



# Town of East Gwillimbury

## MEMORANDUM

To: Council

From: Dean Horner, GM, Legal & Council Support Services/Town Solicitor

Date: October 20, 2020

Subject: Cannabis Update

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### Purpose

The purpose of this memo is to update Council on the Town and York Regional Police's (YRP) efforts to enforce the Town's zoning regulations relating to the permitted growth of medical marijuana and our collective response to illegal growers.

Staff will periodically update this report to keep Council apprised of the status of ongoing enforcement action.

### Background

The Town has received complaints relating to existing and emerging medical marijuana production sites located at:

- Boag Road
- Catering Road
- Doane Road
- Highway 48
- Holborn Road
- McCowan Road
- Woodbine Avenue
- a residential subdivision

### Statistics

The following is a statistical overview of action taken to date by the Town and YRP:

<b>14 Inspections/Investigations</b> (13 reported 09/22/20)	Town staff and/or YRP, have completed inspections at 14 sites.
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<b>10 Sites Noted in Violation</b>	Town staff have noted 10 sites in violation of the Town's Zoning By-law due to the production of medical marijuana in zones where production is prohibited.
<b>9 Sites Charged</b> (8 reported 09/22/20)	Town staff have laid charges in the Provincial Court in respect of 9 sites where medical marijuana production has occurred in contravention of the Town's Zoning By-law. Court dates are pending.
<b>4 YRP Seizures</b>	YRP has attended, and seized cannabis being grown illegally at 4 sites.
<b>3 Restraining Orders</b> (2 reported 09/22/20)	The Town has, commenced legal proceedings to obtain Court Orders restraining use of 3 sites for medical marijuana production.

### Sites Charged - Breach of Zoning By-law

The Town has laid charges under the Provincial Offences Act against growers of medical marijuana who are producing it in areas of the Town where production is prohibited by the Town's Zoning by-law.

First appearance, in person, court dates in respect of these matters were originally set by the Ontario Court of Justice (**Provincial Court**) for hearings on either September 27, 2020 or November 17, 2020.

Due to the COVID 19 pandemic, the Provincial Court, of its own initiative, has adjourned these and all other in person matters indefinitely and will not resume scheduling until January 22, 2021. Accordingly, there is presently no fixed court date in respect of these matters and the Town is required to wait for the Provincial Court to set new dates.

However, on October 14, 2020 the Provincial Court issued a notice advising that, first appearance court proceedings will be held through audio conferencing. Staff are optimistic that audio conferencing will assist to expedite the hearing of matters in the Provincial Court.

Staff will advise Council of the hearing dates once they have been set by the Provincial Court.

## **Restraining Orders – To Prohibit Continued Medical Marijuana Production**

In instances where growers have been charged with a zoning offence under the Provincial Offences Act, but continue medical marijuana production, the Town has commenced applications in the Ontario Superior Court of Justice (**Superior Court**) for restraining orders requiring the growers to stop.

To date, the Town has filed 2 applications for restraining orders with the Superior Court and is in the process of filing a third.

The hearing of these matters has been delayed due to the COVID 19 pandemic and the limited functioning of the Superior Court.

Regardless, to expedite resolution of these matters, the Town has, in one instance, requested a written hearing, and in the other instance, has agreed with opposing counsel to a November court date.

The Town continues to press the Clerk of the Superior Court to set required hearing dates.

## **Costs Incurred**

### **(a) Sites Charged – Breach of Zoning By-law**

Prosecution of charges laid for breach of the Town's zoning by-law are jointly undertaken by Town and York Region staff. Accordingly, apart from existing budgeted staff time, there is no additional cost to the Town for prosecution of these matters.

### **(b) Restraining Order – To Prohibit Continued Cannabis Production**

Applications for restraining orders in respect of continued medical marijuana production are jointly made by staff and external supporting counsel.

Accordingly, in addition to existing budgeted staff time, the Town has incurred approximately \$40,000 in external legal expense. The external legal expense will continue to accrue until the 3 outstanding applications are finally resolved.

## **Conclusion**

The Town and YRP continue enforcement action with the result that statistics change week to week. Staff will periodically report back to keep Council informed of the status of enforcement action.