standards such as those that deal with setbacks from certain land uses and the requirement of site plan control to deal with specific site design matters. In these zones, outdoor cannabis cultivation would not be permitted.

4.3 Defining Cannabis Uses

All of the municipalities reviewed permit cannabis uses in some way, either as-of-right or by requiring a site-specific Zoning By-law Amendment. However, there are varying approaches to how cannabis uses are defined in the Zoning By-laws that were reviewed. The following broad terms have been used within the Official Plans and Zoning By-laws that were reviewed:

- a) Cannabis Growing and Harvesting Facility;
- b) Cannabis Production;
- c) Cannabis Production Facility;
- d) Cannabis Production and Processing; and,
- e) Cannabis Related Facility.

All of the definitions are intended to describe the specific cannabis uses that are permitted by the term, which can include any combination of cultivation, growing, processing, testing and packaging of cannabis. Some of the definitions also make reference to the Cannabis Regulation and/or the Cannabis Act, or a previous legislation as amended. A few of the definitions mention that retail sale is not permitted on the same property.

In some cases, municipalities have updated existing definitions such as agricultural use and industrial use to either include or exclude cannabis uses. For example, the Municipality of

Chatham-Kent updated the definition of agricultural use to include a cannabis production facility and also updated the definition of industrial use to include a cannabis production facility, but exclude outdoor cultivation of cannabis. Another example is in the County of Norfolk, where three definitions (farm, garden centre and wholesale outlet) were amended to exclude cannabis production and processing.

The Town of Pelham includes a definition for indoor and outdoor cannabis uses as well as indoor and outdoor industrial hemp-related uses and these include:

- a) "Cannabis-related use - indoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018- 144 as amended that are carried out within an enclosed building or structure.
- b) "Cannabis-related use - outdoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors.
- c) "Industrial hemp-related use - indoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that are carried out within an enclosed building or structure.
- d) "Industrial hemp-related use - outdoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that only involve the growing and harvesting of hemp outdoors.

The Town of Halton Hills and the Township of Selwyn have both introduced 6 cannabis definitions that mirror the types of licences that are available under the Cannabis Regulation, and these include:

- a) Cannabis Analytical Testing Facility;
- b) Cannabis Cultivation – Indoor;
- c) Cannabis Cultivation – Outdoor;
- d) Cannabis Drug Production Facility;
- e) Cannabis Processing Facility; and,
- f) Cannabis Research Facility.

4.4 Other Zoning Provisions

All of the municipalities reviewed in the area municipal plan comparison have implemented a varying number of specific zoning provisions that apply to cannabis uses. Below is a summary of the provisions that are most commonly used:

- a) Minimum setbacks from cannabis uses and other land uses, lots or certain zones. Typically the minimum setbacks are applied from a residential use or zone, institutional use or zone and open space zones and sometimes these uses are referred to as sensitive land uses.

- b) The setbacks appear to range from 50 metres to 300 metres, however 150 metres and 300 metres appear the most often;
- c) Separation distance between greenhouses, buildings and structures that are part of a cannabis operation;
- d) Requirement of a security fence around the premises that require the same setbacks as facilities. It is noted that the presence of a security fence is also a requirement of a Cannabis licence;
- e) Parking requirements that include a number of spaces based on building size;
- f) Loading spaces are generally required to be located within a wholly enclosed building;
- g) Site Plan Control is required in many of the zoning by-laws to address site matters;
- h) Requirement for mitigation from potential adverse effects such as light, air and odour emissions that may be supported by the submission of certain studies related to odour and dust, transportation light, hydrogeological requirements and others; and,
- i) Prohibition of retail stores and sales as well as dwellings on the same property as a cannabis operation.

5.0 SURVEY AND OPEN HOUSE

As part of the City's Zoning By-law review, surveys have been prepared on the range of topics being considered to obtain an understanding of the public concerns and priorities with respect to various aspects of the Zoning By-law review. In the case of the subject of this Discussion Paper, a 7-question survey was prepared by the City to better understand community sentiment on the siting of cannabis cultivation facilities. The number of respondents for each question ranged from approximately 39 to 43 people.

Below is a summary of the relevant responses to the survey.

In response to the first question regarding whether respondents support cannabis operations (such as processing, growing and research and development) in the City, about 56 percent of the respondents said yes and 44 percent said no. The top two reasons identified in the survey for supporting this type of use was the economic benefit and creation of new jobs. Respondents were also asked what was of concern to them when cannabis cultivation and processing uses are proposed in the City. In this regard, the top two concerns identified by the respondents were odour and air quality and proximity to other uses.

The survey indicated that the cultivation of cannabis (growing and preparation of cannabis crops) typically occurs in greenhouse type buildings but can also occur outside and respondents were then asked where they thought cannabis cultivation should be located. In this regard, about 54 percent of the respondents indicated that it should occur inside a building in an agricultural area, while 41 percent said it should not be permitted in the City at all. Respondents were then asked whether indoor cannabis cultivation (growing and preparation of cannabis crops) and processing uses should be located away from a number of uses and the respondents indicated the following:

- a) Residential dwellings (64 percent)
- b) Daycare centres (28 percent)
- c) Schools (54 percent)
- d) Youth-oriented facilities (33 percent)
- e) Health facilities (8 percent)
- f) Other (5 percent)
- g) None of the above (28 percent)

Respondents were then asked whether outdoor cannabis cultivation operations should be located away from a number of uses and the respondents indicated the following:

- a) Residential dwellings (74 percent)
- b) Daycare centres (41 percent)
- c) Schools (72 percent)
- d) Youth-oriented facilities (38 percent)
- e) Health facilities (10 percent)
- f) Other (5 percent)
- g) None of the above (15 percent)

The survey indicated that the processing of cannabis (which involves the testing, sorting and packaging of the product) can occur in conjunction with cannabis cultivation in a greenhouse-type building but could also occur in an industrial building as well. Respondents were then asked where they thought cannabis processing should be located. In this regard, about 68 percent said that the processing of cannabis should occur in industrial areas, 54 percent said the agricultural area and 11 percent said high density mixed-use areas.

This Technical Paper was the subject of a virtual open house held on April 11, 2022. There was very little discussion at this open house. Further consideration of the options and a recommended course of action will be undertaken in a future phase of the project.

6.0 OPTIONS FOR THE CITY TO CONSIDER TO REGULATE CANNABIS

6.1 Options for the Urban Area

The options for the urban area are:

1. Require site-specific zoning to permit cannabis-related uses and industrial hemp-related uses. This option would permit cannabis-related uses and industrial hemp-related uses in the Employment Area designation in the RHOP, subject to meeting certain criteria and obtaining a site-specific rezoning for each application. In order to provide the basis for

requiring a re-zoning, the RHOP would also be amended to provide guidance on what factors need to be considered when such applications are submitted.

2. Maintain current permissions in Employment Areas excluding the Newkirk Business Park. In this option, indoor cannabis cultivation and processing would be permitted in those business parks that are located along the Highway 404 corridor and in the same industrial zones where medical marihuana production facilities are currently permitted. The setback from sensitive uses would also be increased from 70 metres to 150 metres.
3. Maintain Status Quo and permit as-of-right in all Employment Areas and in the same industrial zones where medical marihuana production facilities are currently permitted, with the setback remaining at 70 metres.

Below is a discussion on the each of the options identified above.

6.1.1 Require Site-Specific Zoning

This option would permit indoor cannabis-related uses and indoor industrial hemp-related uses in the Employment Area designation subject to certain criteria and require a Zoning By-law Amendment to permit the use. Factors to consider in evaluating applications would include setbacks from sensitive land uses and requirements for adequate servicing, air quality and odour control measures. There are a number of policies in the RHOP that support this option including in particular Section 3.3.3.1.4. This option assumes that these types of facilities have the potential to cause adverse effects.

In order to implement this option, the RHOP would need to be amended to include appropriate policy tests or criteria to evaluate rezoning applications. In addition to the above, RHOP could also be amended to identify the studies that are required to support the establishment of a cannabis-related use or industrial hemp-related use to ensure that all potential adverse effects are studied in advance. In this regard, required studies may include:

- a) Air Quality Study;
- b) Contingency Odour Mitigation Plan;
- c) Light Mitigation Plan;
- d) Contingency Light Mitigation Plan; and,
- e) Traffic Impact Study.

These studies would be in addition to all other required studies typically submitted as part of an application for a rezoning. The results of these studies are intended to establish the minimum setback from sensitive land uses to be included in the required site-specific zoning by-law amendment and may establish a maximum facility size for the use, if it has been determined that the siting of the use can be supported. These studies also establish minimum separation distances between cannabis-related uses and industrial hemp-related uses, as required.

In addition to the above, the City's Zoning By-law would also need to include a minimum parking requirement. In this regard, a minimum parking rate of 1/100 square metres of gross floor area could be included.

This option provides the City with the opportunity to thoroughly review each proposed operation and also requires that a statutory Public Meeting be held on the Zoning By-law Amendment application.

6.1.2 Permit As-Of-Right in Some of the Employment Areas

This option would permit indoor cannabis-related uses and indoor industrial hemp-related uses in all of the Employment Areas in the RHOP, except for the Newkirk Business Park, and only within those industrial zones that currently permit a medical marihuana production facility. The Newkirk Business Park is developed with industrial and commercial businesses that are generally smaller in scale compared to the other business parks and it is surrounded by existing and established residential uses. In this regard, there is a higher likelihood of land use conflicts with sensitive land uses such as residential uses.

From an implementation perspective, the RHOP would need to be amended to not permit the use in the Newkirk Business Park. No other changes to the RHOP would be required. In order to implement this option, the City's Zoning By-law would need to include the same definition updates and parking requirement as identified in Option 1. In addition to the above, the Zoning By-law would need to include other provisions, such as setbacks from sensitive land uses, that apply to the industrial zones where cannabis-related uses and industrial hemp-related uses are permitted. Examples of potential provisions include:

Indoor cannabis-related uses and indoor industrial hemp-related uses:

- a) Must be located in a single, wholly enclosed building;
- b) Are required to be set back a minimum of 150 metres from a sensitive land use;
- c) Are not permitted to have accessory retail sales on the same lot; and,
- d) Are not permitted to have any outdoor storage of goods, materials or supplies.

Since this option only contemplates permitting indoor cannabis-related uses and indoor industrial hemp-related uses in certain Employment Areas and in certain industrial zones, this means that a Zoning By-law Amendment would be required to permit indoor or outdoor cannabis-related uses or indoor or outdoor industrial hemp-related uses in any other zone.

6.1.3 Maintain the Status Quo

This option would permit indoor cannabis-related uses and indoor industrial hemp-related uses in the same zones where medical marihuana production facilities are currently permitted. The same zoning definitions, parking requirement, setback from sensitive uses and other provisions

that apply in Option Two would apply to this option as well, except that the setback would remain at 70 metres.

6.1.4 Discussion

The indoor cultivation of cannabis and industrial hemp is anticipated to occur within greenhouse or industrial type buildings that can in some cases be larger than other similar buildings used for other purposes. As a consequence of the type of product being grown in these indoor facilities and the character of the odour, the potential for adverse effects from odour is significant.

As a first principle the avoidance of adverse effects is preferred, however, if avoidance is not possible, adverse effects shall be minimized and appropriately mitigated. In order to minimize and mitigate adverse effects, it is anticipated that new indoor cannabis and industrial hemp cultivation facilities will be required to be set back an appropriate distance from sensitive uses and from each other to minimize and mitigate against potential adverse effects. In this regard, appropriate setbacks will be dictated by process specific odour emission rates and the effectiveness of the proposed odour controls. The factors that would need to be considered in determining what the setback should include:

- a) Whether the facility is a greenhouse or an industrial-type building and if a greenhouse is proposed, whether the proposed greenhouse is purpose built for cannabis or industrial hemp or already exists;
- b) The size and scale of the proposed facility;
- c) The proximity and number of sensitive uses in the area including the potential for additional sensitive uses on vacant lots that are zoned to permit a sensitive use;
- d) The location of the proposed facility in relation to prevailing winds;
- e) The nature of the adverse effects that exist at the time in relation to existing indoor cannabis cultivation facilities; and
- f) The impact of topography on the dispersion of odour.

Given the above, a site-specific analysis would be required.

It is noted that requiring Site Plan Approval to determine whether a site is appropriate for a cannabis facility is not ideal, since Section 41 of the Planning Act does not in of itself permit the City to require studies such as air quality studies to determine if adverse effects can be mitigated and since the principle of use would be established in the zoning by-law (as per Options One and Two above), refusing a site plan application because of a sub-standard air quality study may not be an option for the City.

6.2 Options for the Rural Area

Within the rural area, there are two options. The first is the same as Option 1 above, and would require the submission of an application for re-zoning to support an indoor cannabis cultivation facility with a number of studies required to support the use. In this regard, the Official Plan

would permit the use in a manner that is consistent with the PPS and in conformity with the ORMCP.

The City's Zoning By-law would also need to be updated to ensure that the use is appropriately defined and then not permitted in any zone. However, outdoor cultivation would be permitted in the ORM Countryside wherever agriculture was a permitted use, subject to a 300-metre setback.

Option 2 in the rural area would involve permitting indoor cannabis cultivation provided an appropriate setback is established and is appropriately set back from sensitive uses. Outdoor cultivation would also be permitted in the ORM Countryside wherever agriculture was a permitted use, subject to a 300-metre setback.

7.0 CONCLUSION AND NEXT STEPS

As a result of the Federal Cannabis Act, the Cannabis Regulation and the Industrial Hemp Regulation coming into effect in 2018, municipalities that had passed Zoning By-laws to regulate medical marihuana production facilities now require updating.

On the basis of the above, the purpose of this Technical Paper is to:

- a) Document the current status of the Federal regulatory environment;
- b) Determine how Provincial implementation is supposed to occur;
- c) Complete a review of the planning issues and policy considerations related to cultivation and processing;
- d) Provide an area municipal plan comparison of how other municipalities are dealing with cannabis cultivation and processing;
- e) Provide an analysis of emerging trends; and,
- f) Identify next steps for the City to consider.

The intent of this Technical Paper is not to recommend a course of action. Instead, the intent of this Technical Paper is simply to identify options, and then determine which ones are feasible and which ones are not (based on the review of these options by Council, staff, stakeholders and members of the general public and business community). Further consideration of the options and a recommended course of action will be undertaken in a future phase of the project.

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
Town of Halton Hills Regulations came into effect: July 8, 2019	a) Policies that apply to cannabis cultivation and processing in the Agricultural/Rural designation and Employment Area. b) Policies that require an applicant to demonstrate that processing of cannabis is an agriculture-related use, referring to the 4 criteria set out in the PPS. c) Permits indoor cannabis cultivation in the employment area and requires site plan control and sets out a number of criteria that Council needs to be satisfied with prior to approving a zoning by-law amendment. d) Establishes a minimum 50-metre setback from lot lines for outdoor cultivation of cannabis.	e) Includes definitions for each type of licence in accordance with the Regulation. f) Applies parking (1/100 m2 of gross floor area) and loading standards for cannabis related uses. g) Permits certain cannabis uses in the Urban Employment Zone in a fully enclosed building and establishes a minimum setback of 150 metres from a lot line that is shared with a sensitive use. h) Permits indoor cannabis cultivation in Agricultural zones subject to a 150 metres from adjacent land uses and site plan control. i) Permits outdoor cannabis cultivation in the Agriculture and Protected Countryside zones and subject to a setback of minimum of 50 metres from a lot line. j) Permits other cannabis related uses in the Rural Employment zone (except outdoor cannabis cultivation) in a fully enclosed building and establishes a minimum setback of 150 metres from a lot line that is shared with a sensitive use.
Township of Selwyn Regulations came into effect: March 12, 2020	a) Indoor cultivation permitted as-of-right in the Agricultural and Rural Area designations in the County's Official Plan (OP that applies to the Township). b) Indoor cannabis processing may be permitted in Agricultural and Rural Area, subject to the 4 criteria set out in PPS guidelines. c) Indoor cannabis cultivation is required as-of-right in the industrial designation, subject to a zoning by-law amendment.	a) Establishes a cannabis definition for each type of cannabis use licence. b) Minimum setback of 150 metres from sensitive land uses is required for indoor cannabis cultivation and processing. c) All loading spaces must be located entirely within an enclosed building. d) Minimum parking requirement of 1/100 m2 of gross floor area applies to all cannabis uses except for outdoor cannabis cultivation.

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
	d) Site Plan control is required for any indoor cannabis cultivation and processing.	
Town of Erin Regulations came into effect: June 18, 2018	a) According to a Council Report from October 3, 2017, the Town of Erin considers cannabis production in a greenhouse as a permitted use in the Agricultural area and an industrial use in the industrial in the Official Plan.	a) A production facility is only permitted in the Agricultural (A), Light Industrial (M1), General Industrial (M2) or Rural Industrial (M2) zones. b) A building in the light and general industrial zones must be 70 metres away from a residential, institutional or open space zone. c) A building in the agricultural or rural industrial zone must be 150 metres away from a residential, institutional or open space zone; d) The facility must be located within a wholly enclosed building (outdoor storage prohibited). e) Buildings are only allowed in permitted zones and are subject to site plan control. f) Security building may be located in front, side or rear yards. g) No minor variances are permitted.
County of Brant Regulations came into effect: January 14, 2020	a) None.	a) Cannabis Production Facilities are permitted as-of-right within the Agricultural (A), Agricultural Employment (AE), Light Industrial (M2) and Heavy Industrial (M3) zones. b) Minimum setback of 150 metres is required from a Residential Zone or use, Industrial zone or use or Open Space zone. c) Cannabis Production Facilities are subject to Site Plan Control. d) Requires 1 parking space per 100 m2 of gross floor area. e) Loading spaces and storage must be located within a wholly enclosed building and only accessible through rear yard. f) Outdoor storage is prohibited. g) Security building may be located in the front yard.
Municipality of Chatham-Kent	a) Cannabis production is permitted within the Employment, Agricultural and Rural Industrial designations.	a) Cannabis Production is permitted as-of-right in the Agricultural and Industrial.

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
	<p>b) Policies indicate that a cannabis production facility should not be located within close proximity to a sensitive land use, such as residential, institutional, open space or as more specifically outlined within the Zoning By-law.</p> <p>c) Policies require that the construction of new cannabis production be subject to site plan approval and designed in accordance with Federal regulations to mitigate potential impacts including light emissions, air emissions, odour and so forth and must be registered or licensed with Health Canada.</p>	<p>b) Minimum separation distance requirements for buildings and structures:</p> <p>c) Within the General Industrial zone: no closer than 75 metres to any residential, institutional or open space zone boundary; and,</p> <p>d) Within the Agricultural (A1) and Rural Industrial (MR) zone, no closer than:</p> <p>e) 100 metres to an existing residential dwelling on a separate lot; or,</p> <p>f) no closer to any residential institutional or open space zone boundary than 100 metres.</p> <p>g) Requires 2 parking space per three employees or one parking space per 18 square metres of floor area used for office (whichever is greater) as well as one space per 1,000 square metres of area used for production.</p> <p>h) All Cannabis Production uses require Site Plan Control.</p> <p>i) Minimum distance separation and parking requirements do not apply to a cannabis production facility where the cultivation area is less than 200 m² (micro-cultivation) or to outdoor cultivation.</p>
<p>City of Ottawa</p> <p>Regulations came into effect: June 12, 2019</p>	<p>a) None.</p>	<p>a) Existing Cannabis Production Facilities are permitted in the Agricultural zone.</p> <p>b) New Cannabis Production Facilities are permitted in the Industrial zones within a building that is not a greenhouse.</p> <p>c) A Cannabis Production facility that is operating in a greenhouse or outdoor cultivation is permitted in the Rural Countryside zone.</p> <p>d) Outdoor storage is not permitted.</p> <p>e) A minimum setback of 300 metres from a residential use, institutional or rural institutional zone when outdoor cultivation or cultivation within a greenhouse is occurring.</p>

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
		<p>f) Requires that no cannabis production facility that is contained entirely within a building may become a nuisance of odour or fumes.</p> <p>g) Cannabis production facilities are not permitted to have any outdoor storage and are not permitted in a dwelling.</p>
Township of Havelock-Belmont-Methuen Regulations came into effect: May 22, 2018	a) None.	<p>a) 'Agricultural Use' definition – shall not include any land, building or structure for the growing of Cannabis.</p> <p>b) Includes definition for Cannabis Production Facility (CPF), which does not specify medicinal.</p> <p>c) Prohibits CPF in the definition of Commercial Greenhouse.</p> <p>d) The General Provisions section CPFs will only be permitted where:</p> <p>e) Municipal water/sewer available;</p> <p>f) No other uses on lot;</p> <p>g) Follows federal regulations;</p> <p>h) Lands zoned Restrictive Industrial;</p> <p>i) Minimum lot area of 4000 m²;</p> <p>j) Minimum lot frontage of 45 metres; and,</p> <p>k) Minimum setback of 70 metres from Residential, Institutional, Commercial, Development or Open Space zones.</p>
County of Norfolk Regulations came into effect: March 27, 2018	a) None.	<p>a) Includes a definition of cannabis production facility and air treatment control.</p> <p>b) Permits cannabis production and processing in the Industrial zones with air treatment control and requires a minimum setback of 70 metres from Residential, Institutional and Open Space zones.</p> <p>c) In the Agricultural zones, cannabis production and processing with air treatment control requires a minimum setback of 150 metres from Residential, Institutional or Open Space zones.</p>

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
		<p>d) Any lands used for cannabis production and processing with air treatment control are required to comply with a minimum 150 metre setback from sensitive land uses.</p> <p>e) When a cannabis production and processing facility is not equipped with air treatment control, a minimum setback of 300 metres from sensitive uses is required.</p> <p>f) Outdoor storage is prohibited.</p> <p>g) All cannabis production and processing facilities (establishment and expansion) are subject to Site Plan Control.</p> <p>h) Security building is permitted to locate in a front yard and is not subject to yard requirements.</p> <p>i) Prohibits outdoor storage.</p> <p>j) Illumination required for cannabis production facilities is also subject to lighting facilities regulations in the zoning by-law.</p>
Town of Blue Mountains	<p>a) Section B2.12 of the OP permits medical marihuana production facilities on lands that are designated Rural Employment Lands, Urban Employment Lands and Rural.</p> <p>b) Not permitted on lands designated Agricultural or Special Agricultural.</p> <p>c) The policies also require a site-specific zoning by-law amendment to permit the use, minimum setbacks from sensitive uses such as residential, institutional and open space, no residential use on the same lot and all associated activities are required to be within the wholly enclosed building with the facility.</p>	<p>a) Includes a definition for Cannabis Production Facility.</p> <p>b) Modified the definition of Agricultural Use to exclude a cannabis production facility.</p> <p>c) Cannabis Production Facility is not permitted in any zone. A site-specific zoning by-law amendment is required to permit the use and establish standards that apply.</p>

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
Township of King Regulations came into effect: June 25, 2018	a) None.	a) Includes definitions for Industrial Cannabis Processing Facility, Agricultural Cannabis Production Facility and Medical Cannabis Production Site. b) Also includes definitions for Sensitive Land Use and Air Treatment Control. c) Agricultural production facility or medical cannabis production site is permitted on a lot that is at least 10 hectares in area. d) When equipped with air treatment control, minimum 150 metre setback is required from a sensitive land use or any residential zone, institutional zone or open space zone. e) Minimum setback is increased to 300 metres for medical cannabis production site that is not equipped with air treatment control. f) Same setbacks as above apply to industrial cannabis production. g) Parking requirements are as follows: h) Industrial cannabis production facility and medical cannabis production site: 1.0 parking spaces for every 37 m ² of gross floor area up to 3,000 m ² , plus 1.0 for each additional 100 m ² of gross floor area up to 6,000 m ² and 1.0 spaces for each 200 m ² over 6,000 m ² ; and, i) Agricultural cannabis production facility: 1.0 parking space for every 37 m ² of gross floor area. j) Minimum setback of 300 metres for outdoor cultivation. k) Site Plan Control is required for all facilities. l) Outdoor storage, signage and advertising are not permitted. m) Security building can locate in a front yard, provided a minimum 2.0 metres is provided from any property line.
Township of Brock	a) Definitions for adverse effect, cannabis, cannabis production and processing facility	a) Amends or adds a number of definitions relevant to the regulation of cannabis production in the Township; b) Permits a Cannabis Production and Processing Facility and a Medical Cannabis Production Site in the Rural (RU), Restricted

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
	<ul style="list-style-type: none"> b) Permits cannabis production and processing facility and medical cannabis production sites in the Rural Area, including the Agricultural and Major Open Space designations c) Not permitted in conjunction with a residential use d) Applications submitted to establish a new operation are subject to information requirements (studies) in the Official Plan e) Subject to site plan f) Required to demonstrate dark sky friendly lighting and building design 	<ul style="list-style-type: none"> Industrial (M1), General Industrial (M2), and Rural Industrial (M3) Zones; c) Only one Cannabis Production and Processing Facility or Medical Cannabis Production Site is permitted on a single conveyable lot; d) Cannabis Production and Processing Facility or Medical Cannabis Production Site located within an enclosed building must be equipped with an air treatment control system as defined in the Zoning By-law; e) Open storage of any materials, goods or supplies associated with the cannabis operation is prohibited; f) A building or structure used for security purposes may be located in any required yard and is not required to comply with minimum yard setbacks; g) The establishment or expansion of a Cannabis Production and Processing Facility or Medical Cannabis Production Site is subject to site plan control; h) No minor variance to the zoning requirements for a Cannabis Production and Processing Facility or a Medical Cannabis Production Site shall be permitted by the Committee of Adjustment and shall only be considered by way of a Zoning Bylaw Amendment; i) Separation distances between a Cannabis Production and Processing Facility or a Medical Cannabis Production Site and any Residential Zone, Community Facility (CF) Zone, Recreation (R) Zone or Open Space (OS) Zone shall be measured from the edge of the nearest building or crop line associated with the Cannabis Production and Processing Facility or Medical Cannabis Production Site to the greater of either the nearest lot line of a sensitive land use or the nearest zone boundary of any Residential

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
		<p>Zone, Community Facility (CF) Zone, Recreation (R) Zone or Open Space (OS) Zone;</p> <p>j) A Cannabis Production and Processing Facility or a Medical Cannabis Production Site equipped with an Air Treatment Control system shall be setback the greater of:</p> <p>k) 70 metres from the zone boundary of any Residential Zone, Community Facility (CF) Zone, Recreation (RE) Zone, or Open Space (OS) Zone; or</p> <p>l) 150 metres from the nearest lot line of a sensitive land use;</p> <p>m) An outdoor Cannabis Production and Processing Facility and a Medical Cannabis Production Site not equipped with an Air Treatment Control system shall be setback a minimum of 300 metres from the nearest lot line of a sensitive land use;</p> <p>n) Only one building or structure having a cement-based foundation of up to a maximum of 200 square metres may be used in association with a Cannabis Production and Processing Facility or a Medical Cannabis Production Site on a single lot; and,</p> <p>o) Existing parking standards for manufacturing, processing, assembly and/or fabrication plants, and hydro generating plants are also applied to Cannabis Production and Processing facilities.</p>
City of Windsor	a) None.	<p>a) Includes Cannabis Production in the Manufacturing Facility definition.</p> <p>b) The Manufacturing Facility use is permitted in 7 of the 8 existing Industrial zones.</p>

Appendix A: Cannabis Area Municipal Plan Comparison

Municipality	Official Plan Policies	Zoning By-law Provisions
Town of Pelham	<ul style="list-style-type: none"> a) Permits indoor cannabis and industrial hemp cultivation in the agricultural area, subject to a zoning by-law amendment b) Establishes criteria to be relied upon when considering applications c) Cultivation of cannabis is an agricultural use and is permitted in agricultural areas d) Includes study requirements to determine whether the avoidance of adverse effects is possible and if not, how adverse effects can be minimized and appropriately mitigated through the use of setbacks and other measures e) Establishes minimum setbacks from sensitive land uses in the required zoning by-law amendment 	<ul style="list-style-type: none"> a) Zoning by-law includes two zones that would only be applied in the future to new indoor cannabis and industrial hemp cultivation facilities, subject to Council approval in accordance with the process and criteria established by the OPA. b) 300 metre setback applied to outdoor cultivation from sensitive land uses c) Other setbacks to be determined on a site specific basis through the required zoning by-law amendment process