



**THE CORPORATION OF THE
MUNICIPALITY OF NORTH MIDDLESEX
BY-LAW NO. 085 OF 2021**

Being a By-law to regulate certain matters related to cannabis

Whereas, Section 128(1) of the Municipal Act, 2001, R.S.O. 2001, c. 25 (herein the "Act") provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

And Whereas the legislation and regulations permitting the production, sale and consumption of Medical Cannabis and Non-Medical Cannabis do not regulate certain matters of public interest in relation to health, safety, morality, comfort or convenience.

And Whereas without proper regulation the activities regulated by this By-Law, especially in the absence of sufficient regulation or enforcement by another level of government, could become or cause public nuisances.

Now Therefore by its Council The Municipality of North Middlesex Hereby Enacts as Follows:

Interpretation

1. In this By-Law:
 - (a) "Cannabis" shall have the same meaning as cannabis as defined in the Cannabis Act (Canada).
 - (b) "Cannabis Facility" means an indoor Premises on which Cannabis, Cannabis seed or Cannabis oil is grown, processed, extracted, packaged or otherwise made ready for sale, tested, destroyed, stored and/or shipped in accordance with the provisions of a license issued by Health Canada, as may be amended from time to time, but shall not mean a Cannabis retail outlet operated by the Province of Ontario, Cannabis Lounge or Cannabis Retailer, and does not include any Property which is not licensed by Health Canada and on which Cannabis is grown exclusively for legal use by the registered owner of the Property.
 - (c) "Cannabis Lounge" means a structure, which is not a residence, in

which Cannabis Products, legally possessed by one or more persons, are consumed.

- (d) "Cannabis Products" means any product for which Cannabis is one of the principal ingredients, including Cannabis Derivatives.
- (e) "Cannabis Related Activity" means growing, processing, extracting, packaging or otherwise making ready for sale, testing, destroying, storing, shipping, permitting consumption or sale of Cannabis or Cannabis Products.
- (f) "Cannabis Retailer" means a premises from which Cannabis or Cannabis Products are sold to the general public on a retail basis and is authorized by law, but does not include a Cannabis retail outlet operated by the Province of Ontario.
- (g) "Council" means the Council of the Municipality of North Middlesex.
- (h) "Medical Cannabis" means Cannabis for which a prescription has been issued by a medical practitioner in accordance with the Health Canada regulations for Medical Cannabis;
- (i) "Municipality" means The Corporation of the Municipality of North Middlesex.
- (j) "Non-Medical Cannabis" means Cannabis or Cannabis Products for which a prescription has not been issued by a medical practitioner in accordance with the Health Canada regulations for Medical Cannabis;
- (k) "Noxious Odour" means an odour of Cannabis or from Cannabis Related Activities emanating from a Premises that is persistent or continuous and is likely to interfere with the ordinary enjoyment of other property in the vicinity of the Premises;
- (l) "Odour Abatement Protocol" means the combination of methods, practices, equipment and technologies designed for the purpose of eliminating the emission and emanation of Noxious Odours from the Premises to any other property;
- (m) "Part I Cannabis Facility" means a Cannabis Facility for which the Municipality has received notice as a term of the application to Health Canada;
- (n) "Part II Cannabis Facility" means a Cannabis Facility that is not a Part I Cannabis Facility including a designated grower, a micro-

cultivator, a micro- processor or a premises on which Cannabis is grown for or on behalf of one or more other persons than the registered owner of the premises;

- (o) "Premises" means a Cannabis Facility, Cannabis Lounge or Cannabis Retailer.
- (p) "Process" means the operation whereby harvested Cannabis, is transformed by the application of manual, mechanical or chemical methods into another form, but does not include the application or use of a dangerous substance or method;
- (q) "Sensitive Use" means a grade school, secondary school, day care, playground, sporting venue or any other place which has as its primary purpose of being a place where persons under the age of 18 years comprise the majority of persons present or intended to be present, a residential use within a Zone, a place of worship, or a community center.
- (r) "Zone" means an area delineated on a zoning map schedule and established and designated by the Municipality of North Middlesex's Zoning By-Law, by-law No. 35 of 2004 as amended from time to time.

Prohibitions

- 2. (a) No person shall operate a Cannabis Lounge, Cannabis Retailer or Cannabis Facility except in accordance with the provisions of this By-Law.
- (b) No person shall operate a Cannabis Facility where Cannabis is grown outdoors.
- (c) No person shall Process Cannabis using substances dangerous or noxious to the public.

License

- 3. The owner, occupier and/or operator of a Cannabis Lounge, Cannabis Retailer or Cannabis Facility shall produce for inspection any license or other form of authorization which permits the Cannabis Related Activity on the Premises.

Cannabis Lounge or Cannabis Retailer

4. A Cannabis Lounge or a Cannabis Retailer shall not:
- (a) operate except in accordance with the terms of its license or other form of authorization;
 - (b) be closer than one hundred and fifty (150) metres from the property line of the nearest Sensitive Use;
 - (c) be in any Zone that is not designated for use;
 - (d) permit the sale of Cannabis or Cannabis Products on the Premises, unless authorized by law;
 - (e) permit the consumption of Cannabis or Cannabis Products on the exterior of the Premises;
 - (f) permit the sale to or the consumption of Cannabis or Cannabis Products on the Premises by a person not legally entitled to purchase or consume Cannabis or Cannabis Products; and
 - (g) operate without an Odour Abatement Protocol sufficient to eliminate any Noxious Odour migrating off its Premises.

Part I Cannabis Facility

5. A Part I Cannabis Facility shall:
- (a) operate in accordance with its license from Health Canada, and any other requirements of the Province of Ontario and any other competent authority;
 - (b) operate indoors;
 - (c) operate only in a Zone designated for agricultural use, where a greenhouse, but not a hobby greenhouse, is permitted;
 - (d) operate with an Odour Abatement Protocol to eliminate the migration of any Noxious Odour off its Premises;
 - (e) be limited to the production, processing and packaging of Cannabis on behalf of the holder of the license for the Premises on which the Cannabis Facility is located and one other person; and
 - (f) obtain, prior to commencing operation, Site Plan Approval and enter

into a Site Plan Agreement pursuant to section 41 of the Planning Act, R.S.O. 1990, c. P.13.

Part II Cannabis Facility

6. A Part II Cannabis Facility shall:
- (a) operate in accordance with its license from Health Canada, and any other requirements of the Province of Ontario and any other competent authority;
 - (b) operate indoors;
 - (c) operate in a Zone designated for industrial use;
 - (d) obtain, prior to commencing operation, a Change of Use Permit, issued pursuant to section 10 of the Building Code Act, 1992, S.O. 1992, c.23;
 - (e) obtain, prior to commencing operation, Site Plan Approval and enter into a Site Plan Agreement pursuant to section 41 of the Planning Act, R.S.O. 1990, c. P.13;
 - (f) operate with an Odour Abatement Protocol to eliminate the migration of any Noxious Odour off its Premises and provide satisfactory proof thereof to the Municipality;
 - (g) operate with an Light Pollution Abatement Protocol to eliminate the migration of any Light Pollution off its Premises and provide satisfactory proof thereof to the Municipality;
 - (h) operate more than two hundred (200) metres from the property line of the nearest Sensitive Use;
 - (i) be limited to the production, processing and packaging of Cannabis on behalf of the registered owner of the Premises and one other person; and
 - (j) be inspected by the Municipality's Fire Department and comply with the provisions of the Fire Protection and Prevention Act, 1997, S.O. 1997, c.4.

Severability

7. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law

and it is hereby declared that the remainder of the By-law shall be remain in force.

Penalty

8. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is subject to a fine pursuant to the Provincial Offences Act, R.S.O. 1990, c. P. 33, as amended from time to time.

8.1 Person

- a) On a first conviction of a fine of not more than \$25,000.00; and
- b) on a subsequent conviction to a fine of not more than \$10,000.00 for each day and part thereof which the contravention has continued after the day on which the person was first convicted

8.2 Corporation

- a) On a first conviction a fine of not more than \$50,000.00; and
- b) On a subsequent conviction a fine of not more than \$25,000.00 for each day or part thereof which the contravention has continued after the day on which the corporation was first convicted

Continuing Offence

9. Each calendar day a violation of Section 2 continues is deemed to be a separate offence.

Enforcement

10. In addition to any other penalty or remedy available to the Municipality, the Council may, on behalf of the Municipality with the consent of the local detachment commander of the Ontario Provincial Police and with notice to the Attorney-General of Ontario, apply to the Superior Court of Justice for an order requiring all or part of a Premises be closed for a period not exceeding two (2) years if it be proved on a balance of probabilities that:
- (a) activities or circumstances on or in the Premises constitute a public nuisance or cause or contribute to activities or circumstances constituting a public nuisance in the vicinity of the Premises;
- (b) the public nuisance has a detrimental impact on the use and enjoyment of property in the vicinity of the Premises;

- (c) the owner or occupants of the Premises or part of the Premises knew or ought to have known that the activities or circumstances constituting the public nuisance were taking place or existed and did not take adequate steps to eliminate the public nuisance; or
- (d) a conviction for a contravention of this By-law by a court of competent jurisdiction of a public nuisance in respect to the Premises has been entered, and the conviction is not currently under appeal.

Powers of Entry

- 11. Pursuant to sections within this By-Law and in addition to any other powers of entry granted to the Municipality, the Municipality, by its employees or agents, may enter on the Premises at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - (a) this By-law or any other by-law passed by the municipality;
 - (b) any direction or order of the Municipality made under the Act or this By-law; or
 - (c) an order to discontinue or remedy a contravention of this By-law for which a conviction has been entered by a court of competent jurisdiction.

Powers of Inspection

- 12. The municipality may do any of the following for the purposes of an inspection under Section 11:
 - (a) require the production for inspection of documents or things relevant to the enforcement of this By-law;
 - (b) inspect and remove documents or things relevant to the enforcement of this by-law for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter relevant to the enforcement of this By-law; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, sample or photographs necessary for the purposes of the inspection.

Force and Effect

- 13. That this By-law shall come into force and take effect on the date of its passing.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this th day of , 2021.

Mayor Brian Ropp

Municipal Clerk Jackie Tiedeman

DRAFT

CANNABIS AS A LAND USE PLANNING CONSIDERATION IN MIDDLESEX COUNTY

1. Background

On October 17, 2018, recreational cannabis was legalized in Canada. Under the federal government's cannabis framework, Canadian provinces and territories were given the authority to licence the distribution and retail sale of cannabis and carry out associated compliance and enforcement activities within their jurisdiction. Under these authorities, provinces and territories have been able to create additional regulatory requirements to address issues of local concern such as a minimum age for access, establish locational rules for cannabis-based businesses, restrict where cannabis can be consumed, and amend traffic laws.

These changes, along with existing medical cannabis permissions, have posed a number of challenges for municipalities, primarily related to growing and processing facilities. Unlike other forms of agricultural crops, cannabis production introduces land use conflicts, including odour and light emissions, which affect neighbouring property owners' quality of life. This Green Paper highlights prevalent land use planning implications across Ontario, identifies best practices, and recommends a Municipal approach. Issues that will be examined relate to commercial and personal medical growing and processing, and cannabis retail stores.

Current regulations are relatively new and will undoubtedly be subject to change over time. Federal regulations currently focus primarily on licensing cannabis production and processing facilities and do not appear to be designed to ameliorate local impacts. In Ontario, various provincial guidelines and criteria have been developed to address land use conflict between disruptive and sensitive land uses such as the Minimum Distance Separation guidelines, D6: Compatibility between Industrial Facilities guideline, and the Guideline to Address Odour Mixtures in Ontario (forthcoming, 2021).

While these guidelines do not currently address cannabis production in rural and agricultural areas, they illustrate available forms of mitigation against odourous and light intensive land uses and may help inform cannabis production land use policy. Health Canada is currently reviewing several issues including those related to licensing, labeling, possession limits, and fee structures. This review appears to be ongoing, albeit interrupted by the COVID-19 pandemic. As information is released, this Green Paper will be revisited.

2. Cannabis Retail Sale

The *Ontario Cannabis Control Act*, the *Ontario Cannabis Licence Act* and their associated Regulations outline requirements regarding the sale of cannabis and vapour products. This includes the establishment of the online 'Ontario Cannabis Store' and the legalization and regulation by the Alcohol and Gaming Commission of Ontario (AGCO) of cannabis retail stores.

The *Ontario Cannabis Control Act* gave local municipalities the choice to either 'opt-in' or 'opt-out' of allowing retail cannabis stores to be located within their boundaries by means of a resolution passed by the respective Councils no later than January 22nd, 2019. If the AGCO did not receive a resolution to 'opt-out' of allowing retail stores before that day, it was considered that the municipality had chosen to 'opt-in'. With this, municipalities cannot reverse their decision to 'opt-in' to allowing the retail stores, but municipalities who chose to 'opt-out' can reverse their decision in the future. Municipalities that chose to 'opt-in' and allow cannabis retail stores within their jurisdiction receive a portion of the Federal cannabis excise tax from the Province. All of the local municipalities within Middlesex County opted-in to allow retail cannabis stores to be permitted, as identified on the AGCO's website.

2.1 Establishing a Retail Cannabis Store

Establishing a retail cannabis store for recreational cannabis requires retail store authorization from the AGCO. The authorization process includes locational, public notice, and operational requirements (such as security, record-keeping, and training). These requirements are only applied to retail cannabis stores that sell recreational cannabis. Pharmacies that dispense medical cannabis are not subject to these requirements and instead must obtain a licence from Health Canada for the sale of cannabis for medical purposes.

The locational conditions put into place by the *Ontario Cannabis Control Act* and the *Ontario Cannabis Licence Act* require that a retail cannabis store must be located at least 150m (492 ft) away from schools and that the lands be zoned for a 'retail store' use. It is noted that *Ontario Cannabis Licence Act* expressly prohibits municipalities from passing zoning by-laws, interim control by-laws, or a site plan by-law that distinguish between a use of land, a building or a structure that would include the sale of cannabis.

In other words, municipalities are not permitted to use land use planning tools (other than the aforementioned general 'retail store' zoning requirement) to restrict the AGCO's authority to authorize the location of a Retail Cannabis Store. Similarly, the Province

prohibits municipalities from using a Business Licence By-law under the *Municipal Act* to regulate Retail Cannabis Stores.

The AGCO further outlines Regulation 14 of the *Ontario Cannabis Licence Act, 2018* that businesses must go through the following public notice process for the establishment of a Retail Cannabis Store:

- Post a placard at the proposed store location, which includes information notifying the public that a cannabis retail store authorization application has been submitted. The posting of this placard starts the 15-calendar day public notice period. The placard will have information on it that outlines the proposed store name, proposed store address, file number, and the deadline for submissions regarding the application.
- Residents and the local Municipality have 15 calendar days to make written submissions.
- The AGCO will provide copies of the written submissions received to the applicant.
- The applicant has 5 days to respond to the written submissions.
- The registrar considers the submissions received, the responses, and all information in order to make a decision on the cannabis retail store authorization application.

The known cannabis retail locations within Middlesex County are included in Table 1. There are also cannabis retail stores located in nearby municipalities and First Nations communities.

Table 1: Cannabis Retail Stores in Middlesex County

Municipality	Address	Name	Status
Strathroy-Caradoc	51 Front St W, Strathroy	True North Cannabis Co.	Authorized to Open
Strathroy-Caradoc	70 Carroll St E, Strathroy	One Plant Strathroy	Public Notice Period Ended
Middlesex Centre	10166 Glendon Dr, Komoka	Inspired Cannabis Co	Public Notice Period Ended

The relatively abbreviated AGCO public notice process does not appear to automatically require notice or consultation with municipalities. Municipalities may therefore wish to register with the AGCO to be directly provided notice of applications undergoing public notice (link provided in sources).

3. Commercial Growing and Processing

This section of the report will focus on the Part One Commercial Growing and Processing licences established by Health Canada. Growing Cannabis (identified as cultivation) is considered to be a separate activity from the refinement of cannabis into usable products (identified as processing). Commercial growing and process can be for the purposes of recreational use and/or medical use.

Most businesses established under this licensing framework are relatively large operations that occur in permanent greenhouses and/or complexes, require land use planning approval and building permits and trigger site-plan control (for example, the WeedMD facility within Strathroy-Caradoc). Based on a literature review, it appears that the Municipal experience with Part One facilities has generally not been subject to significant complaints or impact issues.

3.1 Types of Licences

Cannabis growing and processing facilities are licenced and regulated by Health Canada which has established eight classes of licences that include Standard Cultivation, Micro-Cultivation, Nursery, Standard Processing, Micro-Processing, Sale for Medical Purposes, Analytical Testing, and Research licences, identified in *Table 2*. There is also a Cannabis Drug Licence, but this is only for possession.

Table 2. Licence Types and Description as per Canada Cannabis Regulations

Licence Type	Activities Permitted	Size / Amount of Cannabis Permitted
Micro-cultivation	11 (1) (a) to possess cannabis; (b) to 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) to sell cannabis	13 (1) (a) must clearly delineate a surface area that does not exceed 200 m ² in which all the cannabis plants, including all the parts of the plants, must be contained; and (b) must cultivate, propagate or harvest cannabis plants only from that surface area.
Standard cultivation	11 (1) (a) to possess cannabis; (b) to 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; &	Greater than 200m2 canopy space

Licence Type	Activities Permitted	Size / Amount of Cannabis Permitted
	(d) to sell cannabis	
Nursery cultivation	<p>14 (1) (a) to possess cannabis; (b) to obtain 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) to sell cannabis.</p>	<p>16 (1) (a) clearly delineate a total surface area that does not exceed 50 m² in which all the budding or flowering cannabis plants, including all the parts of those plants, must be contained; (b) not possess more than 5 kg of flowering heads harvested from the plants referred to in paragraph (a), with the exception of the cannabis plant seeds; and (c) destroy the flowering heads — with the exception of the cannabis plant seeds — leaves and branches of the plants referred to in paragraph (a) within 30 days of harvesting them.</p>
Micro-processing	<p>17 (2) (a) to possess cannabis; (b) to produce cannabis, other than obtain it by (i) synthesis, or (ii) cultivating, propagating or harvesting it; and (c) to sell cannabis.</p>	<p>21 (1) A holder of a licence for micro-processing must not possess, in a calendar year, cannabis of one or more classes of cannabis — other than cannabis plants and cannabis plant seeds — that has been sold or distributed to them the total amount of which, as determined in accordance with the table to this section, is equivalent to more than 600 kg of dried cannabis.</p>
Standard processing	<p>17 (1) (a) to possess cannabis; (b) to produce cannabis, other than obtain it by cultivating, propagating or harvesting it; and (c) to sell cannabis.</p>	Greater than 600 kg/year dried cannabis
Analytical testing	<p>22 (1) (a) to possess cannabis; and (b) to obtain cannabis by altering its chemical or physical properties by any means.</p>	No maximum specified.
Sale for medical purposes	<p>26 (a) to possess cannabis products; and (b) to sell cannabis products.</p>	No maximum specified.
Research	<p>28 (1) (a) for the purpose of research, (i) to possess cannabis, (ii) to produce cannabis, and (iii) to transport, send or deliver cannabis between the sites that are set out by the licence; and</p>	No maximum specified.

Health Canada also distinguishes between scales of operations identifying them as Standard (for larger) or Micro (for smaller) scale operations. For the cultivation of cannabis, the scale has to do with the available ‘canopy space’ which is the total area within a facility that is devoted to cannabis plants. If plants are stacked on top of each other, the vertical height is accounted for within the total canopy space. For processing of cannabis, scale is measured by the weight of material processed.

It is important to identify that processing licences for cannabis are permitted to sell their products to the AGCO, but cultivators must sell their cannabis to a licenced processor or obtain their own processing licence. These licences do not permit the direct sale of cannabis to the public.

There are not locational or public notification requirements for the establishment of Commercial Growing and Processing licences like there are for retail cannabis stores. In addition, it does not appear that municipal support is required before a Federal licence is issued although there may be a requirement for an applicant to provide notice of their intention to the ‘local government’. However, the legislation does not exempt such uses from municipal land use planning regulation.

Federal licensing generally does require certain security measures to be in place and those often include physical barriers (fencing), alarm systems, and gatehouses which may have land use planning implications. There are a number of known licenced Commercial Growing and Processing Cannabis operations within Middlesex County today. A list of the current operations and names can be found in Table 3.

Table 3. Licenced Commercial Growing and Processing Operations

Municipality	Address	Name	Licence
Strathroy-Caradoc	8157 Inadale Drive	Weed MD	Sale (Medical) Processing Cultivation
Southwest Middlesex	22164 Dundonald Road	CrownBuds Inc.	Unclear if approvals in place yet
Adelaide Metcalfe	2941 Napperton Drive	Natural Medco	Processing Cultivation
Thames Centre	17406 Evelyn Drive	JC Green Company	Sale (Medical) Processing Cultivation

3.2 Hemp Production

Hemp production, cultivation and processing is legislatively distinct from cannabis production. According to the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), the handling, production and marketing of hemp products is controlled by separate Industrial Hemp Regulations and as such the more recent cannabis rules do not apply to a holder of such a licence.

Hemp can be used in making products such as paper, textiles, rope, and construction materials. Industrial hemp production, cultivation and processing has occurred with Middlesex County for a number of years and does not appear to have the same land use compatibility concerns that the more recent growing of cannabis does.

3. Personal Growing & Processing

This section of the report will focus on the Part Two Personal Medical Growing licence class, established by Health Canada.

3.1 Person Medical Growing

This licence allows for the cultivation of cannabis by a person for their own medical use subject to a medical cannabis licence and a medical prescription. Based on a literature review, it appears that a medical cannabis licence and a prescription can be for a significant range of plants, from as low as 10 plants to more than 1,000 plants.

Health Canada also allows a person that is authorized to cultivate for his or her own medical use, to assign that authorization to a third party. These 'designated growers' are allowed to grow cannabis for up to four individuals that have a medical cannabis licence per municipal address. Based on a literature review, it has been municipal experience that some designated growers have received multiple municipal addresses, each with four licences, such that cumulatively the operations are of considerable size (one site apparently has more than 16,000 plants) without the same rigor and review of the Part One Licence operations. This can occur both within rural and urban settings and depending on size and scale may cause adverse effect on surrounding sensitive land uses. Based on a literature review, it appears that most land use compatibility concerns related to these Part 2 licences.

These operations are often non-compliant with zoning, have no filtration or ventilation systems to help control odors, and have not pursued building permits. As a result, these structures are usually ventilated by opening doors and vents which does not contain the odors generated by its operations and leads to negative odor impacts to the neighboring properties.

There are no locational or public notification requirements for the establishment of these licences, like there are for retail cannabis stores. In addition, it does not appear that municipal support is required before a Federal licence is issued although there may be a requirement for an applicant to provide notice of their intention to the 'local government'. The legislation does not, however, exempt such uses from municipal land use planning regulation. Having said that, some have put forward the position that a Federal licence exempts such a site from Municipal regulation. This has not to our knowledge been tested in the courts.

3.2 Personal Growing for Recreational Use

It is noted that a Part Two licence is distinct from the personal use growing of recreational cannabis which allows people to grow four cannabis plants per residence (not per person), if they are 19 years of age and older, it is only for personal use, the starting material was purchased from the Ontario Cannabis Store or an authorized retail store, and it is not forbidden by a lease agreement or condominium rules. This permission is irrespective of land use planning controls and can occur within rural and urban locations indoors or outdoors.

4. Best Practices

4.1 Retail Stores

In summary, Retail Cannabis stores are to be interpreted as a 'retail store' and are permitted within all zones where a 'retail store' is a permitted use, subject to the setbacks and licensing requirements established by the AGCO. No further zoning provisions or restrictions are allowed to be applied to Retail Cannabis stores. The public and municipalities are provided an opportunity to participate exclusively during the relatively abbreviated consultation process outlined by the AGCO.

In looking at other municipal best practices (especially the Counties of Brant and Norfolk), any subsequent reports on the topic should clearly state the provisions outlined by the AGCO and highlight that municipalities cannot implement further zoning provisions to restrict Retail Cannabis Stores. It does not appear that other municipalities have made changes to their Official Plans or Zoning By-laws to address the location of retail cannabis stores. Municipalities could examine where 'retail stores' are permitted within their Zoning By-laws to better understand potential locations of retail cannabis stores.

4.2 Commercial Growing & Processing

Several municipalities (including Brant County, Municipality of Huron East, and Norfolk County) have taken similar approaches to address the different licence types, different licence sizes, and how land use planning regulations are applied within their respective Zoning By-laws. All three have chosen to adopt a broad definition within their Zoning By-laws to recognize the different licence types (found within the Appendix of this report). They then permit that use within specific zones to make it clear where those operations can be located.

It is important to note that even though the size of an operation is not defined separately. All have chosen to differentiate and have different setbacks for facilities that have odour and air filtration, and facilities that do not. Indoor production facilities that are able to control variables such as moisture, light and air cooling, and circulation may have different setback requirements in comparison to outdoor production facilities. Municipalities may also require the application of Site Plan Control to address odour and light mitigation.

Brant, Huron East, and Norfolk specifically exclude the cannabis definition from being included in similar definitions within their respective By-laws (such as general farm and greenhouse definitions). They also outline any general provisions that are to be applied to these land uses including items setbacks to sensitive land uses for operations equipped and not equipped with air treatment control, the location of security buildings, storage areas, loading and unloading zones as well as the need for Site Plan Approval.

It is important to note that currently, growing Cannabis is considered a crop by the Ontario Ministry of Agriculture, Farming, and Rural Affairs and therefore not subject to setback provisions if it is being grown in an open field. This is an area under review by some municipalities. It is also understood that the issue is currently subject to Normal Farm Practices Protection Board (NFPPB) challenges that have not been resolved to date. The Ministry of Environment, Conservation and Parks (MECP) is currently producing a Land Use Compatibility Guideline that may be able to provide direction regarding Cannabis once finalized.

4.3 Personal Growing & Processing for Medical & Recreational Use

Municipalities (including Brant, Huron East, and Norfolk) have all taken similar approaches to address the different licence types and sizes and have included wording that encapsulates other types of cannabis operations including 'designated grower' operations within their Zoning By-laws. Municipalities may wish to update their Zoning By-laws to include a Commercial Cannabis definition that also encapsulates 'designated grower' operations, specify which zones such uses should be permitted within (typically agricultural and industrial), and include setback provisions. In addition, so that mitigation measures can be addressed, Municipalities may wish to ensure that their Site Plan

Control By-Laws are clear that Commercial Cannabis uses are subject to Site Plan Control.

Municipalities should establish a process where the assignment of additional municipal addresses to a property are reviewed relative to the potential for designated grower requests and establish a policy that limits the number of addresses assigned to one property. Municipalities should actively undertake the enforcement of Property Standards By-Law, Zoning By-Law, Nuisance Control By-Law, and the Building Code. There may be times were municipal staff become aware of locations that merit making police aware of activities. Finally, it may be possible for municipalities to use Business Licensing under the Municipal Act for such uses although the literature review has not found an example of this.

5. Potential Zoning By-law Provisions

5.1 Definitions

- "Cannabis"
 - Shall mean the flowering plants within the Cannabaceae Family. Also described, but not limited to, as marijuana, and marihuana. This definition shall not include hemp plants (*Cannabis sativa*).
- "Cannabis Production Facility"
 - Shall mean a lot, building or structures used for activities authorized under a licence issued by the Federal Minister of Health pursuant to the Cannabis Act. This includes producing, processing, testing, destroying, packaging and/or shipping of cannabis authorized by said licence.
- Additional wording to be included within a variety of definitions to exclude cannabis [*such as within Agricultural use, Greenhouse, Farm, Garden Centre, and Wholesale Outlet definitions, etc.*]
 - "but does not include a cannabis production facility."

5.2 General Provisions

- Cannabis Production Facility
 - Notwithstanding any other provision of this By-law, the following provisions apply to a Cannabis production Facility:
 - No land, buildings, or structures or portion thereof used for Cannabis Production Facility that is equipped with air treatment control situated within [*such as General Agriculture, Light Industrial, General Industrial, Heavy Industrial, Rural Industrial, Agricultural Industrial*] shall be located closer to any Residential zone or building, Institutional zone, Open Space zone, or Future Development zone than 150 metres.

- No land, buildings, or structures or portion thereof used for Cannabis Production Facility that is not equipped with air treatment control situated within [*such as General Agriculture, Light Industrial, General Industrial, Heavy Industrial, Rural Industrial, Agricultural Industrial*] shall be located closer to any Residential zone or building, Institutional zone, Open Space zone, or Future Development zone than 300 metres.
 - Any open outdoor storage on a property that contains a Cannabis Production Facility is prohibited.
 - A structure or building to be used for security purposes for a Cannabis Production Facility may be located in the front yard.
 - All development in relation to the creation, establishment, or expansion of a Cannabis Production Facility shall be subject to Site Plan Control.
 - Setback requirements from dwellings and residential uses do not apply to dwellings located on the same parcel as a Cannabis Production Facility.
 - Cannabis Production facility shall be only permitted in the zones explicitly indicated below:
 - *General Agriculture*
 - *Industrial*
- Lighting Facilities
 - Where private lighting facilities, either internal or external to any buildings and/or structures, are provided within any Zone to light up/ illuminate buildings, land uses or structures, shall be required to be energy efficient in nature, be directed in a downwards orientation, and located and arranged to instinctively deflect glare away from all adjacent land uses, streets, and the night sky to avoid causing any nuisance to adjacent property owners, or any confusion with traffic signals.

5.3 Parking Provision

- Cannabis Production Facility
 - One parking space required per 100 square metres of useable floor area.

6. Summary of Municipal Actions

- A. All of the local municipalities within Middlesex County opted-in to allow retail cannabis stores to be permitted and this action cannot be changed.
- B. Municipalities may wish to have the municipal clerk register with the AGCO to be directly provided notice of applications for retail uses undergoing public notice.
- C. Municipalities could examine where 'retail stores' are permitted within their zoning by-laws to better understand potential locations of retail cannabis stores.

- D. Municipalities should establish a process where the assignment of additional municipal addresses to a property are reviewed relative to the potential for designated grower requests and establish a policy that limits the number of addresses assigned to one property.
- E. Municipalities may wish to update their zoning by-laws to include a commercial cannabis definition, to specify which zones such uses should be permitted within, and to specify setback provisions.
- F. Municipalities may wish to ensure that their site plan control by-laws are clear that commercial cannabis uses are subject to site plan control.
- G. Municipalities should actively undertake the enforcement of property standards by-law, zoning by-law, nuisance control by-law, and the building code.
- H. There may be times were municipal staff become aware of locations that merit making police aware of activities.
- I. It may be possible for municipalities to use Business Licensing under the Municipal Act for such uses although the literature review has not found an example of this.

7. Additional Resources

Alcohol and Gaming Commission of Ontario. (2021). *Public Notice for a Cannabis Retail Store Authorization*. Retrieved from Cannabis Retail Regulation Guide: <https://www.agco.ca/content/public-notice-for-a-cannabis-retail-store-authorization>

Baxter, W. J., & Scheifele, G. (2009). *Growing Industrial Hemp in Ontario*. Retrieved from Fact Sheet: <http://www.omafra.gov.on.ca/english/crops/facts/00-067.htm#:~:text=Under%20the%20Regulations%2C%20industrial%20hemp,micrograms%20of%20THC%20per%20gram>

Cummins, R., & Wyszynski, A. (2020, November 3). *County of Brant*. Retrieved from Brant County Council Report: <http://brant.siretechnologies.com/sirepub/cache/2/cfsu1y1dnquqgmvox4ooncip/16975104242021070720992.PDF>

Government of Canada. (2021, 04 16). *Cannabis Act (S.C. 2018, c. 16)*. Retrieved from Justice Laws Website: <https://laws-lois.justice.gc.ca/eng/acts/C-24.5/>

Government of Canada. (2021, 04 16). *Cannabis Regulations (SOR/2018-144)*. Retrieved from Justice Laws Website: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2018-144/>

Legislative Assembly of Ontario . (2018, 10 17). *Bill 36, Cannabis Statute Law Amendment Act, 2018*. Retrieved from <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill->

8. Appendix

The County of Brant Zoning bylaw:

<https://www.brant.ca/en/invest-in-brant/resources/Zoning-By-Law-61-16/Dec-2020--ZBL-61-16-Office-Consolidation.pdf>

Definition

CANNABIS PRODUCTION FACILITY

1. Means a lot, building, or structure used for activities authorized under a licence issued by the Federal Minister of Health pursuant to the Cannabis Act under the Controlled Drugs and Substances Act as amended, and may include but are not limited to the cultivation, processing, testing, destruction, packaging and shipping of cannabis.

Parking Requirements

- i. Cannabis Production Facility 1 per 100m²

General Provisions

4.23 Cannabis Production Facility

The following provisions apply to a licenced Cannabis Production Facility:

a) No building or structure or portion thereof used for Cannabis Production Facility situated in Light Industrial Zone (M2) and Heavy Industrial Zone (M3) shall be located closer to any Residential Zone or use, Institutional Zone or use, or Open Space Zone than **150** metres.

b) No building or structure or portion thereof used for Cannabis Production Facility situated in the Agricultural Zone (A) or Agricultural Employment (AE) Zone shall be located closer to any Residential Zone or use, Institutional Zone or use, or Open Space Zone than **150** metres.

c) The facility operations, including loading spaces and storage, must be located within in a wholly enclosed building. Loading spaces may be located within the rear yard, not adjacent to a street, if the property is fully fenced and the property has security fencing in place. Loading spaces shall not be permitted within any front yard or any yard adjacent to a street.

d) Open storage is prohibited.

e) All development in relation to the establishment of or expansion to a Cannabis Production Facility shall be subject to Site Plan Control process.

f) A building or structure used for security person for a Cannabis Production Facility may be located in the front yard.

- g) A Cannabis Production Facility shall only be permitted in the following Zones:
- (i) Agricultural Zone (A)
 - (ii) Agricultural Employment Zone (AE)
 - (iii) Light Industrial Zone (M2)
 - (iv) Heavy Industrial Zone (M3)

Municipality of Huron East Current Zoning bylaw

huroneast.com/en/business-and-development/resources/Zoning/HuE-ZBL-Consolidated-Text-March-2021.pdf

Definitions

AGRICULTURAL USE, GENERAL - means general farming and without limiting the generality of the foregoing shall include such uses as: the general cultivation of land and the associated production, conditioning, processing and storage of field crops, vegetables, fruit, horticultural crops and nursery stock and the selling of such produced on the premises, the breeding and care of livestock, fowl, fur-bearing animals and bees, and the selling of such stock or the product of such stock raised on the premises, and the management of forest, and the sale of forest products, including fuel wood, pulp wood, timber, Christmas trees, and maple products, and includes a farm dwelling and accessory buildings and uses but does not include a cannabis production facility. (As amended by By-law 53-2019)

AGRICULTURAL USE, LIMITED - means the planting and harvesting of field, bush, vine, forest, or tree crops and grazing not including an accessory residence, livestock building or cannabis production facility. (As amended by By-law 53-2019)

CANNABIS shall mean the plants hemp and marijuana in the family Cannabaceae (As amended by By-law 53-2019)

CANNABIS PRODUCTION FACILITY means lands, buildings or structures used for producing, processing, testing, destroying, packaging and/or shipping of cannabis authorized by an issued licence or registration by the federal Minister of Health, pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-230, to the Controlled Drugs and Substances Act, SC 1996, c 19, as amended from time to time, or any successors thereto. (As amended by By-law 53-2019)

General Provisions

3.52 CANNABIS PRODUCTION FACILITY

Notwithstanding any other provision of this By-law, any Cannabis Production Facility shall be subject to the following provisions:

a) No lands, building or structure or portion thereof used for Cannabis Production Facility purposes that is equipped with air treatment control situated in the Industrial (IND) or Agricultural Zones (AG1, AG2, AG3) may be located closer to Residential Zone, Community Facility Zone, park or similar recreational use, dwelling, public school, private school, place of worship, or day care than **150** metres.

b) No lands, building or structure or portion thereof used for Cannabis Production Facility purposes that is not equipped with air treatment control situated in the Industrial (IND) or Agricultural Zones (AG1, AG2, AG3) may be located closer to Residential Zone,

Community Facility Zone, park or similar recreational use, dwelling, public school, private school, place of worship, or day care than **300** metres.

c) A building or structure used for security purposes for Cannabis Production Facility may be located in the required front yard and does not have to comply with the required minimum front yard, side yard, and rear yard setbacks.

d) Outdoor storage is prohibited on the property in which the Cannabis Production Facility is located.

e) Cannabis Production Facility shall only be permitted within the zones as explicitly indicated in this Zoning By-law.

f) Setback requirements do not apply to dwellings located on the same parcel as the cannabis production facility.

g) All development in relation to the establishment of or expansion to a Cannabis Production Facility shall be subject to Site Plan Control. (As amended by By-law 53-2019)

Permitted zones

GENERAL AGRICULTURE ZONE (AG 1)

- cannabis production facility subject to the provisions of Section 5 and 3.52 (As amended by By-law 53-2019)

AGRICULTURAL COMMERCIAL / INDUSTRIAL ZONE (AG 3)

- cannabis production facility subject to the provisions of Section 6 and 3.52 (As amended by By-law 53-2019)

INDUSTRIAL ZONE (IND)

- cannabis production facility subject to the provisions of Section 32 and 3.52 (Amended by By-law 53-2019)

Norfolk County Zoning bylaw

<https://www.norfolkcounty.ca/download/government/community-planning/JULY-2020-Consolidation-Update.pdf>

Definition

2.29 “CANNABIS” shall mean a genus of flowering plants in the family Cannabaceae. Synonyms include but are not limited to marijuana, and marihuana. This definition does not include the industrial or agricultural production of hemp (a source of foodstuffs (hemp milk, hemp seed, hemp oil), fiber and biofuels). [25-Z-2018]

2.30 “CANNABIS PRODUCTION AND PROCESSING” shall mean lands, buildings or structures used for the production, processing, testing, destroying, packaging and/or shipping of cannabis authorized by an issued licence or registration by the federal Minister of Health, pursuant to the Access to Cannabis for Medical Purposes Regulations, SOR/2016-230, to the Controlled Drugs and Substances Act, SC 1996, c 19, and the Cannabis Act, S.C. 2018, c. 16, as amended from time to time, or any successors thereto. [5-Z-2019]

2.56 “FARM” shall mean the use of land, building or structure for agricultural purposes, such as, without limitation, 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 and maple syrup production, but does not include Cannabis Production and Processing. [25-Z-2018]

2.72 “GARDEN CENTRE” shall mean a building, structure or lot used for the retail sale of agricultural products such as plants, trees and shrubs and ancillary sales of landscaping materials and products and shall not include Cannabis Production and Processing. [25-Z-2018]

2.176 “WHOLESALE OUTLET” shall mean an establishment in which goods, wares, merchandise, substances, articles or things are offered or kept for sale in large quantities for wholesale to retail business establishments and shall not include Cannabis Production and Processing. [25-Z-2018]

General Provisions

3.16 Lighting Facilities

Where private lighting facilities, whether internal or external to any building or structure, are provided in any Zone to illuminate buildings, structures or uses, they shall be designed to be energy efficient, be directed downwards, and located or arranged to deflect glare away from adjacent residential uses, streets and the night sky and to avoid causing nuisance to adjacent property owners, or any confusion with traffic signals. [5-Z-2019]

3.21 Cannabis Production and Processing

Notwithstanding any other provision of this By-law, any Cannabis Production and Processing shall be subject to the following provisions:

a) No lands, building or structure or portion thereof used for Cannabis Production and Processing purposes that is equipped with air treatment control situated in the General Industrial Zone (MG), Light Industrial Zone (ML), Rural Industrial Zone (MR) may be located closer to any Residential Zone, Institutional Zone, or Open Space Zone than 70 metres.

b) No lands, building or structure or portion thereof used for Cannabis Production and Processing purposes that is equipped with air treatment control situated in the Agricultural Zone (A) may be located closer to any Residential Zone, Institutional Zone, or Open Space Zone than 150 metres.

c) No lands, building or structure or portion thereof used for Cannabis Production and Processing purposes that is equipped with air treatment control situated in the General Industrial Zone (MG), Light Industrial Zone (ML), Rural Industrial Zone (MR) may be located closer to any dwelling on a separate lot, public school, private school, place of worship, campground, group home, hotel, long-term care facility, mobile home park, park, place of assembly, place of entertainment, place of sports and recreation, tent and trailer park, tourist cabin, hospital, or day care nursery than 150 metres. [5-Z-2019]

d) No lands, building or structure or portion thereof used for Cannabis Production and Processing purposes that is equipped with air treatment control situated in the Agricultural Zone (A) may be located closer to any dwelling on a separate lot, public school, private school, place of worship, campground, group home, hotel, long-term care facility, mobile home park, park, place of assembly, place of entertainment, place of sports and recreation, tent and trailer park, tourist cabin, hospital, or day care nursery than 150 metres. [5-Z-2019]

e) No lands, building or structure or portion thereof used for Cannabis Production and Processing purposes that is not equipped with air treatment control situated in the Agricultural Zone (A), General Industrial Zone (MG), Light Industrial Zone (ML), Rural Industrial Zone (MR) may be located closer to any dwelling on a separate lot, public school, private school, place of worship, campground, group home, hotel, long-term care facility, mobile home park, park, place of assembly, place of entertainment, place of sports and recreation, tent and trailer park, tourist cabin, hospital, or day care nursery than 300 metres. [5-Z-2019]

f) A building or structure used for security purposes for Cannabis Production and Processing may be located in the required front yard and does not have to comply with the required minimum front yard, side yard, and rear yard setbacks.

g) Outdoor storage is prohibited on the property in which the Cannabis Production and Processing is located.

h) Cannabis Production and Processing shall only be permitted within the zones as explicitly indicated in this Zoning By-law.

i) All development in relation to the establishment of or expansion to a Cannabis Production and Processing shall be subject to Site Plan Control. [25-Z-2018]

j) Notwithstanding Subsections 3.21 c), d) and e), within the Agricultural Zone (A), an on-farm

diversified use shall be permitted on the same lot as Cannabis Production and Processing subject to the requirements of Subsection 12.3. [5-Z-2019]

k) Illumination of Cannabis Production and Processing operations shall be subject to the requirements of Subsection 3.16. [5-Z-2019]

3.38 Site Plan Control

3.38.1 Pursuant to Section 41 of the Planning Act, as amended, the following Zones are declared as site plan control areas via By-Law 2014-97 and are subject to the provisions of Section 41 of the Planning Act: R3; R4; R5; R6; CBD; CSC; CS; CRB; CN; CHA; CR; CRA; CM; MG; ML; MD; MX; MR; MM; MS; IC; IN; IR; OS; OST; On-Farm Diversified Use; Cannabis Production and Processing and all development larger than the maximum permitted area under Subsection 12.2 Value Added Agriculture. [25-Z-2018] [34-Z-2019]

Parking Provisions

- z) industrial establishment including Cannabis Production and Processing [25-Z-2018]
1 parking space for every 90 square metres of usable floor area

Permitted Zones

7.1 General Industrial Zone (MG)

7.1.1 Permitted Uses

In an MG Zone, no land, building or structure shall be used except in accordance with the following types of uses:

- f) Cannabis Production and Processing, subject to General Provisions 3.21 [25-Z-2018]

7.2 Light Industrial Zone (ML)

7.2.1 Permitted Uses

In an ML Zone, no land, building or structure shall be used except in accordance with the following type of uses:

- f) Cannabis Production and Processing subject to General Provisions 3.21 [25-Z-2018]

7.5 Rural Industrial Zone (MR)

7.5.1 Permitted Uses

In an MR Zone, no land, building or structure shall be used except in accordance with the following type of uses:

- f) Cannabis Production and Processing, subject to General Provisions 3.21 [25-Z-2018]

12.1 Agricultural Zone (A)

12.1.1 Permitted Uses

In an A Zone, no land, building or structure shall be used except in accordance with the following uses:

- d) Cannabis Production and Processing, subject to General Provisions 3.21 [25-Z-2018]