



Town of East Gwillimbury

MEMORANDUM

To: Council

From: Dean Horner, General Manager, Legal & Council Support Services
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Date: June 9, 2020

Subject: Interim Control By-law for Cannabis Production Facilities

PURPOSE

This Memorandum provides an overview into the use of an interim control by-law (ICBL) to temporarily restrict the development of cannabis production facilities Town-wide, with exemptions provided for existing Employment Prestige (M1) and Employment General (M2) zoning permissions. As per Council direction received on May 20, 2020 the use of an ICBL is necessary to allow staff the opportunity to fully evaluate the implications of cannabis production facilities in East Gwillimbury and in turn develop the appropriate land use planning policies and regulations for their location and use.

BACKGROUND

What is an interim control by-law (ICBL)?

An interim control by-law is a tool available to Ontario municipalities under Section 38 of the Planning Act to place a temporary 'freeze' on the development of certain lands while the municipality is studying or reviewing its land use policies. The restrictions can only be imposed for one year, with a maximum extension of a second year. Once an ICBL expires, a subsequent ICBL may not be imposed on those same land uses for three years.

Staff recommend the use of an ICBL to allow time for a thorough land use study on the implications of cannabis production facilities to be undertaken

Implementing an ICBL will provide planning staff with the opportunity to conduct a land use study on the implications of cannabis production facilities, and will allow for the development of land use regulations and policies that specifically address the concerns related to this use. The ICBL and subsequent land use study will give planning staff the time to effectively address the following concerns:

- 1) The Town's Zoning By-law currently does not define cannabis production facilities:
 - The Town's Zoning By-law only defines medical marihuana production facilities and not cannabis production facilities, which is problematic now that cannabis can be produced for medical and non-medical use.
 - Regulation on the number of cannabis plants that determine a cannabis production facility or not will also need to be established.
- 2) The Town's Zoning By-law currently does not establish provisions in terms of air treatment control, storage, signage, and minimum distance separation for cannabis production facilities:
 - Cannabis production facilities have land use implications that include but are not limited to odour, noise, and light pollution.
 - Policies and regulations need to be developed to ensure no adverse impacts result from cannabis production facilities onto nearby or adjacent sensitive land uses.
- 3) The Town's Zoning By-law currently only permits medical marihuana production facilities in the M1 and M2 zones:
 - There is uncertainty and too much ambiguity with regards to whether cannabis production facilities are an agricultural related rural use or an industrial one. Specific land use permissions need to be established.

The ICBL would apply Town-wide with exemptions provided for existing Employment Prestige (M1) and Employment General (M2) zoning permissions

The ICBL would suspend cannabis production facility development Town-wide, save for the M1 and M2 zones where medical marihuana production facilities are already permitted and buffering provisions are already in place. This will allow the subsequent land use study to fully evaluate the implications of cannabis production facilities across all other areas of Town, in particular the rural/agricultural zones.

The ICBL will establish a definition for cannabis production facilities

Since the Town currently does not have a definition for cannabis production facilities in its Zoning By-law, a definition has been established as part of the ICBL. This definition will exist only for the purposes of the ICBL and will be re-evaluated as part of the ongoing land use study to determine the most appropriate definition for regulating cannabis production facilities going forward.

Other municipalities have also adopted ICBLs for cannabis production facilities

The joint DS, LCSS, and ECSS Memo from November 5, 2019 provided an overview of the approaches other local municipalities are taking to regulate cannabis production facilities.

The Town of Georgina recently passed an ICBL to evaluate whether cannabis production facilities should be permitted in the rural agricultural zone or whether an industrial zoning is more appropriate. The land use study is not yet fully complete, with a statutory public meeting still required.

NEXT STEPS

Staff will use the duration of the ICBL to evaluate the most appropriate and desirable means for regulating cannabis production facilities

Staff will use the duration of the ICBL period to undertake a land use study and consult with the public to determine how cannabis production facilities can be more appropriately regulated within Town. The land use study will result in the implementation of a Zoning Bylaw Amendment and other land use policy or licensing regulations to effectively manage cannabis production facilities within Town.

The land use study for cannabis production facilities will involve four key stages:

- 1) Review of background material and data collection/analysis:
 - This stage will include a review of all applicable Provincial, Regional and local policies and plans.
 - A comprehensive review of other municipal best practices will be pursued.
- 2) Assessment of the role and function of cannabis production facilities:
 - This stage will evaluate the actual use itself, and determine what classifies as a cannabis production facility (number of plants, scale of operations, etc.)
- 3) Evaluation of land mix compatibility
 - This stage will help define sensitive land uses as they relate to cannabis production facilities and will establish the detailed provisions for minimum separation distance, signage, air control and more.
- 4) Reporting
 - This final stage will include delivery of a final report to Council, including proposed Zoning By-law Amendments and adoption of other land use regulations, licensing, or Official Plan policies, as necessary.

Existing and Emerging Medical Marijuana Production Facilities

The Town has received complaints relating to existing and emerging Medical Marijuana Productions Facilities at sites located on Boag Road, Catering Road, Woodbine Avenue and in a residential subdivision.

In those instances where Medical Marijuana Production is occurring at a site where such use is not permitted, or where construction/site alteration work has commenced without required permits, the Town has taken, or is in the process of taking, the following steps:

- 1) Issued Cease and Desist Notices where growing has commenced in contravention of the Town's Zoning By-law;
- 2) Issued Orders to Comply under the Building Code Act where work has commenced without required permits;
- 3) Issued Stop Works Orders under the Building Code Act where work continues in contravention of an Order to Comply;

- 4) Laid charges under the Planning Act for contravention of the permitted use provisions of the Town's Zoning By-law;
- 5) Retained external counsel for the purpose of obtaining restraining orders in respect of sites that continue marihuana production in contravention of a Cease and Desist Notice; and
- 6) Retained external counsel for the purpose of obtaining injunction orders in respect of sites where work continues in contravention of a Stop Work Order.

Staff will keep Council apprised of the progress of these initiatives and obtain additional direction from Council as and when required.