

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2019-0100

**FOR THE CONSIDERATION OF
COUNCIL
SEPTEMBER 18, 2019**

**SUBJECT: CANNABIS PRODUCTION FACILITIES LAND USE PLANNING STUDY
IN RESPONSE TO INTERIM CONTROL BY-LAW NO. 2019-0003 (PL-3)
PLANNING DIVISION FILE: 05.258**

1. RECOMMENDATION:

- 1. That Council receive Report No. DS-2019-0100 prepared by the Planning Division, Development Services Department dated September 18, 2019 respecting a Cannabis Production Facilities Land Use Planning Study in response to Interim Control By-law No. 2019-0003 (PL-3).**
- 2. That Planning staff prepare a draft general Zoning By-law Amendment pertaining to Cannabis Production Facilities for Council's review, and that staff report back to Council on December 11, 2019 at the earliest.**
- 3. That Council adopt an amending by-law to extend Interim Control By-law No. 2019-0003 (PL-3) for an additional year, to expire January 16, 2021.**
- 4. That Planning staff work with Development Engineering staff as part of the ongoing Site Plan Control By-law and Application Review Process to prepare the appropriate draft amendment to the Site Plan Control By-law to require site plan control approval for all new Cannabis Production Facilities.**

2. PURPOSE:

The purpose of this report is three-fold:

- 1. To satisfy Council Resolution No. C-2019-0020 which directed staff to conduct a land use planning study with respect to cannabis production facilities (CPFs) on Rural (RU) zoned lands;**
- 2. To provide Council with background information, research and a policy review as it relates to cannabis legislation and CPFs from a land use planning perspective; and,**
- 3. Recommend a preferred planning approach to regulate CPFs within the Town through zoning and site plan control (SPC) considerations.**

3. BACKGROUND:

3.1 THE EVOLUTION OF CANNABIS LEGISLATION IN CANADA

Below is an overview of cannabis legislation from its infancy of legal access for medical purposes in 1999, to the legalization of recreational cannabis in 2018.

3.1.1 Federal Legislation

Legal access to dried marihuana for medical purposes was first permitted in 1999 under the Controlled Drugs and Substances Act (CDSA). In 2000, the Ontario Court of Appeal decision in *R. v. Parker* held that individuals with a medical need had the right to possess marihuana for medical purposes as the Court found that the prohibition on cannabis was unconstitutional as it did not contain any exemption for medical use. Resulting from this landmark decision, in 2001, the Marihuana Medical Access Regulation (MMAR) came into effect which enabled individuals, with the authorization of their health care practitioner, to access dried marihuana for medical purposes. Individuals who had authorization were permitted to access marihuana by producing their own marihuana plants, designating someone to produce it for them, or purchasing it from Health Canada.

In 2011, the federal government decided to reassess the MMAR in order to improve the Program and its delivery. Through public consultations, stakeholders expressed health, safety, and security concerns relating to the production of marihuana by individuals in their homes (e.g. mold, electrical and fire hazards, and break-and-enters resulting in theft of marihuana). Resulting from the reassessment of the MMAR Program, it created and implemented the Marihuana for Medical Purposes Regulation (MMPR) in June 2013. The new MMPR Program removed the permissions previously granted by the MMAR for personal production of medical marihuana in a home and created a framework for a licenced commercial industry responsible for the production and distribution of quality-controlled dried marihuana produced under secure and sanitary conditions. In accordance with the MMPR, anyone seeking a commercial license to produce medical marihuana was required to provide evidence to Health Canada that the local government, fire authority and police force have been notified of the proposed application.

In June 2015, the Supreme Court of Canada, in *R. v. Smith*, decided that restricting legal access to only dried marihuana was unconstitutional. As a result of this decision, beginning in July 2015, licensed producers have been permitted 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.

On August 24, 2016, the Access to Cannabis for Medical Purposes Regulations (ACMPR) replaced the MMPR. This was in response to the Federal Court of Canada's February 2016 decision in *Allard v. Canada* which found that requiring individuals to get their marijuana only from licensed producers violated liberty and security rights as they did not have "reasonable access". The ACMPR created a framework for:

1. Commercial production of cannabis by licensed producers responsible for the production and distribution of quality-controlled fresh or dried marijuana or cannabis oil or starting materials in secure and sanitary conditions; and,
2. Authorized individuals to produce a limited amount of cannabis for their own medical purposes or to designate someone to produce it for them.

The *Cannabis Act* came into force on October 17, 2018. The Act and its regulations provide a licensing framework for the production, testing, packaging, labelling, delivery, transportation, sale, possession or disposal, importation and exportation of medical and recreational cannabis. Further discussion respecting the *Cannabis Act* and regulations can be found below in Section 3.3.

3.1.2 Provincial Legislation

The *Cannabis Licence Act* and regulations were proclaimed by the provincial government on November 14, 2018. This legislative framework governs the retail sale of recreational cannabis in Ontario. The Alcohol and Gaming Commission of Ontario (AGCO) is the provincial agency responsible for regulating the private retail sale of recreational cannabis from bricks and mortar stores, which is done through a provincial licensing regime. The Ontario Cannabis Store (OCS) is a Crown agency of the Government of Ontario and has been established by the province as the only legal:

- Wholesaler and distributor of recreational cannabis to cannabis retail stores in Ontario (i.e. licensed commercial producers sell cannabis to the OCS who then wholesales to individual retailers); and,
- Online retailer of recreational cannabis in Ontario.

It should also be noted that legal cannabis for medical purposes can only be purchased online through a Health Canada licensed producer. In this regard, the OCS (online sales) and retail store locations cannot fill medical prescriptions.

3.1.3 Cannabis vs. Marijuana

Until the release of the ACMPR in August 2016, the federal government had previously referred to cannabis as "marijuana". Cannabis is a broad term used to describe the products derived from the leaves, flowers and resins of the cannabis

plant. These products exist in various forms, such as dried leaves or oils. On the other hand, marihuana is commonly used to refer to parts of a cannabis plant, such as the leaves or flowers. Under the CDSA, marihuana is referred to as a form of cannabis. The term “cannabis” is more appropriate than “marihuana” from a regulatory context given its broad meaning (i.e. better able to capture cannabis products and other substances than just marihuana).

3.2 PREVIOUS REPORTS TO COUNCIL, ISSUE IDENTIFICATION AND INTERIM CONTROL BY-LAW

On December 12, 2018, Council considered Report CAO-2018-0021 respecting general cannabis information and passed Resolution No. C-2018-0538 (Attachment 1).

One of the topics discussed in the above-noted report are land use planning/zoning considerations as it relates to CPFs as an agricultural use on RU zoned lands. In accordance with Zoning By-law No. 500 (ZBL 500), the cultivation of cannabis would be permitted in the RU zone as an agricultural use similar to any other crop (i.e. indoors or outdoors), subject to complying with the non-residential use requirements. Further, given that agricultural uses are exempt from SPC approval, any buildings or structures associated with the use would not require SPC. Therefore, only a building permit would be required should building alterations be necessary.

Preliminary research conducted on CPFs showed that a handful of these facilities established in other rural Ontario municipalities have been reported to produce noxious odours, and in some cases lighting, which have significantly impacted nearby sensitive land uses such as residential properties. Understanding that ZBL 500 did not contemplate the production of cannabis on RU zoned lands when it was created, staff raised the concern that there are currently no zoning requirements in place specific to these facilities to adequately mitigate potential impacts and ensure that other land use planning matters are appropriately addressed. Based on the foregoing, Planning staff recommended that a land use planning study be undertaken to better understand the use and develop an approach for zoning CPFs.

Leading up to the release of the *Cannabis Act* and regulations, Development Services Staff began to see an increase in public inquiries regarding the ability to establish CPFs under the Town’s current planning documents, and in particular ZBL 500. In order to prevent these facilities from establishing within the RU zone while the land use planning study is being completed, Staff also recommend that Council pass an interim control by-law (ICB) to this effect.

On January 16, 2019, Council considered Report No. DS-2019-0006 respecting a proposed ICB to prohibit cannabis cultivation and passed Resolution No. C-2019-0020 (Attachment 2). Item 2 of the Resolution states:

“That Council direct a land use study be undertaken with respect to the cultivation of cannabis in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning, including evaluating potential associated impacts on sensitive land uses and recommending an approach for zoning cannabis production facilities, and that the authors of the study consider and report upon any other land use planning considerations as relevant and deemed appropriate.”

While item 3 of the Resolution states:

“That Council pass the interim control by-law included as Attachment ‘2’ to Report DS-2019-0006 and that the Town Clerk provide notice of passing in accordance with Section 38 of the Planning Act.”

The ICB passed by Council (By-law Number 2019-0003 (PL-3)) is provided as Attachment 3. The By-law prevents the cultivation of cannabis within the RU zone and on any land having a site-specific RU zoning, for the period of one year (to expire on January 16, 2020). The By-law does not apply to the personal cultivation of up to four plants as permitted by the *Cannabis Act*.

3.3 THE CANNABIS ACT

The legalization of recreational cannabis has substantially increased the demand for the product. Under the *Cannabis Act* and regulations, cannabis may be produced three ways:

1. By a licensed commercial producer for medical or recreational purposes;
2. By a registered or designated person for medical purposes; or,
3. By any adult for personal recreational use.

The *Cannabis Act* defines produce (production) as:

“in respect of cannabis, means to obtain it by any method, including by:

- a) *Manufacturing;*
- b) *Synthesis;*
- c) *Altering its chemical or physical properties by any means; or,*
- d) *Cultivating, propagating or harvesting it or any living thing from which it may be extracted or otherwise obtained.”*

CPF's are required to comply with all relevant provincial and municipal laws including local by-laws (including zoning), fire codes and electrical safety codes. Below is an overview of the major components of the Cannabis Regulations as it relates to commercial cannabis licensing, registered and designated persons and personal cultivation for recreational use.

3.3.1 Licensed Producers – “Commercial Cannabis Production Facilities”

Health Canada is the federal agency responsible for regulating and licensing commercial CPF's. Licences are required to grow cannabis commercially, process cannabis into finished products (including packaging and labelling), sell cannabis for medical purposes, conduct tests on cannabis and conduct research with cannabis. For the purposes of this report, a CPF which is licensed by Health Canada will be referred to as a “Commercial Cannabis Production Facility” (CCPF).

Classes of Licence

The various classes of Health Canada licences are described below:

Cultivation Licences – This licence class allows the growing of cannabis indoors or outdoors, and if authorized, the sale and distribution to other licence holders and provincially authorized retailers (i.e. OCS). There are three subclasses of a cultivation licence:

- **Micro-cultivation** – if authorized by their licence, permitted to produce dried and fresh cannabis, cannabis plants and cannabis plant seeds. Permitted ancillary activities include drying, trimming and milling. Maximum cultivation area of 200m².
- **Standard cultivation** – if authorized by their licence, permitted to produce dried and fresh cannabis, cannabis plants, and cannabis plant seeds. Permitted ancillary activities include drying, trimming and milling. No maximum cultivation area.
- **Nursery** – if authorized by their licence, permitted to produce cannabis plants and plant seeds. Permitted ancillary activities include drying.

Processing Licences – Permits the processing of cannabis indoors, and if authorized, the sale and distribution to other licence holders and provincially authorized retailers. There are two subclasses of a processing licence:

- **Micro-processing** – permitted to process up to 600 kg of dried flower (or its equivalent) per year.
- **Standard processing** – no maximum processing amount per year.

Licence for Sale for Medical Purposes – Permits the sale of cannabis to clients (i.e. registered persons for medical purposes), and if authorized, to other licence holders.

Health Canada also issues licences for Research, Analytical Testing, a Cannabis Drug Licence, and an Industrial Hemp Licence (under the Industrial Hemp Regulations). Further information with respect to each class and subclass of licence is included as Attachment 4. Multiple licences may be combined in order to authorize a greater range of activities at a given site. Attachment 5 is a 'General Guide for Combinations of Licence Classes and Subclasses at a Single Site' taken from the Cannabis Licensing Application Guide.

As of the completion of this report, there are 212 licence holders permitted to cultivate, process and/or sell cannabis (for medical purposes) in Canada, 98 of which are located in Ontario. A breakdown of the cannabis licences in Ontario by class is provided below:

Cannabis Licences in Ontario by Class						
C	P	MS	C/P	C/MS	P/MS	C/P/MS
18	9	3	10	4	4	50

C= Cultivation; P= Processing; MS= Medical Sales

In addition to a Health Canada licence, a licence from the Canada Revenue Agency (CRA) is also required to cultivate, process or package cannabis products.

Licensing Process

As of May 2019, Health Canada requires new applicants for cultivation, processing and sale for medical purposes licences (if cannabis is to be stored on-site) to have a fully built site that meets all the requirements of the Cannabis Regulations at the time of their application. Once a complete application is submitted, an applicant can expect to receive their licence within 60-90 days. Licences are valid for three years. Once a licence is issued, an introduction inspection is completed by Health Canada inspectors, generally within 90 days. Further inspections may occur at random, or specific facilities may be targeted, depending on complaints received.

Notice to Local Authorities

Prior to submitting an application for a licence for cultivation, processing or sale, the applicant must provide a written notice to the local government, fire authority and the police force advising of their intent to submit such application. The notice is meant to ensure local authorities are aware of the intent, along with the proposed location and activities they are seeking a licence for. Within 30 days after issuance, amendment, suspension, reinstatement or cancellation of a licence, the licence holder must provide written notice to the same authorities advising of the new status of the licence.

Required Staff

In accordance with their licensing, licence holders must hire several key competent staff members to oversee the operations of the facility. All licence holders are required

to hire a “Responsible Person” who must have sufficient knowledge of the *Cannabis Act* and regulations that apply to the facility and the licence holder and who has overall responsibility for the activities conducted within the facility. Other required positions include Head of Security (responsible for ensuring that the physical security measures comply with the Cannabis Regulations), Master Grower (for cultivation licences; responsible for the cultivation, propagation and harvesting of cannabis), and Quality Assurance Person (for processing licences; responsible for assuring the quality of the cannabis before it is made available for sale).

Physical Security Measures

CCPFs are required to be designed in such manner that prevents unauthorized access (i.e. walls or fences with secured entry points). The site perimeter must also contain visual recording devices and an alarm/intrusion detection system that must be monitored at all times. Similar to the perimeter of the site, indoor operations and storage areas are also to contain physical barriers to prevent unauthorized access, visual recording devices and alarm systems. Indoor areas within the facility where cannabis is present, excluding growing areas, are restricted to employees who are required to perform job duties. Records are required to be maintained of every individual entering or existing a storage area, which must be kept for a period of two years. Generally, key cards/fobs are required to move from room to room within a facility. There are no specifications or “standards” provided by Health Canada for the above-noted requirements. It is the responsibility of the licence holder to take the necessary measures to ensure the facility is secure and complies with the Cannabis Regulations.

Good Production Practices

Cannabis may be grown indoors or outdoors as a field crop. Except for growing cannabis, all other activities such as producing, packaging, labeling, storing, sampling and testing cannabis must be conducted indoors in a building that has been designed, constructed and maintained to ensure sanitary conditions. However, a licence holder is not permitted to conduct any activity authorized by their licence in a “dwelling-house”¹. Activities such as storing and distributing cannabis must be done in such a way that maintains its quality, while the building where cannabis is produced, packaged, labelled and stored must be equipped with a system that adequately filters air to prevent the escape of odours. Lastly, all cannabis must be tested prior to processing, packaging, and sale.

¹ dwelling-house “means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, and includes (a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passage-way, and (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence”

CCPFs are required to maintain records and report information to Health Canada that demonstrates compliance with good production practices. Production levels, inventory amounts and sales volume are also required to be recorded and reported. In order to enable the tracking of high-level movements of cannabis from seed to sale to help prevent diversion from the regulated supply chain, Health Canada has established a national cannabis tracking system, referred to as the Cannabis Tracking and Licensing System (CTLS).

3.3.2 Registered and Designated Persons – “Medical Cannabis Production Site”

Individuals who have been authorized by their health care practitioner may register with Health Canada to produce a limited amount of cannabis for their own medical purposes (i.e. registered person) or may designate a person to grow it for them (i.e. designated person). Through this registration process, individuals are permitted to obtain cannabis by cultivation, propagation and harvesting. Ancillary activities such as drying, trimming, processing (as long as organic solvents are not used), and packaging and distribution to the registered person may also occur. For the purposes of this report, a location where a designated person produces cannabis for medical purposes will be referred to as a “Medical Cannabis Production Site” (MCPS). As you will see, MCPSs have significantly less Health Canada requirements to comply with in comparison to CCPFs.

Registration Certificate

Persons who have received permission from Health Canada to grow cannabis for medical purposes will receive a registration certificate which, among other things, contains information regarding the location of the production site, the maximum number of cannabis plants that may be grown at one time, and whether they will be grown indoors, outdoors or a combination of both.

Quantity of Cannabis Permitted to be Grown

The amount of cannabis a person is permitted to grow for medical purposes under a registration certificate is based on a calculation that factors in the location of where the cannabis will be grown and the daily dose for which their health care practitioner has prescribed. Depending on the prescription, this can result in several plants or hundreds of plants being permitted to be grown under a single registration certificate.

A designated person may grow cannabis for up to two registration certificates, while a single MCPS may grow cannabis for up to a maximum of four registration certificates. Whereas, registered persons are only permitted to grow cannabis permitted under their own registration (i.e. not for anyone else). Unlike CCPF, there is no prohibition on growing cannabis in a dwelling, nor is there is any requirement to track and report cultivation progress to Health Canada.

Production Site Requirements

Registered and designated persons are not permitted to grow cannabis indoors and outdoors at the same time. If the growing is to occur outdoors, the production site cannot be adjacent to a school, public playground, daycare facility or other public place frequented mainly by individuals under 18 years of age.

Security Obligations

Registered and designated persons who are permitted to grow cannabis must take reasonable steps to ensure the security of the cannabis in their possession that was produced by them. Other than this, there are no specific requirements for security measures which must be implemented.

3.3.3 Personal Cultivation for Recreational Purposes

The *Cannabis Act* permits adults to cultivate, propagate or harvest up to four cannabis plants at any one time per dwelling for personal recreational use. The cannabis plants may be cultivated indoors or outdoors. Regardless of how many adults reside in the dwelling, only four cannabis plants per dwelling may be cultivated at any one time. Adults are not permitted to cultivate, propagate or harvest cannabis plants, or offer to do so, at a place that is not their dwelling where they ordinarily reside.

3.4 PLANNING POLICY REVIEW

3.4.1 The Planning Act

The *Planning Act* is provincial legislation which establishes Ontario's land use planning system. Among other things, the *Planning Act* sets out the ground rules for land use planning and describes how land uses may be controlled. Section 2 of the Act identifies matters of provincial interest which the council of a municipality shall have regard to in carrying out its responsibilities under the Act. This includes, but is not limited to, the protection of the agricultural resources of the Province, the resolution of planning conflicts involving public and private interests, and the protection of public health and safety.

3.4.2 Provincial Policy Statement

The Provincial Policy Statement (PPS) recognizes that agricultural resources of all types, sizes and intensities provide important environmental, economic and social benefits and as such, views agricultural land as a valuable and finite resource that should be protected for its long-term use. At the same time, the PPS recognizes some

diversification of the agricultural economy through agricultural related uses² and on-farm diversified uses³.

The PPS definitions of agricultural uses, agricultural related uses and on-farm diversified uses are very broad and includes a range of examples. To assist in the interpretation of these permitted uses, the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) has released a document titled 'Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (Guidelines). Staff have attached the sections of the Guideline which explain agricultural uses, agricultural related uses, and on-farm diversified uses (refer to Attachment 6). The Guidelines indicate that,

"to qualify as an Agricultural Use, crops generally produce a harvestable product such as fruit, vegetables, mushrooms, field crops including cereal crops, corn, soybeans and forage crops, biomass, nursery crops, trees for harvest/agro-forestry, medicinal herbs, sod/turf grass and seeds. Crops may be used for a variety of purposes such as food for humans, livestock feed, bedding, medicinal purposes, bio-products, firewood and Christmas trees."

Notwithstanding that the above quote specifically references "medicinal herbs", staff are of the opinion that the purpose for which the cannabis plant is grown (i.e. medicinal or recreational) is irrelevant. To further this point, staff have received email correspondence from OMAFRA indicating that *"cannabis is considered an agricultural crop in Ontario and, as such, is permitted to be grown on agricultural land, provided a federal licence has been approved."*

In addition to agricultural uses, the PPS also permits agriculture-related uses and on-farm diversified uses in prime agricultural areas. On-farm diversified uses are intended to support agriculture or able to co-exist with agriculture without conflict, and are to be secondary to the principal agricultural use of the property and limited in area. In this respect, the OMAFRA Guidelines document indicates that on-farm diversified uses shall generally be no greater than 2% of the overall property to a maximum of 1 ha. One example of an on-farm diversified use are value-added facilities. According to the Guidelines,

"value added facilities process agricultural commodities into new forms or products that enhance their value. They may involve the addition of ingredients or processing of agricultural commodities (e.g. chopping

² The PPS defines agricultural related uses as "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".

³ The PPS defines on-farm diversified use as "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."

and canning vegetables, pressing apples and bottling cider, making wine, milling grain, cherry pitting and preserving, preserving and roasting grain for livestock feed). Value-added uses may include retail-oriented packaging. Value added facilities do not meet the PPS definition of agricultural uses but may still satisfy the PPS definition for agriculture-related uses or on-farm diversified uses, depending on the nature of the facilities and if they are located on a farm”.

In recognition of the above, staff see no difference between a farmer who harvests grapes and processes them to create wine or jelly, and someone growing cannabis and processing it to create another commodity such as oil or edibles. The caveat being that the use must be limited in area and secondary to the primary agricultural use (i.e. cannabis must be grown on the property and not shipped in to be processed).

3.4.3 Greenbelt Plan

Within the Protected Countryside, the Greenbelt Plan permits a full range of agricultural, agricultural related and on-farm diversified uses in Prime Agricultural Areas, Specialty Crop Areas and Rural Areas. The Greenbelt Plan uses the PPS definitions for the three uses listed above and therefore, as already concluded, CPFs can be considered as an agricultural use, while associated processing activities can be considered as an on-farm diversified use.

3.4.4 York Region Official Plan

The York Region Official Plan’s Agricultural and Holland Marsh Specialty Crop Area policies permit a full range of agricultural, agricultural related and secondary agricultural uses (e.g. uses that produce value-added agricultural products from the farm operations on the property). As with the Greenbelt Plan, the Region of York Official Plan utilizes the PPS definition for these uses and therefore, as noted above, CPFs can be considered as an agricultural use, while associated processing activities can be considered as a secondary agricultural use.

3.4.5 Town of Georgina Official Plan and Secondary Plans

The Official Plan looks to preserve, protect and support a permanent, healthy, sustainable Countryside Area and agricultural industry in the Town, not only for the production of food and other products, but also as an important component of the Town’s economic base and a source of employment. It is an objective of the Plan to maintain the rural and agricultural character of the Countryside Area and provide opportunities to diversify the rural economy by encouraging value-added agricultural goods and products.

Consistent with the Provincial and Regional Plans, the Town’s Official Plan permits agricultural, agricultural-related and on-farm diversified uses in the Agricultural Protection Area, Specialty Crop Area and Rural Area land use designations.

Therefore, an official plan amendment (OPA) is not required to permit a CPF within any of these designations.

The Industrial designations in the Official Plan and Secondary Plans permit a range of uses including manufacturing, warehousing, processing and assembly uses. It could also be interpreted that a CPF falls within the above-noted types of industrial uses. This would be a similar interpretation to which staff took when a marijuana production facility was permitted within the Business Park 3 (BP-3) zone which is subject to the policies of the Keswick Business Park (KBP) Secondary Plan. More discussion with respect to the BP-3 zone and 'marihuana production facility' definition can be found below in Section 3.4.6. In summary, staff are of the opinion that an OPA is not required to permit a CPF within Industrial designations which permit manufacturing, warehousing, processing and assembly uses.

3.4.6 Town of Georgina Zoning By-law No. 500

Rural (RU) Zone

As discussed above in Section 3.2, the RU zone would permit cannabis to be grown indoors and outdoors as an agricultural use. Buildings containing indoor cannabis production would be required to comply with the provisions for non-residential uses in the RU zone. Should cannabis be grown outdoors as a field crop, it would be permitted to be grown anywhere on the property, similar to any other crop. In both circumstances, no provisions are currently in place to require minimum setback or separation distances from property lines of residential uses/zones or other sensitive land uses, or any other planning considerations unique to these facilities.

A limited amount of processing would be reasonable as an accessory use to the agricultural use. Activities such as packaging, labelling, storing and testing of cannabis would only be considered an accessory use to an agricultural use if it is for the purposes of transporting the cultivated cannabis to another destination. Packaging and labelling will not qualify as an accessory use if it is for the purpose of packaging the product for use by the final consumer. Similarly, the testing of cannabis will only qualify as an accessory use if it is quality testing a batch, not testing cannabis for research or analysis purposes. In order to permit CCPFs to process, label, package, and test cannabis grown on site in accordance with Health Canada licensing, an amendment to ZBL 500 is required.

Business Park 3 (BP-3) Zone

On May 11, 2016, Council passed Zoning By-law No. 2016-0037 (PL-5) to effectively zone the lands associated with the north half of the KBP for industrial/employment purposes (refer to Attachment 7). The amending by-law defined a 'marihuana production facility' and permitted it within the Business Park 3 (BP-3) zone, subject to compliance with the general non-residential use provisions. A marihuana production facility is defined as:

“means a wholly enclosed building or structure used for the growing, production, harvesting, testing, destroying, storing, packaging, or distribution of marihuana or cannabis, used for purposes as authorized by a license issued by the federal Ministry of Health, pursuant to Section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, under the Controlled Drugs and Substances Act, SC 1996, c.19, as amended, or its successor. For the purposes of clarification, no part of this operation, whether accessory or not may be located outside.”

It is staffs opinion that a CPF operating in accordance with a licence issued from Health Canada would be permitted to establish within the BP-3 zone. Notwithstanding, staff recommend that the use name and definition be amended to reflect the current language and legislation pursuant to Health Canada requirements, and that consideration for specific zoning provisions also be contemplated as discussed below in Section 4.3.

Cannabis Production Facilities in Industrial Zones

As noted above, ZBL 500 currently defines a ‘marihuana production facility’ and permits same within the BP-3 zone in the KBP. Other than the industrial zones within the KBP, the Town also contains five additional Industrial zones: Restricted Industrial (M1), General Industrial (M2), Extractive Industrial (M3), Storage Industrial (M4), and Disposal Industrial (M5). The one existing use within these Industrial zones in which a CPF could be considered similar to based on its definition is “*any industrial undertaking that is conducted and wholly contained within an enclosed building and is not a prohibited use pursuant to Section 5.42 herein.*” This use is currently only permitted in the M1 and M2 zones. Therefore, the processing of cannabis not grown onsite, along with research and analytical testing uses could be conducted within the M1 and M2 zones. Further, similar to the BP-3 zone permitting a marihuana production facility within the KBP, the argument could also be made that a CPF could be permitted as an industrial undertaking conducted and wholly contained within an enclosed building.

3.5 JURISDICTIONAL SCAN

There is not one approach for how municipalities have handled the land use interpretation aspect and locational criteria for CPFs. Some municipalities have taken the position that CPFs are an industrial use and have permitted them in all or specific industrial locations. On the other hand, some municipalities have interpreted CPFs as an agricultural use and allowed them without restrictions through their agricultural/rural areas. While others have undertaken planning processes to define the use, and

implement locational and development specific criteria for the use; in some cases, permitting them in both industrial and agricultural/rural areas.

Attachment 8 is a jurisdictional scan provided in a chart format summarizing the zoning requirements for 23 municipalities from York Region and around southern Ontario. A mix of municipalities were chosen to account for both urban and rural context. The chart indicates what zone CPFs are permitted in, what use the municipality considers them to be, and any specific provisions and additional comments relating to the use. Below is a summary of some of the noteworthy information gathered from the jurisdictional scan:

- 20 out of the 23 municipalities permit CPFs (or a similar use) in either an industrial zone or an agricultural/rural zone (i.e. no site-specific zoning by-law amendment (ZBA) required provided use complies with certain provisions); the other three municipalities require a site-specific ZBA to permit the use.
- Every municipality that permits the use without a site-specific ZBA (20 in total) has taken the position that CPFs are permitted within one or more industrial zones; whereas 12 municipalities permit CPFs in both industrial and agricultural zones.
- All 12 municipalities which have gone through a planning process related to CPFs have defined the use, while two municipalities have defined 'sensitive land use', and two municipalities have defined 'air treatment control'.
- All municipalities who consider CPFs as an industrial use require SPC; whereas, two municipalities require SPC in both rural and industrial zones.
- All CPFs permitted in industrial areas must be wholly enclosed within a building; three municipalities also explicitly require loading spaces to be wholly enclosed.
- Eight municipalities have implemented minimum setbacks from sensitive land uses for indoor CPFs.
- One municipality has implemented a minimum setback from sensitive land uses for outdoor cultivation in the rural/agricultural area.
- One municipality has imposed a maximum ground floor area for new indoor CPFs in agricultural areas. However, existing buildings are permitted to be used.

4. ANALYSIS

4.1 INDUSTRIAL OR AGRICULTURAL LAND USE?

In order to develop a land use planning approach for siting new CPFs, it must first be determined what CPFs are considered in terms of a land use.

The growing of cannabis is an activity that is conducive to an agricultural use whether it be conducted indoors or outdoors. When looking at it from a land use perspective, cannabis is a plant which is grown and harvested for its flowers and leaves, among other parts. The growing and harvesting of plants, fruits and vegetables are considered a form of agriculture. In the opinion of Staff, whether an individual is growing apples, carrots, or cannabis, it is considered an agricultural use. Staff have considered the growing of cannabis as an agricultural land use in the context of various other agricultural uses which may be conducted indoors, such as poultry farms, indoor fish farms (aquaculture), indoor equestrian riding/training facilities, greenhouses and mushroom farms. These types of uses are all self-contained, indoor facilities which are not reliant on the agricultural land on which they are located, yet they are still accepted as agricultural uses that commonly exist in agricultural and rural areas.

Notwithstanding the above, once the cannabis plant is grown and harvested, CPFs exhibit many traits of a light industrial/employment use as they generally involve manufacturing, processing, packaging, warehousing, distribution, and research and analytical testing of cannabis. Also, similar to the primary intent of employment areas, CCPFs have the potential to employ a large number of people.

In consideration of the above, staff are of the opinion that CPFs can be seen as a combination of an agricultural and industrial land use. Due to the recent legalization of recreational cannabis, staff believe that it is appropriate for the Town to consider undertaking a general ZBA to explicitly permit CPFs in both the RU and certain Industrial zones. Land use planning considerations for these facilities are discussed below in Section 4.2

4.2 LAND USE PLANNING CONSIDERATIONS

4.2.1 Distinguishing between Commercial Cannabis Production Facility and Medical Cannabis Production Site

Understanding that cannabis can be produced in mass quantities either through a licence (i.e. CCPF) or registration certificate (i.e. MCPS) issued by Health Canada, and that the requirements/permissions for each, as discussed above in Sections 3.3.1 and 3.3.2, vary significantly, consideration should be given to creating different definitions and specific provisions for each.

Commercial Cannabis Production Facility

With respect to CCPF, these facilities are highly regulated through Health Canada's licensing regime. As noted in Section 3.3.1, there are several Health Canada licences that can be obtained individually or combined in order to permit a greater range of

activities. Staff are of the opinion that the definition for these facilities should be such that it permits all activities which could be authorized through a Health Canada licence. The zoning provisions for these facilities would also not require any reference to air treatment control systems or security measures (i.e. fencing) given that these are already requirements imposed on a licence holder.

Due to the nature of these facilities, in addition to the current BP-3 zone, they should be contemplated for both the RU zone and M1 and M2 Industrial zones. Specific provisions related to the use could include setbacks from sensitive land uses, requiring all operations within an Industrial zone to be wholly contained within an enclosed building, and restricting the floor area devoted to processing, packaging, research and analytical testing within the RU zone.

Medical Cannabis Production Site

MCPS on the other hand, are authorized to produce cannabis through a registration certificate issued by Health Canada. These facilities do not have any specific requirements related to air treatment control or security and are permitted to grow cannabis within a dwelling. From an operational standpoint, MCPSs are permitted to conduct activities such as drying and trimming, but unlike CCPFs with a processing licence, they are not permitted to process cannabis through the use of organic solvents. While packaging and distribution of cannabis is only undertaken so that it can be supplied to the registered person who the registration certificate is applicable to. Lastly, designated persons are not permitted to employ others to assist with the cultivation of cannabis.

Considering the nature of the use as described above and in Section 3.3.2, a MCPS can be considered to be less of an industrial/employment use than that of a CCPF. In this respect, staff believe that a MCPS is an appropriate use for the RU zone but not Industrial zones. Specific provisions should be considered as it relates to not permitting the use within a dwelling, and requiring air treatment control, security fencing, and setbacks from sensitive land uses.

4.2.2 Odour

In conducting research on CPFs, it has been noted that the primary concern raised by near-by residents to these facilities in rural/agricultural areas is odour. The cannabis plant is known to produce a distinct odour once the plant begins to flower. However, the time when the odour is most noticeable is during harvest when the plant is being disrupted and the pollen is being released into the atmosphere.

Odour is one of the more difficult impacts to control since there is no well-defined regulatory or acceptable limit given the subjective nature of odours – what smells good to one person may not to another. According to the evidence brief ‘Odours from Cannabis Production’ published by Public Health Ontario, “*in general, most substances responsible for odours in the outdoor air are not present at levels that can*

cause long-term health effects. However, exposure to unpleasant odours may affect an individual's quality of life and sense of well-being. Exposure to odorous compounds can potentially trigger physical symptoms, depending on the type of substance responsible for the odour, the intensity of the odour, the frequency of the odour, the duration of the exposure, and the sensitivity of the individual detecting the odour." Most odours do not pose a health risk, but exposure to some can lead to headaches, nausea and other symptoms.

Indoor Cultivation and Odour

As noted above, CCPF buildings where cannabis is produced, packaged, labelled and stored must be equipped with a system that adequately filters air to prevent the escape of odours; whereas, there is no similar requirement for MCPSSs.

Many CCPFs utilize industrial grade carbon air filtration systems or H13 high-efficiency particulate air (HEPA) filters to reduce and/or treat the emission of pollen, particulate and odours from the facility before it is released into the environment. If an air filtration system is appropriately designed for the size of the building, installed and maintained by a qualified person, the potential for odour associated with cannabis production to be detected outside of the building is significantly reduced, if not eliminated. In this regard, while every facility is different, one specific CPF in which staff were fortunate enough to take a tour of is the Beleave Cannabis Corp. facility located in Hamilton. During this visit, there was no detectable cannabis odours outside of the building. This particular facility utilized a carbon air filtration system as well as a HEPA filtration system.

Staff recommend that buildings where indoor cultivation will be occurring be required to contain odour controls and that setbacks to sensitive land uses also be considered.

Outdoor Cultivation and Odour

When it comes to outdoor cultivation of cannabis and possible odour impacts on sensitive land uses, municipalities must be careful when attempting to regulate something that may be considered a "normal farm practice" through municipal by-laws. The *Farming and Food Production Protection Act* (FFPPA) is in place to promote and protect agricultural uses and normal farm practices in agricultural areas in a way that balances the needs of the agricultural community with provincial health, safety and environmental concerns. The two main purposes of the Act are to:

1. Protect farmers from nuisance complaints made by neighbours, provided they are following normal farm practices; and,
2. To prevent municipal by-laws from restricting a normal farm practice carried on as part of an agricultural operation.

Attachment 9 is an excerpt from the OMAFRA website which discusses the FFPPA and the Normal Farm Practices Protection Board (NFPPB) as it relates to nuisance

complaints. It should be noted that the Province does not pre-determine anything to be a 'normal farm practice'. Only the NFPPB has the authority to rule on whether something is 'normal', and this is only done when reacting to a specific nuisance complaint. Further, the ruling on these matters are only applicable to that particular complaint and are not to be broadly applied. The FFPPA identifies a number of disturbances for which farmers are not liable provided the disturbance is a normal farm practice. This includes light, vibration, smoke, flies, noise, odour and dust. Nuisance issues which relate to activities that could be harmful or dangerous to people or the environment are not covered under the FFPPA, but instead are covered under other legislation such as the *Environmental Protection Act* (EPA). Should individuals be affected by agricultural nuisances generated by CPFs, an appeal to the NFPPB may be submitted, as is discussed further below in Section 4.2.4.

In speaking with OMAFRA staff, they have advised that the first appeal to the NFPPB in relation to a cannabis-related issue has been filed in relation to zoning setbacks imposed for outdoor cannabis cultivation by the Town of Beckwith, Ontario. Specifically, a landowner feels that the required setback of 70m from a cannabis crop to a property line is too restrictive of a normal farm practice (i.e. outdoor cultivation of cannabis). The hearing has been scheduled to take place on November 18, 2019.

In summary, while staff do not recommend prohibiting the outdoor cultivation of cannabis in the RU zone, it is recommended that setbacks from sensitive land uses be considered should outdoor cultivation be permitted. Staff will follow-up with OMAFRA staff after the above-noted hearing date to inquire about the decision and any implications it may have with respect to the draft ZBA document.

4.2.3 Lighting

Lighting is an important requirement for growing cannabis plants. Depending on the stage of growth, cannabis plants may require more or less light (i.e. growth/vegetative state requiring lots of light vs. budding/flowering state requiring less light). Some CPFs are designed to take advantage of natural lighting through the installation of skylights with retractable blackout blinds. Lighting may also be required for exterior security and site design requirements. Through the use of SPC, staff would be able to request photometric plans and review the building and site design to ensure that lighting is contained within the site and does not impact adjacent properties.

4.2.4 Nuisance Complaints (i.e. odour, light, dust)

Given CPFs are a relatively new land use and because they can be found in both urban and rural settings, there still remains some confusion with respect to which government agency should receive and process nuisance complaints in relation to these facilities.

Attachment 10 is an email from OMAFRA staff which explains which government agency should receive nuisance complaints related to CPFs. The suggested courses

of action are subject to change as nuisance complaints are tested at the NFPPB or in courts. In summary, Health Canada is the lead agency responsible for enforcing requirements for cannabis production. Where appropriate, they should have an opportunity to respond to complaints. Health Canada has created a 'Cannabis Reporting Form' website to receive concerns and complaints in relation to CPFs that might represent a possible violation of the federal cannabis laws or regulations. Municipalities may react to nuisance complaints based on local by-laws, however this approach with respect to cannabis production has not been tested at the NFPPB or in courts. Whereas, the NFPPB responds to concerns related to CPFs in agricultural areas, while the Ministry of Environment, Conservations and Parks (MOECP) responds to concerns about CPFs in non-agricultural areas.

4.2.5 Water Usage and Discharge

Referencing the Beleave Kannabis Corp. facility in Hamilton, this building was not purpose built for a CPF, but instead was repurposed from a previous use. Due to this, the cannabis plants are required to be watered manually (i.e. no automated machines within the facility, meaning all watering is all done by hand and not recycled to make efficient use of the water). The Director of Operations for this facility has indicated that their facility uses approximately 30,000L – 45,000L of water per month with an approximate canopy space of 2,500 sq. ft. (or 232m²). Assuming 30 days in a month and that 45,000L was used in the month, this results in approximately 1,500L/day for a canopy area of 232m². This canopy area is slightly above the 200m² permitted through a micro-cultivation licence. In this regard, CPFs have the potential to use upwards of 1,500L/day of water depending on the size and design of the facility.

Depending on the method of cultivation and design of the facility, CPFs may utilize significant amounts of water, similar to some other agricultural uses. A Permit to Take Water is required from the MOECP for any operation taking 50,000 litres of water a day or more from surface or groundwater sources. All permit holders are required to collect and record the volumes of water taken daily and submit records annually to the Ministry. In comparing CPFs to other agricultural operations, staff note that the Town does not currently regulate the water usage of agricultural or aquacultural operations/facilities who may by their nature use a significant amount of water.

The MOECP classifies wastewater from greenhouses as sewage. As such, an Environmental Compliance Approval (ECA) from the Ministry may be required for wastewater and/or storm water discharge from greenhouses or agricultural buildings where crops are grown indoors. Exemptions are provided where the wastewater is discharged directly to a sanitary sewer.

The assignment of municipal servicing allocation to a development is at the sole discretion of the Town and, depending on the amount of servicing allocation and infrastructure available, not all development proposals may be able to processed and/or be approved. Through the SPC process, staff will be able to request information from the applicant with respect to water usage for the facility. This information will then

be used to gauge whether or not there is adequate capacity within the system to service the proposed development. Although municipally treated water could be used facilitate new residential development, industrial/employment use are also needed within the Town.

4.2.6 Record of Site Condition

The EPA requires a record of site condition (RSC) to be filed with the Environmental Site Registry prior to changing the use of a property to a new use that is more sensitive than the previous use of the property. An example of when a record of site condition would be required is if someone wants to change the use of a property from industrial to agricultural. Therefore, CPFs looking to establish on RU zoned lands would not require a RSC as long as the property did not previously contain any industrial uses, however, one may be required in order to establish a CPF on existing industrial lands. In speaking with the MOECP staff, they have advised that the current regulations (O. Reg. 153/04) applying to RSC and its application to CPFs is rather “grey”. In this regard, the Regulations are currently being reviewed and amendments may be forthcoming. Until the Regulations are changed, each situation is reviewed by MOECP staff on a site-by-site basis to determine if a RSC is required for a new CPF to operate on lands previously used for industrial purposes. Through SPC, staff are able to confirm whether a RSC has been filed with the Environmental Site Registry.

4.2.7 Processing Cannabis on Agricultural/Rural Lands

Processing cannabis grown on-site in order to create value-added products can be considered an on-farm diversified use in accordance with the PPS and would be permitted on agricultural/rural lands, subject to a general ZBA. This use would be required to remain limited in area and secondary to the principal agricultural use of the property. However, cannabis would not be permitted to be brought onto agricultural/rural lands to be processed (emphasis added by the writer) as this would not meet the intent of an on-farm diversified use, but would rather be considered an industrial use. This would also fall under the definition of a marihuana production facility pursuant to ZBL 500. Industrial uses as defined by ZBL 500, are only permitted in the Business Park 1 (BP-1), Business Park 2 (BP-2), BP-3, M1 and M2 zones; whereas Marihuana Production Facilities are only permitted in the BP-3 zone.

In consideration of the above, staff have no concerns with permitting CPFs and the associated processing activities on agricultural/rural lands, subject to provisions limiting the area of such processing use and requiring that only cannabis grown on the property be processed.

4.2.8 Site Plan Control

Pursuant to Section 41 of the *Planning Act*, municipalities may utilize SPC to ensure adequate site design and functionality (e.g. fencing, landscaping, building placement, lighting, and building details). The Town’s SPC By-law (By-law No. 86-244 (PL-3), as

amended), provides exemptions for “agricultural and farm related buildings or structures which are utilized for farming operations and by their nature do not serve the public. Agricultural, commercial or industrial operations such as farm equipment sales and service, farm supply sales, greenhouse operations and agricultural storage, sales and supply establishments, but excluding a farm produce stand, are not subject to this exemption.” Given the nature of these facilities, staff are of the opinion that requiring SPC approval for new CPFs is reasonable and recommend that it be imposed on new facilities. In order to ensure that there is no confusion or “grey” area as to whether CPFs are exempt from SPC approval or not, staff recommend that the By-law be amended to specifically indicate that CPFs are not exempt.

4.3 PROPOSED PLANNING APPROACH FOR SITING NEW CANNABIS PRODUCTION FACILITIES

There are two general policy approaches which staff consider to be appropriate for dealing with CPFs which Council may consider:

1. Define/clarify the use(s) in ZBL 500 and permit the use in certain zone(s), subject to specific zoning provisions; or,
2. Define/clarify the use(s) in the Official Plan and ZBL 500, establish Official Plan policies/general zoning provisions, but require a site-specific ZBA in order to permit the use.

Regardless of which approach is taken, staff recommend that all CPFs be required to obtain SPC prior to building permit issuance. In this regard, the Town’s Engineering Division is currently undertaking a review of the SPC by-law. A first report was presented to Council on July 16, 2019. Resulting from that report, staff were directed to proceed with a public and stakeholder consultation program and report back to Council with a final proposed SPC by-law. It is expected that staff will be reporting back to Council in Q4 of 2019. Should Council agree with staff’s recommendation, Planning staff will work with Engineering staff to incorporate the necessary changes through the SPC by-law review and update.

The Town has the ability to regulate new CPFs through zoning and SPC measures. Taking this into consideration, along with the fact that Health Canada requires applicants for new CCPF licences to have a fully built site which meets the requirements of the Cannabis Regulations prior to application submission, staff believe that the first approach noted above is the most appropriate way of dealing with these facilities. This way, applicants looking to obtain a licence for a CCPF are able to invest in a property, including construction/renovation of a building, while having some level of assurance that the use is permitted, subject to complying with the requirements of the zoning by-law provisions.

As discussed, staff are of the opinion that CPFs are a combination of an agricultural use and industrial use which can be contemplated on both rural/agricultural and

industrial lands. With respect to zoning, staff are of the opinion that CPFs would be best suited in the following zones: RU, M1, M2, BP-3, and including all related site-specific zones. Specific zoning provisions which staff propose to consider in the formulation of a draft amending zoning by-law include:

- Define CCPF, MCPS, sensitive land use, and air treatment control – *intended to provide a clear understanding between both types of CPFs, identify what is considered a sensitive land use, and expectations for air treatment controls.*
- Require that CCPFs in Industrial zones be wholly contained within a building – *intended to prohibit the outdoor cultivation of cannabis in Industrial zones as outdoor cultivation is better directed to the rural/agricultural lands.*
- Require loading spaces to be located wholly within a building – *intended to screen loading spaces from view as well as prevent the escape of odours from the facility during loading/unloading.*
- Require indoor CPFs to be in a detached building containing no other uses – *intended to provide separation from other uses on a property.*
- Require air treatment control for indoor MCPSs – *given that MCPSs are not required to have odour control systems in accordance with the Cannabis Regulations, this provision is intended to reduce/eliminate odours released from the facility.*
- Prohibit MCPFs from establishing in a residential dwelling – *this is to ensure the health and safety of residents as MCPSs established indoors have been known to produce mould and contain fire/electrical safety hazards if not done correctly.*
- Prohibit outdoor storage of goods or materials – *Intended to ensure that all operations, save and except outdoor cultivation in the RU zone, are wholly contained within a building.*
- Impose setbacks from sensitive land uses for indoor and outdoor CPFs – *Intended to mitigate impacts such as odour on sensitive land uses.*
- Impose a maximum floor area for processing, research, testing, etc. in the RU zone – *intended to limit the amount of floor area devoted to non-agricultural uses in the RU zone as per the direction of the PPS.*
- That CPFs also be permitted in all site-specific RU, M1 and M2 zones, subject to complying with the zoning requirements for same – *intended to permit CPFs in all site-specific zones without having to amend every site-specific zone.*

4.4 NEXT STEPS

Staff recommend that the current ICB, of which expires on January 16, 2020, be extended for another year in order to allow the general ZBA process to finish, thereby implementing specific zoning provisions for CPFs. As laid out below, staff anticipate that the ZBA process will be completed by Q2 of 2020. In this respect, once the ZBA process has been completed, staff will bring forward an amending by-law to repeal the ICB, prior to its expiry.

The following next steps and timeline are proposed:

Item	Task	Timeline
1	Draft the ZBA document and amending ICB	Following the Sept 18 th Council mtg.
2	Begin to work with Development Engineering to draft necessary amendments to the SPC By-law	Following the Sept 18 th Council mtg.
4	Bring the amending ICB before Council for passing	Between Sept 18 th and December 11 th
5	Provide the draft ZBA to the Agricultural Advisory Committee and the Economic Development Committee for preliminary review and comment.	Ag: Oct 24 th or Nov 28 th EcDev: Oct 7 th or Nov 4 th
6	Return to Council to present/explain the draft ZBA, receive comments from Council, and request permission to release the draft ZBA to the public, internal departments and external agencies for formal review and comment.	December 11, 2019, at the earliest. Alternatively, one of the first Council mtgs. in 2020.
7	Statutory Public Meeting to discuss the draft ZBA	Q1 of 2020
8	Possible Second Public Meeting and/or approval/passing of the ZBA	Q2 of 2020

5. RELATIONSHIP TO STRATEGIC PLAN (2019-2023):

This report addresses the following strategic priorities:

- “Grow Our Economy”
- “Promote a High Quality of Life”

6. FINANCIAL AND BUDGETARY IMPACT:

There are no financial or budgetary impacts as a result of this report.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

There are no public consultation or notice requirements for this report. Should Council direct staff to undertake the preparation of a draft ZBA, public notification and consultation will be conducted in accordance with the requirements of the *Planning Act*, including the holding of a Statutory Public Meeting.

8. CONCLUSION:

Staff recommend that Council approve the recommendations as set out in Section 1 of this report in order to authorize staff to prepare a general ZBA, and that staff report back to Council on December 11, 2019 at the earliest to present the draft ZBA and receive feedback. Staff will also prepare a by-law to extend ICB No. 2019-0003 (PL-3) for an additional year, to expire January 16, 2021, and will also work with Development Engineering staff to develop draft changes to the to the SPC by-law as part of the review and update of same.

Prepared by:



Tolek A. Makarewicz, BURPI, MCIP, RPP
Senior Policy Planner

Reviewed/Recommended by:



Harold W. Lenters, M.Sc.PI, MCIP, RPP
Director of Development Services

Approved by:



David Reddon
Chief Administrative Officer

August 28, 2019

Attachment 1 – December 12, 2018 Council Minutes and Resolution No. C-2018-0538

Attachment 2 – January 16, 2019 Council Minutes and Resolution No. C-2019-0020

Attachment 3 – Interim Control By-law Number 2019-0003 (PL-3)

Attachment 4 – Cannabis Licence Classes and Subclasses

Attachment 5 – General Guide for Combinations of Licence Classes and Subclasses at a Single Site

Attachment 6 – OMAFRA "Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas"

Attachment 7 – North half of the Keswick Business Park zoning schedule

Attachment 8 – Jurisdictional Scan of Cannabis Production Facility Zoning

Attachment 9 – OMAFRA Excerpt from "The Farming and Food Production Protection Act and Nuisance Complaints"

Attachment 10 – Email from OMAFRA re: Cannabis Nuisance Complaint Report

THE CORPORATION OF THE TOWN OF GEORGINA

COUNCIL MINUTES

Wednesday, December 12, 2018
9:00 AM

Staff:

Winanne Grant, Chief Administrative Officer
David Reddon, Acting Chief Administrative Officer
Harold Lenters, Director of Development Services
Dan Buttineau, Director of Recreation & Culture
Ron Jenkins, Director of Emergency Services and Fire Chief
Rob Wheater, Director of Corporate Services and Treasurer
Bev Moffatt, Director of Human Resources
John Armstrong, Acting Director of Operations and Infrastructure
Ryan Cronsberry, Acting Deputy Chief Administrative Officer
Karyn Stone, Manager of Economic Development and Tourism
Shawn Conde, Manager of Information Technology Services
Geoff Harrison, Manager of Taxation, Revenue & Customer Service
Darlene Carson-Hildebrand, Manager of Finance and Deputy Treasurer
Kelly Powis, Revenue and Taxation Supervisor
Zaidun Alganabi, Manager of Development Engineering
Tolek Makarewicz, Senior Policy Planner
Mike Hutchinson, Acting Chief Municipal Law Enforcement Officer
Ken McAlpine, Landscape Architectural Planner
Shawn Nastke, Head of Corporate Service Delivery Excellence
Tanya Thompson, Communications Manager
John Espinosa, Town Clerk
Carolyn Lance, Council Services Coordinator

A moment of meditation was observed.

1. CALL TO ORDER - MOMENT OF MEDITATION

"We would like to begin today's meeting by acknowledging that the Town of Georgina is located over lands originally used and occupied by the First Peoples of the Williams Treaties First Nations and other Indigenous Peoples and thank them for sharing this land. We would also like to acknowledge the Chippewas of Georgina Island First Nation as our close neighbour and friend, one with which we strive to build a cooperative and respectful relationship."

2. ROLL CALL

The following Members of Council were present:

- 2 That the Draft 2019 Operating and Capital Budget, Ten Year Capital Forecast, and the Budget Supplementary Information Package be received;
- 3. That Council approve the rental of three sidewalk machines with equipment as described in Capital Project 19-PRK-1; Fleet Replacements for \$120,000 to be funded from the Operating Budget in Account 1-2-1531101-3620.

Carried.

John A. Staff was requested to bring forward a permanent solution along with a full analysis concerning sidewalk machines to make a decision on the level of service to be provided in the future.

Reports from the Chief Administrative Officer:

(G) **General Cannabis Information Report**

Report No. CAO-2018-0021

Ryan Cronsberry and **Tolek Makarewicz** provided information with respect to the use of and establishment of cannabis within the municipality;

- staff need to fully evaluate the use and understand the impacts on land use zones as these facilities can adversely affect communities
- three issues; i) to opt-in or opt-out, ii) the consumption and potential to further restrict consumption through a bylaw, and iii) production and implementation of an Interim Control Bylaw to allow staff to review the provisions for appropriate zoning
- tight window for public engagement; intend to promote a survey to be launched through the website, newspaper, libraries, promote contact email address through Bylaw Division for feedback and will report results to Council on January 16th

Moved by Councillor Neeson, Seconded by Councillor Fellini

RESOLUTION NO. C-2018-0538

Ryan C.

- 1 That Council receive Report No. CAO-2018-0021 prepared by the Office of the CAO dated December 12, 2018 respecting General Cannabis Information.
- 2 That Staff report back to Council at the January 16, 2019 Council meeting to obtain direction with respect to Council’s decision to “opt-in” or “opt-out” with respect to the retail sale of cannabis within the Town of Georgina and that staff conduct public consultation and provide results to Council on January 16th, 2019.

- 3 That Staff report back to Council at the January 16, 2019 Council meeting on the preferred option with respect to regulating the consumption of cannabis on Town properties and if applicable, prepare any necessary by-law(s) for Council's consideration and passing.
- 4 That Planning Staff be directed to prepare an interim control by-law for Council's consideration and passing at the January 16, 2019 Council meeting which would have the effect of prohibiting the production of cannabis in the Rural (RU) zone within the Town of Georgina for a period of one (1) year to allow the municipality to conduct a land use planning study regarding the implementation of zoning provisions for cannabis production facilities.

Carried.

13. DISPOSITIONS/PROCLAMATIONS, GENERAL INFORMATION ITEMS AND COMMITTEE OF ADJUSTMENT

(1) Dispositions/Proclamations

- (A) Economic Development & Tourism Division advising of its recent approvals of Economic Development, Community Betterment and Development Application Rebate Grants.

Moved by Councillor Neeson, Seconded by Councillor Fellini

RESOLUTION NO. C-2018-0539

Cristina L.
Karyn S.

That the Interoffice Memorandum from the Economic Development Department advising of approvals of Economic Development and Community Betterment Grant and Development Application Rebate Grants, namely \$4,000 for the Lake Simcoe Championship Ice Fishing Derby under the Economic Development Grants, \$10,000 to Harrison Land Co Ltd. under the Development Application Fee Rebate Program, \$7,822 to Sterling Tire Services under the Development Application Fee Rebate Program and \$10,000 to Wellers Tree Service under the Development Application Fee Rebate Program, be received.

Carried.

- (B) Ontario Good Roads Association requesting nominations to serve on the 2019-2020 Board of Directors in various capacities by the submission deadline of December 21, 2018.

Moved by Regional Councillor Grossi, Seconded by Councillor Harding

RESOLUTION NO. C-2018-0540

THE CORPORATION OF THE TOWN OF GEORGINA

COUNCIL MINUTES

Wednesday, January 16, 2019
9:00 AM

Staff:

David Reddon, Deputy Chief Administrative Officer
Harold Lenters, Director of Development Services
Dan Buttineau, Director of Recreation & Culture
Ron Jenkins, Director of Emergency Services and Fire Chief
Rob Wheeler, Director of Corporate Services and Treasurer
Bev Moffatt, Director of Human Resources
Robert Fortier, Manager of Capital Projects, Acting Director of Operations and Infrastructure
Ryan Cronsberry, Acting Deputy Chief Administrative Officer
Karyn Stone, Manager of Economic Development and Tourism
Tolek Makarewicz, Planner
Alan Drozd, Supervisor, Development Planning
Owen Sanders, Supervisor of Development Engineering
Zaidun Alganabi, Manager of Development Engineering
Lawrence Artin, Head, Special Capital Initiatives
Anne Winstanley, Communications Specialist
Rachel Dillabough, Deputy Clerk
Carolyn Lance, Council Services Coordinator

A moment of meditation was observed.

1. CALL TO ORDER - MOMENT OF MEDITATION

"We would like to begin today's meeting by acknowledging that the Town of Georgina is located over lands originally used and occupied by the First Peoples of the Williams Treaties First Nations and other Indigenous Peoples and thank them for sharing this land. We would also like to acknowledge the Chippewas of Georgina Island First Nation as our close neighbour and friend, one with which we strive to build a cooperative and respectful relationship."

2. ROLL CALL

The following Members of Council were present:

Mayor Quirk
Councillor Waddington
Councillor Neeson
Councillor Harding

Regional Councillor Grossi
Councillor Fellini
Councillor Sebo

(C) 2018 Development Applications Status Report

Report No. DS-2019-0004

Velvet Ross, Alan Drozd and Owen Sanders provided a review of the report.

Moved by Councillor Fellini, Seconded by Councillor Waddington

RESOLUTION NO. C-2019-0017

Harold L.

1. That Council receive Report No. DS-2019-0004 prepared by the Planning Division and Development Engineering Division, of the Development Services Department, dated December 19, 2018 respecting the 2018 Development Applications Status Review.

John E.

2. That the Clerk forward a copy of Report DS-2019-0004 and Council's Resolution thereon for information purposes to Karen Whitney, York Region Director of Community Planning and Development Services, Planning and Economic Development Branch, Corporate Services; and to Katy Modaressi, York Region Manager of Capacity Monitoring and Development Approval, Infrastructure Asset Management, Environmental Services.

3. That staff be directed to prepare a report dealing with a preliminary planning case for expansion of the Sutton Sewage Treatment Plant.

Carried.

Velvet R. Staff was requested to provide Council with semi-annual updates of the Development Application Status Review.

Moved by Councillor Neeson, Seconded by Councillor Waddington

That the meeting recess at 10:30 a.m.

Carried.

The meeting reconvened at 10:45 a.m.

(D) Proposed Interim Control By-law to Prohibit Cannabis Cultivation

Report No. DS-2019-0006

Tolek Makarewicz provided a brief summary of the report.

Moved by Regional Councillor Grossi, Seconded by Councillor Harding

RESOLUTION NO. C-2019-0018

That consideration of Report No. DS-2019-0006 entitled 'Proposed Interim Control By-law to Prohibit Cannabis Cultivation' be tabled until Report CAO-2019-0001 entitled 'Cannabis Retail Stores Opting-In or Opting-Out' has been dealt with.

Carried.

Reports from the Office of the CAO:

(E) Cannabis Retail Stores Opting-In or Opting-Out

Report No. CAO-2019-0001

Ryan Cronsberry provided a brief summary of the report.

Moved by Councillor Neeson, Seconded by Councillor Harding

RESOLUTION NO. C-2019-0019

Ryan C.

1. That Council receive Report No. CAO-2019-0001 prepared by the Office of the CAO dated January 16, 2019 respecting Cannabis Retail Stores – “Opt-In” or “Opt-Out”.
2. That Council, by resolution, “Opt-Out” with respect to the Retail Sale of Cannabis within the Town of Georgina.
3. That Council direct staff to provide the appropriate notice to the Alcohol and Gaming Commission of Ontario by providing a copy of the resolution of Council by January 22, 2019.

A recorded vote was requested; the Deputy Clerk recorded the vote as follows:

	<u>YEA</u>	<u>NAY</u>
Mayor Quirk	X	
Regional Councillor Grossi		X
Councillor Harding	X	
Councillor Fellini	X	
Councillor Sebo		X
Councillor Neeson	X	
Councillor Waddington		X

YEA - 4, NAY - 3

Carried.

Mayor Quirk moved forward Item No. 12(2)(D) at this time.

- (D) **Proposed Interim Control By-law to Prohibit Cannabis Cultivation**
Report No. DS-2019-0006

Moved by Councillor Fellini, Seconded by Councillor Neeson

RESOLUTION NO. C-2019-0020

Harold L.

1. That Council receive Report No. DS-2019-0006 prepared by the Planning Division, Development Services Department dated January 16, 2019 respecting an Interim Control By-law prohibiting cannabis cultivation.
2. That Council direct a land use planning study be undertaken with respect to the cultivation of cannabis in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning, including evaluating potential associated impacts on sensitive land uses and recommending an approach for zoning cannabis production facilitates, and that the authors of the study consider and report upon any other land use planning considerations as relevant and deemed appropriate.

John E.

3. That Council pass the interim control by-law included as Attachment '2' to Report DS-2019-0006 and that the Town Clerk provide notice of passing in accordance with Section 38 of the Planning Act.

John E.

4. That the Town Clerk forward a copy of Report DS-2019-0006 and Council's Resolution thereon to the York Region Director of Community Planning and Development Services.

Carried.

- (F) **Bill 66 – Restoring Ontario's Competitiveness Act, 2018**
Report No. CAO-2019-0002

David Reddon and Harold Lenters provided a brief summary of the report.

Moved forward Addendum items 13(1) (D),(E) and (F) to be dealt with in conjunction with Item 12(2)(F) at this time.

13. **DISPOSITIONS/PROCLAMATIONS, GENERAL INFORMATION ITEMS AND COMMITTEE OF ADJUSTMENT**

- (1) **Dispositions/Proclamations**

THE CORPORATION OF THE TOWN OF GEORGINA
IN THE
REGIONAL MUNICIPALITY OF YORK

BY-LAW NUMBER 2019 - 0003 (PL-3)

BEING A BY-LAW TO IMPOSE INTERIM CONTROL ON THE USE OF LANDS, BUILDINGS AND STRUCTURES WITHIN THE MUNICIPALITY IN ACCORDANCE WITH SECTION 38 OF THE PLANNING ACT, R.S.O. 1990.

WHEREAS Section 38(1) of the Planning Act, R.S.O. 1990, as amended, provides that where the Council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the Council of a municipality may pass a by-law to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the day of passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law;

AND WHEREAS the Government of Canada has legalized the cultivation of cannabis for recreational purposes subject to a cultivation licence issued by Health Canada and compliance with municipal zoning requirements;

AND WHEREAS the cultivation of cannabis as a legal agricultural use was not contemplated when Zoning By-law No. 500 was drafted and passed;

AND WHEREAS in accordance with Zoning By-law No. 500, as amended, the cultivation of cannabis may be permitted indoors or outdoors as an agricultural use in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning, subject to compliance with the non-residential use provisions;

AND WHEREAS concerns have been raised with respect to utilizing the current zoning by-law definitions and non-residential use provisions in relation to the establishment of cannabis cultivation facilities in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning;

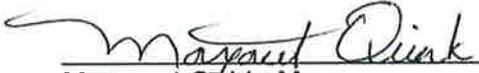
AND WHEREAS concerns have also been raised with respect to potential impacts on sensitive land uses resulting from the cultivation of cannabis in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning;

AND WHEREAS Council has directed that a land use planning study be undertaken with respect to the cultivation of cannabis in the Rural (RU) zone and on any lands having a site-specific Rural (RU) zoning, including evaluating potential associated impacts on sensitive land uses and recommending an approach for zoning cannabis cultivation facilities;

NOW THEREFORE, pursuant to Section 38(1) of the Planning Act, R.S.O. 1990, as amended, the Council of the Corporation of the Town of Georgina **ENACTS AS FOLLOWS:**

1. Notwithstanding any other provision of the Town of Georgina's Comprehensive Zoning By-law No. 500, as amended, no person shall on land which is zoned Rural (RU) and on any lands having a site-specific Rural (RU) zoning, or in a building or structure thereon, use the land, building or structure for the purpose of cultivating cannabis, unless the cultivation is for the personal use of a resident of the land, building or structure.
2. This by-law shall remain in effect for a period of one (1) year from the date of its enactment.

READ and enacted this 16th day of January, 2019.


Margaret Quirk, Mayor


Rachel Dillabough, Deputy Clerk

Appendix B: Cannabis Licence Classes and Subclasses

This table provides a summary of the cannabis licence classes and subclasses, and activities that can be authorized under the *Cannabis Regulations*. The *Cannabis Regulations* should be referred to for additional detail. In order to conduct any of the activities, they must be authorized by the licence.

CTLS Licence Class ⁵	Licence Class ⁶	Subclass	Restrictions	Authorized Activities (if authorized by licence) ⁷	Notes
Cannabis	Cultivation	Standard Cultivation		<ul style="list-style-type: none"> • Possess cannabis • Obtain dried or fresh cannabis, cannabis plants or cannabis seeds by propagating, cultivating, harvesting • For the purpose of testing, alter the chemical or physical properties of the cannabis • Sell and distribute dried cannabis, fresh cannabis, cannabis plants or seeds to other licence holders (cultivators, processors, analytical testers, researchers, cannabis drug licence holders), with the exception that dried cannabis or fresh cannabis cannot be sold to the holder of a nursery licence 	<ul style="list-style-type: none"> • An applicant may apply for a standard cultivation licence, even with a proposed plant surface area of less than 200 square metres but standard cultivation requirements will apply in this case • Cultivation may be conducted indoors or outdoors
	Cultivation	Micro-Cultivation	<ul style="list-style-type: none"> • Plant surface area cannot exceed 200m² (includes multiple surfaces such as surfaces vertically arranged) 	<ul style="list-style-type: none"> • Sell and distribute cannabis plants or seeds to a licensed nursery • Sell and distribute cannabis products that are plants or seeds to a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act • Send and deliver cannabis products that are plants or seeds 	<ul style="list-style-type: none"> • Cultivation may be conducted indoors or outdoors but the cannabis plant surface area includes any indoor/outdoor areas at any single time)

⁵ For the purposes of CTLS, users are required to first indicate whether they will be applying for a Cannabis, Analytical Testing, or Research Licence. The user will then need to specify the cannabis licence class or subclass (as specified by the *Cannabis Regulations*) for which they intend to apply

⁶ Should the user select 'Cannabis' as a licence class in CTLS, they will then need to specify the cannabis licence class or subclass (as specified by the *Cannabis Regulations*) for which they intend to apply

⁷ Licence holders can conduct research and development activities within their authorized licenced activities. If the licence holder wishes to conduct research and development activities outside of their authorized licence activities, they must apply for a separate research licence

CTLS Licence Class ⁵	Licence Class ⁶	Subclass	Restrictions	Authorized Activities (if authorized by licence) ⁷	Notes
				<p>to the purchaser at the request of a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act</p> <ul style="list-style-type: none"> Conduct ancillary activities (e.g., drying, trimming, milling, etc.) 	
Cannabis	Cultivation	Nursery	<ul style="list-style-type: none"> For seed production, total surface area of no more than 50m² must contain all the parts of budding or flowering plants Maximum of 5kg of flowering heads harvested from plants with the exception of seeds Must destroy the flowering heads (with the exception of the cannabis plant seeds), leaves and branches of the plants within 30 days of harvesting them 	<ul style="list-style-type: none"> Possess cannabis Obtain cannabis plants or plant seeds by propagating, cultivating, harvesting For the purpose of testing, alter the chemical or physical properties of the cannabis Sell and distribute cannabis plants or seeds to other licence holders (cultivators, processors, analytical testers, researchers, cannabis drug licence holders) Sell and distribute cannabis products that are plants or seeds to a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act Send and deliver cannabis products that are plants or seeds to the purchaser at the request of a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act Conduct ancillary activities (e.g., drying) 	<ul style="list-style-type: none"> Cultivation may be conducted indoors or outdoors
	Processing	Standard Processing		<ul style="list-style-type: none"> Possess cannabis Produce cannabis, other than obtaining it by propagating, cultivating, or harvesting For micro-processing, the cannabis cannot be obtained by 	<ul style="list-style-type: none"> All activities must be conducted indoors

CTLS Licence Class ⁵	Licence Class ⁶	Subclass	Restrictions	Authorized Activities (if authorized by licence) ⁷	Notes
Cannabis	Processing	Micro-processing	<ul style="list-style-type: none"> Maximum of 600kg of dried cannabis (or equivalent) in 1 calendar year as per section 21 of the <i>Cannabis Regulations</i>. <p>Note: If licence holder also holds a micro-cultivation licence for the same site and the cannabis comes exclusively from that site, this maximum quantity does not apply.</p>	<p>synthesis.</p> <ul style="list-style-type: none"> Sell and distribute cannabis to other licence holders (processors, analytical testers, researchers, cannabis drug licence holders) Sell and distribute to licensed micro-cultivators or standard cultivators: <ul style="list-style-type: none"> dried cannabis, fresh cannabis, cannabis plants, or cannabis seeds cannabis produced for the purposes of testing that is necessary to determine the chemical characterization of cannabis, such as a reference standard Sell and distribute to licensed nursery: <ul style="list-style-type: none"> cannabis plants or seeds cannabis produced for the purposes of testing that is necessary to determine the chemical characterization of cannabis, such as a reference standard Send and deliver cannabis products to a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act Send and deliver cannabis products that are plants or seeds to the purchaser at the request of a licence holder that is authorized to sell cannabis for medical purposes or to a person authorized to sell cannabis under a provincial or territorial Act 	
Cannabis	Sale for Medical Purposes	N/A	<ul style="list-style-type: none"> Must sell cannabis products in the packaging in which they were sold or distributed to them 	<ul style="list-style-type: none"> Possess cannabis products Sell or distribute cannabis products to a client Sell or distribute cannabis products to a licence holder (with the exception of a cultivator) Sell or distribute cannabis products that are dried, fresh, plants or cannabis seeds to micro-cultivator or standard cultivator Sell or distribute cannabis products that are plants or plant 	<ul style="list-style-type: none"> Requirements for the application for a sale for medical purposes licence with possession of cannabis differ from those that do not have possession. Refer to Section 6 of this guide for more information Sale is to registered clients

CTLS Licence Class ⁵	Licence Class ⁶	Subclass	Restrictions	Authorized Activities (if authorized by licence) ⁷	Notes	
				seeds to a licensed nursery <ul style="list-style-type: none"> Sell or distribute cannabis products other than plants or seeds to a hospital employee 	authorized to use cannabis for medical purposes	
		Analytical Testing	N/A	<ul style="list-style-type: none"> All samples of a lot or batch of cannabis must be destroyed within 90 days of the completion of the testing If testing is not started within 120 days of sample receipt, samples must be destroyed 	<ul style="list-style-type: none"> Possess cannabis Alter the chemical or physical properties of the cannabis for the purposes of testing 	
		Research	N/A	<ul style="list-style-type: none"> For the purpose of research, possess, produce, and transport, send, or deliver cannabis between sites that are authorized by the licence Sell cannabis plants or seeds to a cultivator, another researcher, cannabis drug licence holders, the Minister, exemption holder 	<ul style="list-style-type: none"> In general, research licence holders will be required to destroy all cannabis in their possession upon the completion of their research project as part of the terms and conditions of their licence. They may be authorized to conduct limited sale and distribution activities such as the sale of cannabis plants and seeds to another researcher or a cultivation licence holder. 	

Table 2: General Guide for Combinations of Licence Classes and Subclasses at a Single Site

	Standard Cultivation	Micro-cultivation	Nursery	Standard Processing	Micro-processing	Sale ²	Analytical Testing	Research
Standard Cultivation				✓		✓	✓	✓
Micro-cultivation					✓	✓	✓	✓
Nursery						✓	✓	✓
Standard Processing	✓					✓	✓	✓
Micro-processing		✓				✓	✓	✓
Sale ²	✓	✓	✓	✓	✓		✓	✓
Analytical Testing	✓	✓	✓	✓	✓	✓		✓
Research	✓	✓	✓	✓	✓	✓	✓	



Although an applicant may wish to apply for multiple licence classes or subclasses at the same site, the CTLS may not currently allow this, depending on the combination of licences sought. In this case, a separate application may be submitted in the CTLS, or the applicant may contact Health Canada for more information.



Licence holders can conduct research and development activities within their authorized licensed activities. If the licence holder wishes to conduct research and development activities outside of their authorized licence activities, they must apply for a separate research licence.

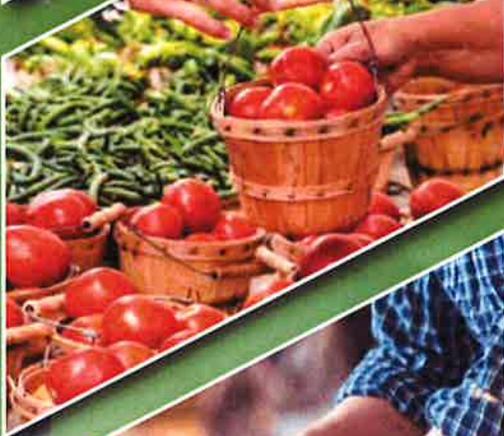
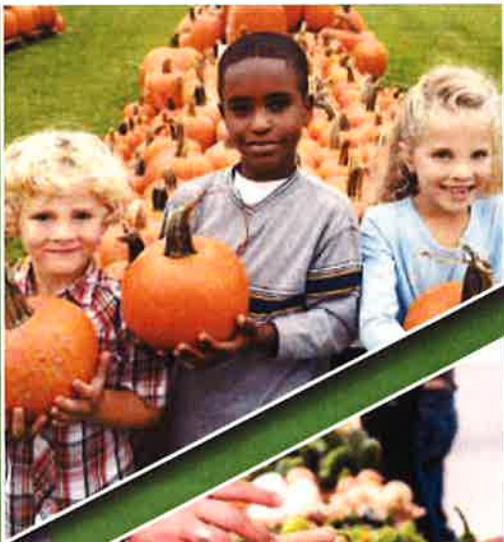
5.3 Create an account in the CTLS

Health Canada has established the CTLS as the primary manner in which licensing applications should be submitted. The first step to create an application is to set up an individual user account in the CTLS (i.e., for the applicant who is the individual or the person who will be setting up the application for an organization). The CTLS Getting Started Guide (available on the Health Canada website) should be referred to for more information on the steps to create an account. To request an account, basic information is required including full name and salutation, email, phone number, date of birth, language preference and security information. Health Canada then provides an access code that can be used to enter the CTLS. Once an account is established, the user will have an Account ID in the CTLS.

² Sale for medical purposes

Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas

Publication 851



2. PERMITTED USES

Three categories of uses permitted in *prime agricultural areas* are discussed in this section: *agricultural uses*, *agriculture-related uses* and *on-farm diversified uses*. If a use proposed for a *prime agricultural area* does not meet PPS policies and definitions for at least one of these three categories of uses, then consider proceeding under PPS Policy 2.3.5 and Policy 2.3.6, as discussed in Section 3 of these guidelines.

The PPS states that all types, sizes and intensities of *agricultural uses* and *normal farm practices* shall be promoted and protected in *prime agricultural areas*. Where *agriculture-related* or *on-farm diversified uses* are located in *prime agricultural areas* in accordance with the PPS, they are intended to support agriculture as the dominant use in *prime agricultural areas*.

If an *agriculture-related* or *on-farm diversified use* is to be located in a *prime agricultural area*, a best practice is to place the use on lower-capability agricultural lands. In addition, consideration should be given to directing *agriculture-related* and *on-farm diversified uses* to *settlement areas* (the focus of growth and *development*) or *rural lands* (where recreation, tourism and other economic opportunities are promoted).

When siting, designing and operating permitted uses in *prime agricultural areas*, care must be taken to ensure PPS environmental policies are met. For example, the environment is clean and healthy; any undesirable effects of *development*, including impacts on air, water and other resources, are minimized; land, resources and biodiversity are conserved; and the quality and quantity of water resources are protected, improved and restored.

2.1 Agricultural Uses

As described in the PPS definition for *agricultural uses*, these uses comprise the farms and farmland that produce agricultural products. These uses are undertaken with the expectation of gain or reward. *Agricultural uses* are the primary use in *prime agricultural areas* and the basis of the agri-food industry.

Agricultural uses: 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.

PPS, definitions

2.1.1 PPS Criteria for Agricultural Uses

The PPS criteria for *agricultural uses* recognize that these uses include the growing of crops and raising of animals. They may be of any type, size or intensity and should respect *normal farm practices*. *Agricultural uses* may also include associated on-farm buildings and structures.

1. **The growing of crops, raising of livestock and raising of other animals for food, fur or fibre.**
(from the PPS *agricultural uses* definition)

The PPS definition of *agricultural uses* is purposefully broad, with a range of examples provided.

To qualify as an *agricultural use*, crops generally produce a harvestable product such as fruit, vegetables, mushrooms, field crops including cereal crops, corn, soybeans and forage crops, biomass, nursery crops, trees for harvest/agro-forestry, medicinal herbs, sod/turf grass and seeds.

Crops may be used for a variety of purposes such as food for humans, livestock feed, bedding, medicinal purposes, bio-products, firewood and Christmas trees.

Cover crops planted to improve soil health (e.g., reduce soil erosion, improve soil fertility) or reduce weeds or pests, may or may not be harvested. These are also considered crops under *agricultural uses*.

Woodlots, riparian buffers and fencerows may or may not be harvested, but are integral to *agricultural uses*. Other conservation uses such as interpretative centres are not included as *agricultural uses*.

Agricultural uses include the raising of livestock and other animals for food, fur or fibre. Animals must be raised, live on or be used on the farm; this would not include companion animals or zoo animals. Some examples from the PPS definition and the *Farming and Food Production Protection Act, 1998* are livestock (including horses), poultry and ratites, fish/aquaculture, apiaries, fur-bearing animals, deer and elk, game animals and birds.

- 2. Includes 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.**
(from the PPS *agricultural uses* definition)

On-farm buildings and structures that are used for agricultural purposes and that are integral to the farm operation are *agricultural uses*. Such buildings and structures are used by the farm operator. Examples include livestock barns, manure storages, feed storages, silos, grain bins, drive sheds, tobacco kilns, farm implement buildings/drivesheds, greenhouses for growing plants, a primary farm residential dwelling and value-retaining facilities.

Value-retaining facilities located on farms serve to maintain the quality of raw commodities produced on the farm (i.e., prevent spoilage) to ensure they remain saleable. This includes facilities involving refrigeration (cold storage), controlled-atmosphere storage, freezing, cleaning, grading, drying (e.g., grains, oilseeds, tobacco), as well as simple, bulk packaging that helps maintain the quality of farm commodities. Value-retaining facilities may also include operations that provide a minimum amount of processing to make a farm commodity saleable, such as grading eggs, evaporating maple syrup and extracting honey. Agricultural commodities undergoing value-retaining processes are often shipped in bulk to value-added operations.

Based on the PPS definition of *agricultural uses*, a value-retaining facility is an example of "associated on-farm buildings and structures." This requires the use to be on-farm and related to the type of farm operation where it is located. For example, a cold storage facility for apples that are grown on the same farm would be an *agricultural use*, while a cold storage facility serving multiple farms would not be. Such a facility could be an *agriculture-related* or *on-farm diversified use*, depending on the operation.

Policy 2.3.3.2 of the PPS states that all types, sizes and intensities of *agricultural uses* and *normal farm practices* shall be promoted and protected. Value-retaining facilities on the farm must be recognized and permitted as *agricultural uses* in official plans and zoning by-laws. Zoning requirements such as location of buildings or structures may need to be met and where applicable, site plan control may be required to address matters such as site specific layout details (Section 2.5.3).

Value-added facilities differ from value-retaining facilities. Value-added facilities process agricultural commodities into new forms or products that enhance their value. They may involve the addition of ingredients or processing of agricultural commodities (e.g., chopping and canning vegetables, pressing apples and bottling

cider, making wine, milling grain, cherry pitting and preserving, and preserving and roasting grain for livestock feed). Value-added uses may include retail-oriented packaging. Value-added facilities do not meet the PPS definition of *agricultural uses* but may still satisfy the PPS definition for *agriculture-related uses* or *on-farm diversified uses*, depending on the nature of the facilities and if they are located on a farm.



Value-Retaining Facilities

Characteristics

- maintain the quality of agricultural commodities (i.e., prevent spoilage) or provide a minimum amount of processing to make an agricultural commodity saleable
- agricultural commodities are produced on the farm

Examples

- controlled-atmosphere storage, cleaning, grading, drying, sorting, evaporating maple sap into syrup, honey extraction, simple (bulk) packaging

Type of Use

- *agricultural uses* or *agriculture-related uses*

Value-Added Facilities

Characteristics

- process agricultural commodities into new forms that enhance their value
- may add off-farm inputs

Examples

- pressing apples and bottling cider, wine-making, grain milling, cherry pitting and preserving, chopping and canning carrots, grain roasting for livestock feed, retail-oriented packaging

Type of Use

- *agriculture-related uses* or *on-farm diversified uses*

PPS policy allows “accommodation for full-time farm labour when additional labour is required” in *prime agricultural areas*. This applies to farms of a size and nature requiring additional labour on a year-round basis for the day-to-day operation of the farm (e.g., livestock operations) or on a seasonal basis over an extended growing season (e.g., horticultural operations that require labour for several months each year to amend the soil, and to plant, transplant, prune, weed and harvest crops). To minimize impacts on agriculture, locate housing for full-time farm labour within the farm building cluster. If this is not possible, place housing on lower-priority agricultural lands that meet the province’s *minimum distance separation (MDS) formulae* requirements and take as little land out of agricultural production as possible.

While the PPS permits accommodation for farm help, the labour needs of farms may change over time. A best practice is for farmers to consider alternatives to building a new, separate, permanent dwelling for farm help. Alternatives include:

- a second dwelling unit within an existing building on the farm
- a temporary structure, such as a trailer or other portable dwelling unit
- an existing dwelling on a parcel of land that is part of the extended farm operation, or located in a nearby settlement area or on a rural lot

Severance of land with housing for farm labour is not permitted as land division fragments the agricultural land base. Fragmentation of the land base can affect the future viability of agriculture over the long term.

Farms in *prime agricultural areas* requiring temporary workers for just a few weeks a year (i.e., NOT requiring day-to-day or extended seasonal labour as noted above) must provide an alternative form of housing to a new permanent dwelling structure (e.g., a temporary structure on the farm or off-farm housing). Housing for workers must meet minimum health and living conditions and may be subject to zoning and building permit requirements. Information on the minimum conditions is found in the Seasonal Farm Worker Housing Guidelines (www.farmsontario.ca/pdf/MOH_Rec.pdf). However, prospective employers are urged to consult with local public health officials, building departments and other agencies to ensure they comply with all applicable regulations and policies for their circumstances.

3. All types, sizes and intensities of *agricultural uses* shall be promoted and protected in accordance with provincial standards.
(from PPS policy 2.3.3.2)

The PPS protects and promotes all types, sizes and intensities of *agricultural uses* in *prime agricultural areas*. Therefore, it would be inappropriate for a municipality to adopt policies in its planning documents to prohibit certain types of *agricultural uses* (e.g., mushroom farms or aquaculture) or farm sizes (e.g., livestock facilities for a certain number of animals) except in specific circumstances where it is necessary to meet other PPS policies or legislation (e.g., *Nutrient Management Act, 2002*). Agriculture is a dynamic industry and changes over time depending on consumer demands/preferences, equipment, plant varieties, farmers' skills, labour, processing capacity and technology. Changes in the type of *agricultural uses* should not trigger *Planning Act, 1990*, applications or approvals, but may have MDS implications. While the PPS does not limit the establishment or intensity of livestock operations, other provincial standards (e.g., guidelines or regulations) may affect the location, intensity or design of these operations, such as:

- *minimum distance separation formulae* (MDS) requirements (e.g., odour setbacks between livestock facilities and other land uses)
- *Nutrient Management Act, 2002* (provincial nutrient management standards)
- *Clean Water Act, 2006* (protection of drinking water)
- *Conservation Authorities Act, 1990*

This criterion is not intended to suggest that small farm lots may be created. In general, the larger the farm parcel, the more adaptable it is to changing conditions and the more efficient it is to run the farm. Keeping farms large enough to maintain flexibility is key to agricultural viability and to achieving the PPS requirement of protecting *prime agricultural areas* for long-term use in agriculture.

Lot size may vary depending on the *agricultural use*. For traditional field crops, large lots are optimal. Higher-value specialty crops tend to be located on smaller parcels. In all cases, lots must still be large enough to maintain flexibility for future changes in the type or size of the agricultural operation. Policy 2.3.4 of the PPS addresses lot creation in *prime agricultural areas*. Other guidelines will address lot creation in more detail.

4. Normal farm practices shall be promoted and protected in accordance with provincial standards.
(from PPS Policy 2.3.3.2)

A *normal farm practice* follows accepted customs and standards for farm operations or makes use of innovative technology to advance farm management. The *Farming and Food Production Protection Act, 1998*, (FFPPA) protects the rights of all rural Ontario residents. It protects farmers from nuisance complaints made by neighbours related to noise, odour, dust, light, vibration, smoke or flies if *normal farm practices* are used. It also protects neighbours from unacceptable nuisances from farms where a farm practice is determined to not be normal.

Normal farm practices: means a practice, as defined in the *Farming and Food Production Protection Act, 1998*, that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances; or makes use of innovative technology in a manner consistent with proper advanced farm management practices. *Normal farm practices* shall be consistent with the *Nutrient Management Act, 2002* and regulations made under that Act.

PPS, definitions

The FFPPA protects farmers from municipal by-laws that restrict their *normal farm practices*. Such by-laws would not apply to a practice that has been established as a *normal farm practice*. The Normal Farm Practices Protection Board (NFPPB) is responsible for determining whether an activity in a particular location qualifies as a *normal farm practice*.

Some *agricultural uses* may involve activities that are *normal farm practices*, but may not be fully understood or accepted by neighbours or visitors (e.g., the use of bird bangers and wind machines for growing tender fruit and grapes, or the spreading of manure as part of raising livestock and maintaining soil nutrients). When these practices have been determined to be *normal farm practices* by the NFPPB, the FFPPA allows the farmer to continue operating without interference. This provides the operational flexibility for the farm to succeed. Communication between neighbours is often the key to maintaining good relations.

2.1.2 Examples of Agricultural Uses

Figure 1 provides examples of uses that may be *agricultural uses* if they meet all of the applicable PPS criteria.

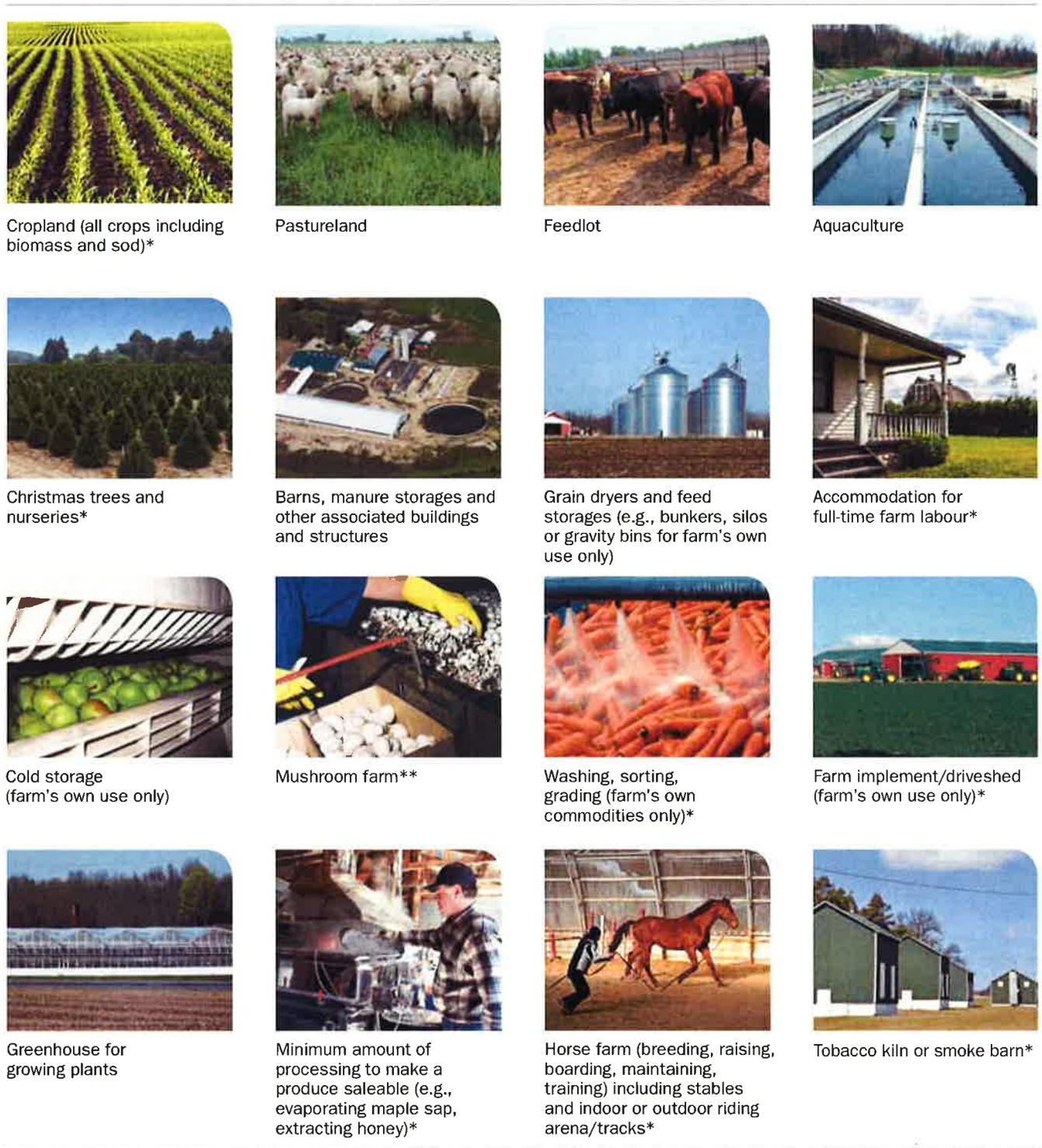


Figure 1. Examples of *agricultural uses* provided all PPS criteria are met.

*Source: Shutterstock
**Source: Mushrooms Canada

2.1.3 Examples of Uses that Would Typically Not be Agricultural Uses

Examples of uses that would typically not be *agricultural uses* because they do not meet PPS definitions or criteria include:

- dog kennels
- grain dryers or mechanical garages serving several producers/customers
- retail operations
- landscape businesses
- off-season vehicle storages
- recreational facilities such as campsites, golf courses, fairgrounds, racetracks or ball parks
- restaurants

While not satisfying the definition and criteria of *agricultural uses*, some of these uses may meet the definitions and criteria for *agriculture-related uses* or *on-farm diversified uses*.

2.2 Agriculture-Related Uses

As described in the PPS definition, *agriculture-related uses* are farm-related commercial and industrial uses. They add to the vitality and economic viability of *prime agricultural areas* because they are directly related to and service farm operations in the area as a primary activity. These uses may be located on farms or on separate *agriculture-related* commercial or industrial properties.

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.
PPS, definitions

2.2.1 PPS Criteria for Agriculture-Related Uses

All of the following criteria must be met to qualify as *agriculture-related uses* in *prime agricultural areas*.

1. **Farm-related commercial and farm-related industrial use.**
(from the PPS definition of *agriculture-related uses*)

Farm-related commercial uses may include uses such as retailing of *agriculture-related* products (e.g., farm supply co-ops, farmers' markets and retailers of value-added products like wine or cider made from produce grown in the area), livestock assembly yards and farm equipment repair shops if they meet all the criteria for this category of uses.

Farm-related industrial uses may include uses such as industrial operations that process farm commodities from the area such as abattoirs, feed mills, grain dryers, cold/dry storage facilities, fertilizer storage and distribution facilities, food and beverage processors (e.g., wineries and cheese factories) and agricultural biomass pelletizers if they meet all the criteria for this category of uses. Many of these uses add value to the agricultural commodities produced in the area.

Residential, recreational and institutional uses do not fit the definition of *agriculture-related uses*.

2. Shall be compatible with, and shall not hinder, surrounding agricultural operations.

(from PPS Policy 2.3.3.1) Note: this policy applies to both *agriculture-related uses* and *on-farm diversified uses*.

“Surrounding agricultural operations” are interpreted in these guidelines to include both the property on which the use is located and the area of potential impact around the property. The area of impact may vary depending on the use. To be compatible with and not hinder surrounding agricultural operations, *agriculture-related uses* should meet all of the following:

- **Ensure surrounding agricultural operations are able to pursue their agricultural practices without impairment or inconvenience.** While *agriculture-related uses* (and *on-farm diversified uses*) may or may not be subject to the *minimum distance separation formulae*⁴, proximity to nearby livestock facilities may still be a consideration in locating these uses. This will help to avoid conflict between new uses and farming due to odour or other nuisances related to *normal farm practices*. Examples of other potential sources of conflict include noise that disturbs nearby farm operators and their livestock, trespass incidents, soil compaction, dust and impacts on water quantity or quality. Some uses can result in an increase in traffic that may conflict with slow-moving farm vehicles on local roads. Avoid these uses or mitigate their impacts in *prime agricultural areas*.
- **Uses should be appropriate to available rural services (e.g., do not require the level of road access, water and wastewater servicing, utilities, fire protection and other public services typically found in settlement areas).** Approval for a new land use on a property with individual, on-site water and sewage services requires demonstration of “no negative impacts” as per Policy 1.6.6.4 of the PPS. Urban-type uses typically unsuitable in *prime agricultural areas* include large food or beverage processing plants. These facilities should be on municipal services.

Wineries and cideries may fit the definition of *agriculture-related uses* if they are able to meet all PPS criteria for that category of uses. These uses require licensing from the Alcohol and Gaming Commission of Ontario (www.agco.on.ca) in order to operate. Ensure these uses are appropriate to available water and wastewater services. High water use/effluent generation operations would normally be incompatible in *prime agricultural areas* and may require capacity beyond what is available on the site. The appropriate scale to qualify as an *agriculture-related use* needs to be assessed on a case-by-case basis. A necessary first step is to identify required approvals and other requirements to be met to support the use. Examples include a Permit to Take Water or Environmental Compliance Approval under the *Ontario Water Resources Act, 1990*, and a Building Permit under the *Ontario Building Code, 1992*.

Agriculture-related uses that are compatible when first established may expand and grow over time. Before building permits are issued, the municipality needs to be satisfied that zoning requirements are met. If the compatibility criterion or any other PPS criteria cannot be met, the building permit may be withheld and the expanded business may need to be relocated to a suitable location outside of the *prime agricultural area*.

PPS Policy 2.3.4.1 b) addresses lot creation for *agriculture-related uses*. Lot creation may be permitted for *agriculture-related uses* provided that any new lot is limited to a minimum size needed to accommodate the use and its wastewater and water servicing requirements. A best practice is to consider alternatives before creating a new lot.

⁴ See Minimum Distance Separation Implementation Guidelines for details (ontario.ca/cvge).

- **Maintain the agricultural/rural character of the area (in keeping with the principles of these guidelines and PPS Policy 1.1.4).** Compatibility may be achieved by:
 - re-using existing buildings or locating businesses within existing buildings unless an alternative location reduces overall impacts on agriculture in the area
 - designing new structures to fit in aesthetically with the agricultural area
 - minimizing outdoor storage and lighting
 - avoiding major modification of land and removal of natural heritage features
 - visually screening uses from neighbours and roadways
 - limiting the use of signage and ensuring that any signage fits with the character of the area
- **Meet all applicable provincial air emission, noise, water and wastewater standards and receive all relevant environmental approvals.** A use that will result in air, noise or odour emissions (e.g., fabrication plant or equipment repair shop) may require an Environmental Compliance Approval issued under the *Environmental Protection Act, 1990*. Some uses that have high water requirements or generate a significant amount of wastewater (e.g., produce washing, food processing and wine-making) could require a Permit to Take Water and/or sewage works approvals under the *Ontario Water Resources Act, 1990*.
- **The cumulative impact of multiple uses in *prime agricultural areas* should be limited and not undermine the agricultural nature of the area.** Whether a proposed new use is compatible depends in part on other uses in the area and how the area would be affected by all of these uses. For example, the cumulative impact on ground and surface water in the area, wear and tear on roads, traffic safety and demand for policing and fire protection are basic compatibility considerations. The principles of permitted uses identified in Section 1.4 and all compatibility components discussed in this section are to be maintained.

The PPS requires *prime agricultural areas* be protected for long-term *agricultural use* and that impacts from non-agricultural uses in the *prime agricultural area* are mitigated. The discussion on impact mitigation in Sections 3.1.3 and 3.2.4 may also be applicable to *agriculture-related uses* and *on-farm diversified uses*.

3. Directly related to farm operations in the area.

(from the PPS definition of *agriculture-related uses*)

Agriculture-related uses must be directly related to farms in the area, primarily providing products or services that are associated with, required by or that enhance agricultural operations in the area. “Directly related to” means that the use should reflect the type of agricultural production in the area. Examples include:

- vegetable processing around the Holland Marsh
- processing tomatoes in the Leamington and Chatham-Kent areas
- farm equipment repair, farm input suppliers and grain drying in major cash crop areas
- ginseng drying and distributing in Ontario's Sand Plain area

For a value-added facility to be classified as an *agriculture-related use*, “in the area” would refer to the area where the feedstock (e.g., crops or livestock) originates. “In the area” is not based on a set distance or on municipal boundaries. It is based on how far farmers will reasonably travel for the agriculture-related products or services. Some commodities are transported further than others. In Ontario, grain elevators usually store bulk grain for farms within a few kilometers as it is not economical to transport grain a long distance. Reasonable travel distance varies, however, with the bulk of the commodity and the density of agricultural operations. In areas with a high density of agricultural activity, the area within which feedstock is transported may be closer than in Northern Ontario or elsewhere where the density of agricultural activity is relatively low.

For example, a winery primarily using grapes grown in the area could be an *agriculture-related use*. A winery making wine from grapes or concentrate shipped in from another region of Ontario, another province or another country, would not be. A winery that brings in grapes or concentrate from another area, may, however, be an *on-farm diversified use* if all the criteria for that category of uses are met. Uses that are not directly related to farm operations in the area, because they use agricultural products from outside the area, may be *on-farm diversified uses* if all the criteria for those uses are met.

There may be instances when *agriculture-related uses* that normally provide products or services to farm operations in the area need to bring agricultural commodities in from outside of the area. An apple storage and distribution facility may need to bring in apples grown elsewhere in the province or country to meet customer demand when crop losses occur locally. However, the primary feedstock for *agriculture-related uses* must be farms in the area.

To qualify as *agriculture-related uses*, farmers' markets must sell produce grown in the area. Farmers' markets selling a variety of produce, both from the area and beyond, and potentially non-agricultural items like baked goods, coffee and crafts, could have both *agriculture-related* and *on-farm diversified* components. The criteria for both categories of use would need to be met.

Uses that provide products or services beyond the immediate agricultural area such as cold storage facilities near airports or other transportation hubs, or meat packing plants that process meat from a long distance, often shipped by transport truck or shipping container, are not *agriculture-related uses*. They do not directly relate to farm operations in the area. Even if these uses provide some products or services to farms in the area, they are located in serviced industrial or commercial land in *settlement areas*, rather than *prime agricultural areas*.

4. Supports agriculture.

(from the PPS definition of *agriculture-related uses*)

This criterion limits uses to those primarily focused on supporting agriculture. For example, a grain elevator used by farmers in the area supports and benefits area farms.

An example of an operation in a *prime agricultural area* that supports area agriculture is the Elmira Produce Auction. The co-operatively-run produce auction creates a market for regional produce in the Waterloo area. It aims to support growers in the area and increase family farm revenue by encouraging local farms to diversify into higher-value fruits and vegetables. The auction has affected crop production in the area, with more land now devoted to fruit and vegetable production to supply a growing number of area restaurants and institutions.

5. Provides direct products and/or services to farm operations as a primary activity.

(from the PPS definition of *agriculture-related uses*)

This criterion requires that *agriculture-related uses* directly service farm operations as a primary activity.

"Direct products and/or services" refers to uses that serve an agricultural need or create an opportunity for agriculture at any stage of the supply chain (e.g., seed or fertilizer supplier, farm equipment repair, value-added food and beverage processing and distribution or retail of agricultural commodities grown in the area).

General-purpose commercial and industrial uses that serve a broad customer base (e.g., building supply centres, window manufacturers, fencing companies, paint stores, pre-cast concrete businesses and contractors' yards) are not *agriculture-related uses* even if they have farm operators as customers.

Serving farm operations must be a primary function or main activity of the business. As a rule, general purpose commercial and industrial uses should be located outside of *prime agricultural areas* (i.e., in *settlement areas* or on *rural lands*).

Many hamlets, villages and towns near active agricultural areas cluster general purpose and *agriculture-related uses* within their *settlement areas*, within easy access to farm operations. Some provide servicing to encourage economic development. Directing growth and *development* that is not imperative in *prime agricultural areas* to *settlement areas* is consistent with PPS Policy 1.1.4.2.

In the past, some farm implement dealerships and repair shops have located in *prime agricultural areas* because of land availability and proximity to customers. Municipalities may have permitted this to achieve efficient development patterns in *settlement areas*. Given that current PPS policy emphasizes the need for *agriculture-related uses* to provide direct products and/or services to farm operations as a primary activity, a farm equipment dealership or farm equipment repair shop might be justified as an *agriculture-related use* in a *prime agricultural area* if servicing farm operations in the area is a primary focus of the business and all other *agriculture-related uses* criteria are met. However, businesses that sell or repair farm implements, along with items catering to a broad customer base such as lawn mowers, snow blowers, other machinery, parts, toys and clothing, should be directed to *settlement areas*, *rural lands* or lower priority agricultural lands as discussed in Section 3.2.

Uses that process and/or store predominantly non-agricultural source materials (e.g., compost, leaf and yard waste, food processing waste, sewage biosolids) are not *agriculture-related uses*, even if the products of such facilities are spread on farmland. The primary function of such facilities is to manage non-agricultural waste streams, rather than produce a product for application to farmland. Facilities that process and/or store agricultural source materials from agricultural operations in the area as their primary activity may fit the definition of *agriculture-related uses*.

Uses that do not benefit from being close to farm operations but wish to take advantage of lower costs in *prime agricultural areas* would not be classified as *agriculture-related uses*.

Since *agri-tourism uses* do not provide products or services to farm operations, they would not qualify as *agriculture-related uses*. If located on farms and meeting all other criteria, these uses may be *on-farm diversified uses*.

To assess whether a proposed use meets the test of providing direct products and/or services to farm operations as a primary activity, municipalities should require evidence demonstrating that the use will service farm operations as a primary business activity (i.e., inputs are primarily produced in the area or customers are primarily farm operators in the area). As a best management practice, municipalities may require evidence that the use cannot be located in *settlement areas* or on *rural lands*.

6. Benefits from being in close proximity to farm operations. (from the PPS definition of *agriculture-related uses*)

To meet this criterion, *agriculture-related uses* must benefit from or need to be located near the farm operations they serve. Benefits may include more effective or efficient operations due to access to feedstock, roads suited to slow-moving farm vehicles, reduced transportation distance and risk of spoilage and marketing opportunities associated with being part of an agricultural cluster.

2.2.2 Examples of Agriculture-Related Uses

Figure 2 provides examples of uses that could be classified as *agriculture-related uses* if they meet all of the PPS criteria.



Apple storage and distribution centre serving apple farm operations in the area



Farmers' market primarily selling products grown in the area*



Processing of produce grown in the area (e.g., cider-making, cherry pitting, canning, quick-freezing, packing)*



Grain dryer farm operations in the area



Agricultural research centre*



Winery using grapes grown in the area*



Abattoir processing and selling meat from animals raised in the area*



Flour mill for grain grown in the area



Farm equipment repair shop*



Livestock assembly yard or stock yard serving farm operating in the area



Auction for produce grown in the area



Farm input supplier (e.g., feed, seeds, fertilizer (serving farm operations in the area

Figure 2. Examples of *agriculture-related uses* provided all PPS criteria are met.

* Source: Shutterstock

2.2.3 Examples of Uses that Would Typically Not be Agriculture-Related Uses

Examples of uses that would typically not be *agriculture-related uses* because they do not meet PPS definitions or criteria include:

- large food processing plants, large wineries and other uses that are high-water-use or effluent generators and are better suited to locations with full municipal services
- micro-breweries and distilleries
- contractors' yards, construction companies, landscapers, well drillers, excavators, paint or building suppliers
- sewage biosolids storage and composting facilities for non-agricultural source material
- antique businesses
- art or music studios
- automobile dealerships, towing companies, mechanics shop or wrecking yards
- rural retreats, recreational uses and facilities, campgrounds or fairgrounds
- conference centres, hotels, guest houses or restaurants
- furniture makers
- institutions such as schools or clinics
- seasonal storage of boats, trailers or cars
- veterinary clinics
- trucking yards

While not meeting the criteria for *agriculture-related uses*, some of these uses may fit under *on-farm diversified uses* if all criteria for that category of uses are met.

2.3 On-Farm Diversified Uses

A wide variety of uses may qualify as *on-farm diversified uses* based on the PPS definition, as long as they meet the criteria described below. *On-farm diversified uses* should be related to agriculture, supportive of agriculture or able to co-exist with agriculture without conflict. *On-farm diversified uses* are intended to enable farm operators to diversify and supplement their farm income, as well as to accommodate value-added and *agri-tourism uses* in *prime agricultural areas*.

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.

PPS, definitions

2.3.1 PPS Criteria for On-Farm Diversified Uses

All of the following criteria must be met to qualify as *on-farm diversified uses*, in accordance with the PPS.

1. Located on a farm.

(from the label "*on-farm*" *diversified uses* and from the definition's requirement that the use be secondary to the principal "*agricultural use*" of the property)

On-farm diversified uses must be located on a farm property that is actively in *agricultural use*. The *on-farm diversified uses* provisions in the PPS do not apply to small residential lots in the *prime agricultural area*.

As noted in Section 2.1 of these guidelines, *agricultural uses* occur on a farm with the expectation of gain or reward. This does not include production primarily for use or consumption by members of the household of the owner or operator of the agricultural operation, for purposes of pastime or recreation, or in a park, on a property used primarily for residential purposes or in a garden located in a public space. The planning authority may require evidence that the property is actively farmed. For example, proof may be required that shows the property qualifies for the Farm Property Class under the *Assessment Act, 1990*.

2. Secondary to the principal agricultural use of the property.
(from the PPS definition of *on-farm diversified uses*)

While the PPS definition of *on-farm diversified uses* allows for a wide range of on-farm economic opportunities, it also requires those uses be secondary to the principal *agricultural use* of the property. In other words, *agricultural uses* must remain the dominant use of the property. This is measured in spatial and temporal terms. Spatially, the use must be secondary relative to the *agricultural use* of the property. The spatial limits are addressed below under the “limited in area” criterion.

Temporal considerations apply to uses that are temporary or intermittent, such as events. Given that *on-farm diversified uses* (and *agriculture-related uses*) must be compatible with surrounding agricultural operations, the frequency and timing of any events must not interfere with cropping cycles or other *agricultural uses* on the farm or in the surrounding area.

Even temporary uses must meet all criteria for *on-farm diversified uses*. Acceptable uses must be compatible with and able to coexist with surrounding agricultural operations, and:

- permanently displace little-to-no agricultural land, within the limits discussed under the “limited in area” criterion
- do not require site grading and/or drainage unless it improves conditions for agricultural production
- are one-time uses or held infrequently when impacts to agriculture are minimal
- any land used for a temporary use must be immediately returned to agriculture
- a harvestable crop is produced on the land the year in which the temporary use is implemented (if applicable)
- meet compatibility requirements (e.g., do not require significant emergency, water and wastewater services; maintain reasonable noise and traffic levels in the area)
- impacts to the site itself and surrounding agricultural operations are mitigated (e.g., compaction, drainage, trespassing)

If all criteria are met, events may be accommodated through a temporary use zoning by-law under the *Planning Act, 1990*, provided no permanent alterations are proposed to the land or structures (e.g., stages, washrooms or pavilions). The temporary zoning must be structured in a way that the farmland is returned to agriculture immediately following the event (e.g., detailed provisions to avoid soil compaction, timing events to avoid impacts on cropping systems). The intention is that these uses are permitted only on an interim basis.

The Municipal Act, 2001, authorizes municipalities to pass by-laws, issue permits and impose conditions on events. These by-laws may require site plans, traffic plans, emergency plans and security plans. These by-laws can help ensure uses are reasonable without the need for other approvals.

Large-scale, repeated or permanent events are not *on-farm diversified uses* and should be directed to existing facilities such as fairgrounds, parks, community centres and halls, *settlement areas* or *rural lands*. Guidelines on new venues in *prime agricultural areas* are provided in Section 3.2 Limited Non-Agricultural Uses.

3. Limited in area.

(from the PPS definition of *on-farm diversified uses*)

While PPS policies enable a wide variety of on-farm economic opportunities, the PPS also requires those uses are limited in area. This criterion is intended to:

- minimize the amount of land taken out of agricultural production, if any
- ensure agriculture remains the main land use in *prime agricultural areas*
- limit off-site impacts (e.g., traffic, changes to the agricultural-rural character) to ensure compatibility with surrounding agricultural operations

Many municipalities limit the scale of *on-farm diversified uses* by limiting the number or place of residence of employees, number of businesses, percentage of products sold that are produced on the farm or floor area of buildings and outdoor storage. However, these factors do not have a direct bearing on the amount of farmland displaced or fully account for all the land occupied by the uses. A preferred approach is to base “limited in area” on the total footprint of the uses, on a lot coverage ratio basis.

Guidance on the “limited in area” criterion is based on a review of existing municipal approaches in Ontario, observations and experiences of OMAFRA staff across the province, benchmarking against existing diverse farms, development of scenarios and stakeholder input. Realistic scenarios to predict how much land could be used for *on-farm diversified uses* on small, medium and large farms are provided in Appendix 2. Appendix 3 offers an example of an existing, diversified farm with a combination of permitted uses, illustrating how the *on-farm diversified uses* portion of the property is calculated.

The approach to the “limited in area” criterion is intended to:

- achieve the balance between farmland protection required by the PPS and economic opportunities for farmers
- improve consistency among municipalities in terms of the land area that could be used for such uses
- level the playing field for different types of *on-farm diversified uses*
- provide flexibility as *on-farm diversified uses* and owners change
- simplify implementation

The “limited in area” requirement should be based on the total land area that is unavailable for agricultural production as a result of the *on-farm diversified use* (i.e., the footprint occupied by the use, expressed as a percentage of lot coverage). The area calculation should account for all aspects related to an *on-farm diversified use* such as buildings, outdoor storage, landscaped areas, berms, well and septic systems, parking and new access roads. The lot coverage ratio should be based on the size of the individual parcel of land where the use is located, not the total area of a farm operation which could include several parcels. The rationale for using a lot coverage ratio is built on the premise that a large property is generally able to accommodate a larger *on-farm diversified use* than a small property while meeting compatibility requirements.

Where available, uses should be within existing agricultural buildings or structures no longer needed to support agricultural production. Reusing existing buildings or structures can help to:

- reduce the amount of farmland consumed
- maintain the agricultural/rural character of the area
- ensure existing buildings are kept in good repair or improved

As farmers expand and modernize their agricultural operations, they often prefer to build new structures based on current standards rather than retrofit older buildings. This can result in surplus buildings that could be repurposed. It is recommended that for "limited in area" calculations, the area of existing buildings used for *on-farm diversified uses* be discounted at an appropriate rate (e.g., 50%). Be aware that a change in the use of a building may result in a change in building code requirements (Section 2.5.7).

If an *on-farm diversified use* occupies the same footprint as a demolished building, the land area for the use may be similarly discounted. This recognizes that it is unlikely that land under a demolished building will be returned to an *agricultural use*. However, preference should be given to reuse of existing buildings where possible.

It is recommended that the area of existing laneways not be included in area calculations. This will encourage *on-farm diversified uses* to locate within existing farm building clusters and minimize impacts on agricultural production.

If an existing barn (or a barn destroyed by fire,) is restored for an *on-farm diversified use* with the same footprint as the existing barn, only 50% of the building's footprint is counted in the area calculations. Likewise, the footprint of a home occupation in an existing residence or outbuilding may be calculated at 50% of the area of the office. However, 100% of the area needed for parking and outdoor storage would be included. Existing laneways are not counted in the area calculations but 100% of the area for new laneways would be included.

These guidelines recommend that "limited in area" be relative to the size of the farm property on which the *on-farm diversified use* is located. The size of the entire farm property, including land subject to an easement, and not just the portion of a farm that is in *agricultural use*, should be considered. For example, a use occupying 1 ha on a 50 ha farm may be "limited in area," while a 1 ha use on a 15 ha farm may not be. These guidelines recommend that the standard for the acceptable area occupied by an *on-farm diversified use* is up to 2% of a farm parcel to a maximum of 1 ha (10,000 m²). The examples of *on-farm diversified uses* in Appendix 2 show the variety of uses that could be placed on different-sized parcels of land, while staying within the recommended maximum lot coverage of 2%.

In the case of *on-farm diversified uses* that are intermittent, such as events, "limited in area" may mean an area greater than the general recommendations above (Section 2.3.1.1). When calculating the area for *agri-tourism uses* such as wagon rides or corn mazes, lands producing a harvestable crop are *agricultural uses* that are not included in area calculations. However, areas such as playgrounds and loading areas for hayrides should be included.

If more than one *on-farm diversified use* is proposed on a single property, the combined area of all *on-farm diversified uses* should be within the above area and lot coverage guidelines.

If the area of a proposed *on-farm diversified use* exceeds the recommended area thresholds in these guidelines, give consideration to PPS Policy 2.3.6 on non-agricultural uses in the *prime agricultural areas*. *On-farm diversified uses* that are proposed to grow beyond the area limits, either incrementally or otherwise, are not supported.

Since the PPS requires *settlement areas* to be the focus of growth and *development*, large-scale industrial and commercial buildings appropriate in *settlement areas* (due to servicing, accessibility, etc.) are not permitted in *prime agricultural areas*. It is recommended that the gross floor area of buildings for *on-farm diversified uses* be capped at a scale appropriate to *prime agricultural areas*. Municipalities may set the building size cap based on a maximum lot coverage ratio (i.e., proportion of the 2% of the property that may be used for *on-farm*

diversified uses to be covered by buildings).⁵ Alternatively, municipalities may define maximum gross floor area limits numerically (e.g., maximum gross floor area for properties 15–20 ha is 600 m², and so on for different sized properties). Regardless of how the cap is set, the area of existing buildings, should not be discounted when calculating the gross floor area of buildings for *on-farm diversified uses*.

Recommended Area Calculations for On-Farm Diversified Uses

- existing laneways shared between *agricultural uses* and *on-farm diversified uses* are not counted
- area of **existing** buildings or structures, built prior to April 30, 2014, occupied by *on-farm diversified uses* is discounted (e.g., 50%)
- area of **new** buildings, structures, setbacks, outdoor storage, landscaped areas, berms, laneways, parking, etc. are counted at 100%
- *on-farm diversified uses* may occupy no more than 2% of the property on which the uses are located, to a maximum of 1 ha
- the gross floor area of buildings used for *on-farm diversified uses* is limited (e.g., 20% of the 2%)

- 4. Includes, but is not limited to, home occupations, home industries, *agri-tourism uses* and uses that produce value-added agricultural products.**
(from the PPS definition of *on-farm diversified uses*)

The PPS definition provides a number of examples of *on-farm diversified uses*. Beyond these examples, other uses may also be suitable, subject to meeting all PPS criteria.

The PPS language related to uses that are not related to agriculture (i.e., home occupations, home industries), suggests that in *prime agricultural areas*, these operations must be at a reasonable scale, as discussed under the “secondary to…” and “limited in area” criteria.

Municipalities may wish to encourage *on-farm diversified uses* that relate to agriculture (e.g., *agri-tourism* and value-added uses) by streamlining approvals for these uses.

- 5. Shall be compatible with, and shall not hinder, surrounding agricultural operations.**
(from PPS Policy 2.3.3.1)

Refer to the discussion of this policy under *agriculture-related uses* (Section 2.2) as it applies equally to *on-farm diversified uses*. Some uses that meet other *on-farm diversified uses* criteria may not meet the compatibility criterion. For example, uses that attract large numbers of people onto the farm for non-farm events or for recreational purposes could result in soil compaction on the farm itself, excessive noise and trespass issues that may be incompatible with surrounding agricultural operations. Commercial or industrial uses that have a large number of employees or attract a large number of customers may also not be compatible in the *prime agricultural area*. In addition, some uses may be better suited to *settlement areas* where municipal services are available (PPS Policy 1.6.6). Municipalities should consider how effectively any impacts can be mitigated before allowing different uses in *prime agricultural areas*.

⁵ Maximum lot coverage ratios for rural commercial or rural industrial lots might provide a useful perspective in setting the cap on gross floor area for buildings used for *on-farm diversified uses*. For example, if the maximum lot coverage ratio for rural commercial or rural industrial lots is 30%, the appropriate ratio for the *on-farm diversified uses* portion of the farm might be lower given the agricultural setting (e.g., 20% of the 2%).

Compatibility Considerations

- does not hinder surrounding agricultural operations
- appropriate to available rural services and *infrastructure*
- maintains the agricultural/rural character of the area
- meets all applicable environmental standards
- cumulative impact of multiple uses in *prime agricultural areas* is limited and does not undermine the agricultural nature of the area

Nano or micro-breweries and small distilleries may fit the definition of *on-farm diversified uses* if they are able to meet all PPS criteria for that category of uses. However, these uses should be appropriate to available rural water and wastewater services. High water use/effluent generation operations are generally inappropriate in *prime agricultural areas* and may require capacity beyond what is available on the site. The appropriate scale to qualify as an *on-farm diversified use* needs to be assessed on a case-by-case basis.

In *prime agricultural areas* with multiple *on-farm diversified uses* on several farms, the collective impact of these uses should be limited and not undermine the agricultural nature of the area or the health of the environment. Whether a proposed new *on-farm diversified use* is compatible depends on other uses in the area and how the area would be affected by all of these uses.

2.3.2 Examples of On-Farm Diversified Uses

Figure 3 provides examples of the uses that could be classified as *on-farm diversified uses* if they meet all the PPS criteria.

Veterinary Clinics

Veterinarians who treat farm animals are usually based out of mixed animal clinics and provide mobile veterinary services. Mixed animal clinics are often located within *settlement areas*, but they could be *on-farm diversified uses* if all PPS criteria can be met.

Besides these examples, uses that share some characteristics with *agriculture-related uses* but that do not meet all of the criteria for *agriculture-related uses* (e.g., primarily provide products or services to agriculture in the area), could qualify as *on-farm diversified uses*. Storage for non-regional agricultural products is an example.



Value-added uses that could use feedstock from outside the surrounding agricultural area (e.g., processor, packager, winery, cheese factory, bakery, abattoir)



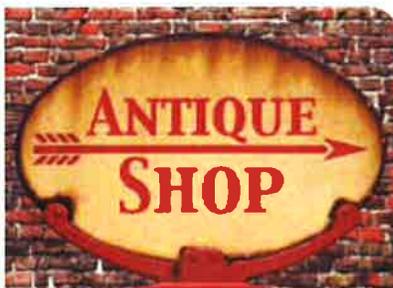
Home occupations (e.g., professional office, bookkeeper, land surveyor, art studio, hairdresser, massage therapist, daycare, veterinary clinic, kennel, classes or workshops)*



Home industries (e.g., sawmill, welding or woodworking shop, manufacturing/fabrication, equipment repair, seasonal storage of boats or trailers)



Agri-tourism and recreation uses (e.g., farm vacation suite, bed and breakfast, hay rides, petting zoo, farm-themed playground, horse trail rides, corn maze, seasonal events, equine events, wine tasting, retreats, zip lines)*



Retail uses (e.g., farm market, antique business, seed supplier, tack shop)*



Café/small restaurant, cooking classes, food store (e.g., cheese, ice cream)*

Figure 3. Examples of *on-farm diversified* uses provided all PPS criteria are met.

* Source: Shutterstock

2.3.3 Examples of Uses that Would Typically Not be On-Farm Diversified Uses

Examples of uses that would typically NOT be *on-farm diversified* uses because they would not meet PPS definitions or criteria include:

- large-scale equipment or vehicle dealerships, hotels, landscape businesses, manufacturing plants, trucking yards
- uses with high water and sewage needs and/or that generate significant traffic, such as large food processors, distribution centres, full-scale restaurants, banquet halls
- large-scale recurring events with permanent structures
- institutional uses (e.g., churches, schools, nursing homes, cemeteries)⁶
- large-scale recreational facilities such as golf courses, soccer fields, ball diamonds or arenas

⁶ Churches, schools and cemeteries that serve communities reliant on horse-drawn vehicles as a primary means of transportation may be limited non-residential uses, as discussed in Section 3.2 of these guidelines. The MDS Implementation Guidelines include a special provision for these types of uses.

2.4 Categories of Permitted Uses

Categorizing a use as an *agricultural*, *agriculture-related* or *on-farm diversified use* depends on a number of considerations. These include where the use is located (farm/off-farm), if it is used primarily for the farm operation on which it is located and if it services farm operations in the area. For example, a grain dryer would be an *agricultural use* if it dries grain primarily produced on the farm where it is located. A grain dryer used to dry and store grain from multiple farms in the area could be an *agriculture-related use*.

In terms of the scale of the operation, *agricultural uses* and *agriculture-related uses* do not have specific size limits, but their scale may be affected by servicing and other compatibility considerations. *On-farm diversified uses* must be secondary to the principal *agricultural use* of the property and limited in area according to the PPS policy criteria. *Agriculture-related* and *on-farm diversified uses* must be compatible with and shall not hinder surrounding agricultural operations.

Table 2 provides examples of uses and when they are permitted as *agricultural uses*, *agriculture-related uses* or *on-farm diversified uses*. These examples are not necessarily the same as those provided in Figures 1, 2 or 3. Together, all of the examples in these guidelines help to identify the many situations that may arise.

It is important to consider that uses may begin as one type of use and evolve into another over time. If this happens, the criteria for the new category of permitted uses would need to be met. For example, if the operator of an *agriculture-related use* wishes to expand their business, the municipality may need to consider who the business is serving and may serve in the future. If the expanded use would not meet all PPS criteria, the operator may need to consider a location outside of the *prime agricultural area* in order to expand.

Table 2. Categories of uses permitted in *prime agricultural areas* provided all PPS criteria are met

Type of Use	Agricultural Use	Agriculture-Related Use	On-Farm Diversified Use
	Growing of crops or raising of animals; includes associated on-farm buildings and structures; all types, sizes and intensities; <i>normal farm practices</i> are promoted and protected	May or may not be on a farm; farm-related commercial or industrial use; compatible with surrounding agricultural operations; directly related to farms in the area; supports agriculture, provides products or services to farms; benefits from proximity to farms	On a farm; secondary use; limited in area; includes, but is not limited to, home occupations, home industries, <i>agri-tourism uses</i> and value-added uses; compatible with surrounding agricultural operations
Greenhouse	Yes For growing plants	Yes For retailing plants grown in the area	Yes For growing or retailing plants or a variety of non-plant items
Value-retention of farm products (e.g., grain drying, cold storage, grading, maple sap evaporating)	Yes Primarily for products produced on own farm	Yes Would service farms in the area	Yes No restriction on products or where they are from
Accommodation for full-time farm labour	Yes On-farm housing for own workers	No	Yes Could house workers from own or neighbouring farms
Value-added process (e.g., food processing)	No	Yes Could do value-added processing of farm products grown in the area	Yes No restriction on what could be processed or its origin
Pick-your-own operation (with associated uses)	Yes Includes harvesting of crops	Yes Could include retailing of farm products grown in the area (e.g., farm stand)	Yes Could include retailing of products grown beyond the area or unrelated to agriculture, as well as visitor amenities (e.g., playground)

Type of Use	Agricultural Use	Agriculture-Related Use	On-Farm Diversified Use
	Growing of crops or raising of animals; includes associated on-farm buildings and structures; all types, sizes and intensities; <i>normal farm practices</i> are promoted and protected	May or may not be on a farm; farm-related commercial or industrial use; compatible with surrounding agricultural operations; directly related to farms in the area; supports agriculture, provides products or services to farms; benefits from proximity to farms	On a farm; secondary use; limited in area; includes, but is not limited to, home occupations, home industries, <i>agri-tourism uses</i> and value-added uses; compatible with surrounding agricultural operations
Winery, cidery, meadery	No	Yes Fruit or honey used is primarily from farms in the area; could include tasting and retailing; appropriate servicing (water and wastewater) must be available ⁷	Yes No restriction on where fruit or honey is produced; may include other permitted uses (e.g., tasting and retailing); appropriate servicing (water and wastewater) must be available ⁷
Small-scale micro-brewery, distillery	No	No Unless agricultural products from the area (e.g., grains) are the main input and appropriate servicing (water and wastewater) are available ⁷	Yes Appropriate servicing (water and wastewater) must be available ⁷
Agri-tourism venture (e.g., bed and breakfasts, playgrounds, hayrides, corn mazes, haunted barns)	No	No	Yes⁸
Home occupation	No	No Unless it primarily provides products or services to farms in the area (e.g., farm business advisor)	Yes All types
Commercial use	No	Yes Must provide products or services to farms in the area	Yes All types that are appropriate in <i>prime agricultural areas</i>

⁷ High water uses/effluent generators should be on full municipal services.

⁸ Area limits, rural servicing and building code requirements may restrict uses such as large wedding and banquet facilities.

Type of Use	Agricultural Use	Agriculture-Related Use	On-Farm Diversified Use
	Growing of crops or raising of animals; includes associated on-farm buildings and structures; all types, sizes and intensities; <i>normal farm practices</i> are promoted and protected	May or may not be on a farm; farm-related commercial or industrial use; compatible with surrounding agricultural operations; directly related to farms in the area; supports agriculture, provides products or services to farms; benefits from proximity to farms	On a farm; secondary use; limited in area; includes, but is not limited to, home occupations, home industries, <i>agri-tourism uses</i> and value-added uses; compatible with surrounding agricultural operations
Landscaping business	No	No	Yes
Industrial use	No	Yes Must support farms in the area	Yes All types that are appropriate in <i>prime agricultural areas</i>
Machine repair shop	Yes For own use	Yes Must support agriculture in the area	Yes All types that are appropriate in <i>prime agricultural areas</i>
Agricultural research and training centre (i.e., government or associated with an academic institution)	Yes The growing of crops or raising of animals would need to be the primary activity	Yes Would need to provide products or services to farms in the area as a primary activity	Yes
Veterinary clinic	No	No	Yes Mixed or small animal clinic
OTHER USES			
Renewable energy facilities under the Green Energy Act, 2009 (e.g., solar, wind, biogas)	These uses fall under the <i>Green Energy Act, 2009</i> , and do not need approval under the <i>Planning Act, 1990</i> . See Section 4.1 #5		
Mobile/non-stationary use (e.g., cider press, pelletizer, hoof trimmer, seed cleaner)	These uses do not require a building permit or land use change under the <i>Planning Act, 1990</i> . If they are <i>normal farm practices</i> , they are promoted and protected in <i>prime agricultural areas</i> .		

PART EAST 1/2 LOT 6, CONCESSION 4 (NG)
PART WEST 1/2 LOT 6, CONCESSION 4 (NG).
PART LOTS 7 & 8, CONCESSION 4 (NG)

TOWN OF GEORGINA
REGIONAL MUNICIPALITY OF YORK
FORMERLY TOWNSHIP OF NORTH GWILLIMBURY
COUNTY OF YORK

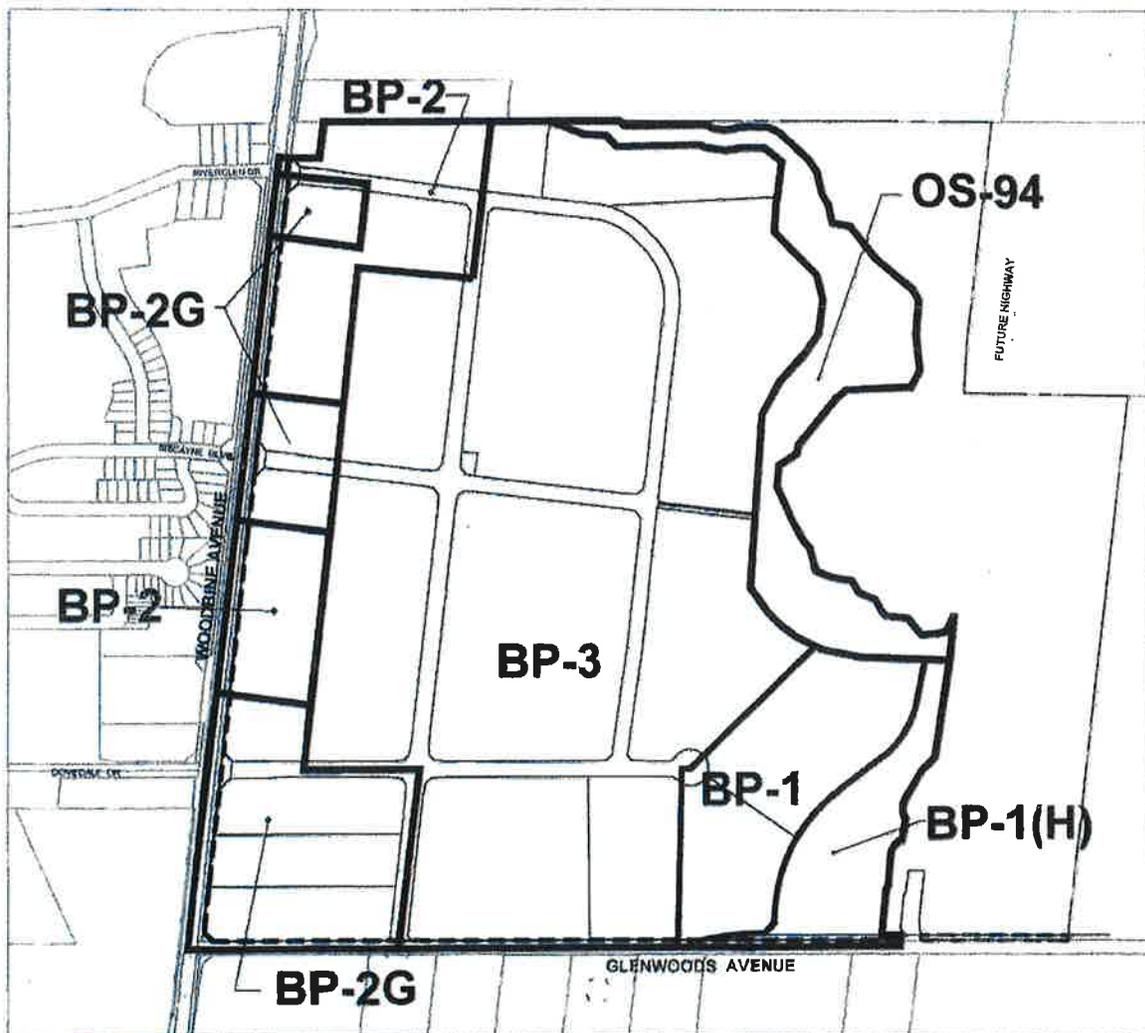
THIS IS SCHEDULE 'A' TO
BYLAW 2016-0037 (PL-5)

PASSED THIS 11 DAY OF

May 2016

John Espinosa
CLERK

Tom Duck
MAYOR



SCHEDULE 'A' TO BY-LAW 2016-0037 (PL-5)



JURISDICTIONAL SCAN OF CANNABIS PRODUCTION FACILITY ZONING

Municipality	Permitted Zone(s)	Use(s)	Specific Provisions/Comments
Newmarket	N/A	N/A	<ul style="list-style-type: none"> Not permitted as-of-right; site-specific ZBA required.
Aurora	Employment Business Park	Medical Marihuana Production Use	<ul style="list-style-type: none"> Defined 'Medical Marihuana Production Use' and created specific zoning requirements. Minimum separation distance of 150m, measured from lot line to lot line, from any zone other than Employment Business Park, other medical marihuana production uses, and sensitive land uses (dwellings, long term care facilities, schools, nurseries, community centres, parks, places of worship and hospitals). No other use shall be permitted on a lot which contains a medical marihuana production use. Retail and advertising prohibited. Use must be wholly contained within an enclosed building, including loading spaces. No outdoor storage of goods or materials.
King	Rural General	Agricultural Cannabis Production Facility and Medical Cannabis Production Site	<ul style="list-style-type: none"> Created three new uses with slight differences: <ul style="list-style-type: none"> Industrial Cannabis Processing Facility – producing, processing, testing, destroying, packaging and/or shipping of cannabis authorized by a licence issued by the federal gov't (i.e. commercial production). Agricultural Cannabis Production Facility – growing and destroying of cannabis as authorized by a licence issued by the federal gov't (i.e. commercial production). Medical Cannabis Production Site - producing, processing, testing, destroying, packaging and/or shipping of cannabis authorized by registration of a designated person (i.e. designated person). Have defined 'Sensitive Land Use' and 'Air Treatment Control'. Indoor facilities require air treatment control and setback of 150m from sensitive land use and residential, institutional or open space zone. Outdoor growing is permitted in rural areas but must be set back 500m from sensitive land use and residential, institutional or open space zone. Indoor facility must be in detached building with no other uses. Parking requirement of 1 space for every 37m² of gross floor area up to 3,000m², plus 1 for each additional 100m² of gross floor area up to 6,000m² and 1 space for each additional 200m² over 6,000m². Holding (H) zone has been placed on facilities in industrial zones until proponent demonstrates compliance with the <i>Environmental Protection Act</i>. No minor variances permitted from the COA. SPC required in both rural and industrial zones.
	General Industrial and Employment General	Industrial Cannabis Processing Facility, Agricultural Cannabis Production Facility and Medical Cannabis Production Site	

Municipality	Permitted Zone(s)	Use(s)	Specific Provisions/Comments
Richmond Hill	Industrial Class 1, Industrial Class 2, High Performance Industrial, General Industrial and High Performance Commercial Industrial	Medical Marihuana Production Facility	<ul style="list-style-type: none"> Defined 'Medical Marihuana Production Facility' and 'Sensitive Land Use' and created specific zoning provisions. Minimum separation distance of 70m, measured from lot line to lot line, from sensitive land uses. Not permitted in a dwelling unit. Not permitted to front on an arterial road. No other uses permitted on the same lot. Indoor facilities only Loading spaces located wholly within a building.
East Gwillimbury	Employment Prestige and Employment General	Medical Marihuana Production Facility	<ul style="list-style-type: none"> Defined a 'Medical Marihuana Production Facility' and created specific zoning requirements. Indoor facilities only Prohibited in dwelling units. Minimum separation distance of 70m, measured from lot line to lot line, from community centres, childcare centres, dwelling units in any zone, parks, and schools. No store fronts or onsite retail, outdoor signage or advertising, or outdoor storage or accessory uses.
Markham	Various Industrial Zones	Industrial Use	<ul style="list-style-type: none"> Markham has over 40 zoning by-laws and have taken the position that cannabis production facilities are an industrial use (indoor facilities only). Utilize existing industrial zoning provisions. Cannabis cultivation or processing in agricultural zones is not permitted. Currently undertaking a city-wide by-law consolidation project. As part of this project, Markham is proposing to define and add specific provisions related to cannabis production facilities.
Whitchurch-Stouffville	N/A	N/A	<ul style="list-style-type: none"> Not permitted as-of-right; site-specific ZBA required.
Vaughan	Open Space Commercial, Parkway Belt and Agricultural Five different industrial zones	Agricultural and Oak Ridges Moraine Agricultural Employment use and Industrial use	<ul style="list-style-type: none"> Cultivation of cannabis is permitted as an agricultural use. Utilize existing zoning provisions for agricultural use. Cultivation and processing of cannabis is permitted as employment and industrial uses. Utilize existing zoning provisions for employment and industrial uses.
Barrie	General Industrial	Cannabis Production Facility	<ul style="list-style-type: none"> Currently the zoning by-law defines a 'Medical Marihuana Facility'. Earlier this Year Council approved a general ZBA to replace the term 'Medical Marihuana Facility' with 'Cannabis Production Facility'. Utilize existing general industrial zone provisions (indoor facilities only). Parking standard for of 1 space per 70m² of gross floor area.
Bradford West Gwillimbury	Industrial/ Employment Areas Rural	Industrial Agricultural	<ul style="list-style-type: none"> Utilize existing provisions for industrial use to permit the cultivation and processing of cannabis in industrial areas (indoor facilities only). Utilize existing provisions for agricultural use to permit the cultivation of cannabis in agricultural areas.

Municipality	Permitted Zone(s)	Use(s)	Specific Provisions/Comments
			<ul style="list-style-type: none"> An ICB is in force and effect to prevent micro-cultivation on RU lands.
Hamilton	Industrial zones	Agricultural Processing Establishment – Stand alone, Agriculture, and Cannabis Growing and Harvesting Facility	<ul style="list-style-type: none"> Created two new uses and amended definition of 'Agriculture': <ul style="list-style-type: none"> Agricultural Processing Establishment – new use permits the processing of cannabis products. Agriculture – amended to permit cannabis growing and harvesting facility (CGHF). CGHF – new use permits wholly enclosed building used for growing, harvesting, testing, destroying, packaging and shipping of cannabis (i.e. indoor facilities only). 150m setback for a CGHF from any portion of a lot line abutting a res., institutional, comm. and mixed-use zone No outdoor storage or assembly in industrial zones As an agricultural use, new buildings for CGHF shall not exceed 2,000m²; however existing buildings may also be utilized. Testing, packaging, and shipping are accessory uses to the agricultural use.
	Rural and Agricultural Zone		
Pickering	Rural Agricultural	Agricultural	<ul style="list-style-type: none"> Utilizing existing industrial and agricultural zoning provisions. Cultivation, production, processing, packaging and distributing all permitted in industrial zone. Cultivation and limited processing (i.e. trimming and drying) permitted in the agricultural zone. However, processing cannabis in order to create a product (i.e. oils and edibles) would not be permitted in agricultural zone. Have just initiated a comprehensive review of their zoning by-laws for consolidation and through that process, specific provisions addressing cannabis will be included.
	Storage and Light Manufacturing	Light Manufacturing Plant	
Caledon	Prestige Industrial and Serviced Industrial	Cannabis Production Facility	<ul style="list-style-type: none"> Defined 'Cannabis Production Facility'. Indoor facilities only. Cannabis Production Facility shall be at least 150m from: <ul style="list-style-type: none"> A lot in a: <ul style="list-style-type: none"> Residential or institutional zone A lot within lands identified as Villages, Hamlets and Palgrave Estate Residential Community in the OP A lot containing a: <ul style="list-style-type: none"> School, day nursery or community centre No outdoor signage, advertising or open storage. Loading spaces shall be within rear yard or wholly enclosed
Mississauga	Employment in Nodes and Employment and Industrial	Medicinal Product Manufacturing Facility	<ul style="list-style-type: none"> Defined 'Medicinal Product Manufacturing Facility'. Utilize existing employment area zoning provisions. Only provision specific to 'Medicinal Product Manufacturing Facility' is that the use must be wholly contained within a building or structure.
Scugog	Prestige Industrial and General Industrial	Manufacturing, Processing, Assembly or Fabrication Plant	<ul style="list-style-type: none"> Utilize existing agricultural and industrial zoning provisions. Cultivation permitted in agricultural zone. Only small-scale accessory processing activities permitted in agricultural zone.

Municipality	Permitted Zone(s)	Use(s)	Specific Provisions/Comments
	Agricultural	Agricultural	<ul style="list-style-type: none"> • Cultivation and processing permitted in industrial zones. • Have hired MHBC to conduct a planning study related to these facilities. Background report went to Council in Sept 2018. Tentatively scheduled to return to Council in Nov 2019.
Fort Erie	Rural, Agricultural, Existing Open Space Industrial and Prestige Industrial	Medical Marihuana Grow and Production Facilities and Agricultural	<ul style="list-style-type: none"> • Defined 'Medical Marihuana Grow and Production Facilities' and amended definition of agricultural use to include Medical Marihuana Grow and Production Facilities. • Indoor facilities only. • Minimum lot size of 2 ha, maximum lot coverage of 60%. • Where a yard abuts a residential zone, residential use or other sensitive land use, a minimum setback of 70m is required. • Outside storage of goods, materials or supplies is not permitted. • Maximum floor area permitted to be devoted to processing and packaging is 20% of the operation. • Where a building consists of more than 40% glass, and where artificial lighting is required, a closed wood board on board or composite/vinyl fence shall be provided and maintained adjacent to every portion of any lot line that abuts a residential zone, residential use or other sensitive land use. • 1 parking space for every 100m² of gross floor area or every 2 employees, whichever is the greater.
Norfolk	General Industrial, Light Industrial, Rural Industrial, Agricultural	Cannabis Production and Processing	<ul style="list-style-type: none"> • Defined 'Cannabis Production and Processing' (CPP) and 'Air Treatment Control System' (ATCS). • Amended the definition of farm, garden centre, and wholesale outlet to specifically exclude a CPP use. • CPP building which contains an air treatment control system (ATCS) and is in an industrial zone cannot be located closer than: <ul style="list-style-type: none"> • 70m to any res., institutional, or open space zone. • 150m to any dwelling, school, place of worship, or day care nursery. • CPP building which contains an ATCS and is in an agricultural zone cannot be located closer than: <ul style="list-style-type: none"> • 150m to any res., institutional, or open space zone. • 150m to any dwelling, school, place of worship, or day care nursery. • CPP building which does not contain an ATCS and is in an Agricultural or industrial zone cannot be located closer than 300m to any dwelling, school, place of worship, or day care nursery. • Security building can be located in front yard and does not have to comply with setbacks. • Outdoor storage is prohibited. • Parking requirement of 1 space / 90 m² of useable floor area.

Municipality	Permitted Zone(s)	Use(s)	Specific Provisions/Comments
West Lincoln	N/A	Cannabis Production	<ul style="list-style-type: none"> • Defined 'Cannabis Production' and created specific provisions but did not permit it in any zone as-of-right; site-specific ZBA required. • No outside storage or outdoor growing or production permitted • Where permitted in agricultural zones by way of ZBA, 150m setback from all lot lines is required. • Where permitted in employment zones by way of ZBA, 45m setback from all lot lines abutting lots which are use or may be permitted to be used for a dwelling or an institutional use. • 1.8m high security fence required around the perimeter of the area of the lot used for the facility.
Kawartha Lakes	General Employment	Manufacturing and Processing Use	<ul style="list-style-type: none"> • Utilize existing general employment zoning provisions. • Indoors facilities only.
Peterborough	Industrial District	Assembly, Manufacturing, Processing, Nursery Greenhouse	<ul style="list-style-type: none"> • Utilize existing industrial zoning provisions. • Indoor facilities only.
Clarington	Light Industrial and General Industrial	Assembly, Manufacturing, Fabricating or Processing Plant within a Wholly Enclosed Building	<ul style="list-style-type: none"> • Utilize existing industrial zone provisions. • Indoor facilities only.
Tay	General Industrial	Marihuana/Cannabis Production Facility	<ul style="list-style-type: none"> • Defined 'Marihuana/Cannabis Production Facility'. • Utilize existing Industrial zoning provisions. • Indoor facilities only.
Severn	Light Industrial and General Industrial	Greenhouse	<ul style="list-style-type: none"> • Utilize existing zoning provisions that apply to a greenhouse. • Indoor facilities only.

MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

Excerpt from "The Farming and Food Production Protection Act (FFPPA) and Nuisance Complaints" webpage

Definition of an Agricultural Operation

The FFPPA broadened the definition of an agricultural operation to an: "agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward".

Examples listed in the Act include:

- draining, irrigating or cultivating land
- growing, producing or raising
 - livestock, poultry and ratites
 - fur-bearing animals
 - bees
 - cultured fish
 - deer and elk
 - game animals and birds, or
 - any additional animals, birds or fish prescribed by the minister
- the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass, and any additional agricultural crops prescribed by the minister
- the production of eggs, cream and milk
- the operation of agricultural machinery and equipment
- the application of fertilizers, soil conditioners and pesticides
- ground and aerial spraying
- the storage, handling or use of organic wastes for farm purposes
- the processing by a farmer of the products produced primarily from the farmer's agricultural operation
- activities that are a necessary but ancillary part of an agricultural operation such as the movement of transport vehicles for the purposes of the agricultural operation, and
- any other agricultural activity prescribed by the minister conducted on, in or over agricultural land.

What Is Normal Farm Practice?

The Act defines a normal farm practice as one which:

- a. "is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or
- b. makes use of innovative technology in a manner consistent with proper advanced farm management practices".

Some believe normal farm practice means 'customarily' or 'commonly done'. However, just because something is commonly done, does not make it normal. The real question is, 'Would a farmer with average, to above average, management skills use this same practice on his/her farm under the same circumstances?'

What is normal, or not, varies depending on location, type of farm, method of operation, and timing of the farm practice. Normal is site specific for a given set of circumstances, and may change over time.

Under the Nutrient Management Act, 2002 (NMA) any practice that is consistent with a regulation made under the NMA is a normal farm practice. Similarly, any practice, which is inconsistent with the NMA regulation, is not a normal farm practice.

Normal Farm Practices Protection Board (NFPPB)

The FFPPA established the Normal Farm Practices Protection Board (NFPPB) to hear from parties involved in formal complaints that cannot be resolved through mediation efforts. In other words, holding a hearing with the NFPPB is to be used as a last resort. The NFPPB then conducts a hearing to determine if the disturbance causing the complaint results from a normal farm practice.

The very existence of the board aids in resolving nuisance issues. For those issues that cannot be resolved through local mediation, the board provides a less expensive and quicker forum for complaint resolution than the courts.

In coming to a decision, the NFPPB hears from the parties involved and considers the relevant sections in the Act. The NFPPB: "may appoint one or more persons having technical or special knowledge of any matter before the Board to assist it in any capacity in respect of that matter".

'Experts' must be summonsed by the NFPPB to ensure that they appear at a hearing. Each affected party can also call witnesses to speak on their behalf. The affected parties and experts may offer their opinions about whether a particular farm practice is normal. However, only the NFPPB can render a legal decision concerning a normal farm practice for that location, farm type, method of operation, and timing of farm practice.

For example, consider a hearing about noise from equipment used to scare birds away from vineyards. The NFPPB might decide that it was normal to use this equipment:

- in a location where few, if any, neighbours lived nearby, but not normal if there were many residences nearby

- in a vineyard in the Region of Niagara, but not normal if used to scare coyotes from sheep pastures in Bruce County
- with a method of operation using automatic shutoff switches, but not normal using manual shutoff switches
- when bird pressure was greatest during the timing of early morning and late afternoon, but not normal during the middle of the day during hot weather when birds eat less frequently.

Decisions by the NFPPB must be consistent with any directives, guidelines or policy statements issued by the Minister of Agriculture and Food in relation to agricultural operations or normal farm practices.

The NFPPB consists of at least 5 members appointed by the minister. The minister also appoints the chair and vice-chair. NFPPB members serve for 3 years, but can be re-appointed for a maximum of 3 more. Members include respected farm peers from across the province, engaged in many types of farming. The chair or vice-chair plus 2 other members constitute a panel for hearings. The board tries to hold its hearings in the counties or regions where the cases originate. To avoid conflict of interest, panel members for a particular hearing are always selected from geographic areas away from the case.

Seven Nuisances Outlined in the FFPPA

The new legislation added light, vibration, smoke and flies to the previous list of noise, odour and dust as disturbances for which farmers are not liable, provided these disturbances result from normal farm practices.

The bulk of farm nuisance complaints are about odours emanating from manure handling and storage. However, examples of other nuisance complaints might include:

- light from greenhouses at night, or farm equipment used at night
- vibration from trucks, fans, or boilers
- smoke from burning tree prunings, or other organic wastes
- flies from manure, or spilled feed
- noise from crop drying fans, or irrigation pumps, and
- dust from field tillage equipment, or truck traffic.

Nuisance issues do not include activities that could be harmful or dangerous to people or the environment. These activities are covered under other legislation.

By-Law Issues

The FFPPA states that "No municipal by-law applies to restrict a normal farm practice carried on as a part of an agricultural operation." A farmer who feels that a municipal by-law is restricting his/her normal farm practice may apply to the board for a hearing. The board will determine if the practice restricted by the by-law is a normal farm practice. If it is, then, under the FFPPA, the by-law does not apply to that practice at

that location. The board cannot strike down the by-law. It can only rule on whether or not the practice under consideration is a normal farm practice, at that location and under those particular circumstances.

A farmer who is planning to engage in a normal farm practice restricted by a municipal by-law can also use the legislation. For the board to hear his/her case, the farmer would have to prove that he/she is planning to implement the normal farm practice.

When a hearing is to be held, anyone who owns property within 120 m of the site of the farm practice is entitled to be notified of the hearing and to participate in it. This applies only in by-law cases.

What the FFPPA Does Not Do

The FFPPA is intended to ensure that farmers can carry out normal farm practices knowing that there is legislation to protect them against nuisance complaints. It does not mean that they will not get complaints. It also does not give farmers the right to pollute, or to violate the:

- Environmental Protection Act
- Pesticides Act
- Ontario Water Resources Act.

The FFPPA has sometimes been incorrectly referred to as the 'Right to Farm Act'. This gives the connotation that farmers can do whatever they wish on their own property, regardless of the consequences. This is not the case. Farmers are protected from liability concerning a nuisance only when the activity causing the nuisance is a normal farm practice. At the same time, this legislation does not prevent anyone from pursuing an injunction against a farmer charged under another Act.

Source: Ministry of Agriculture, Food and Rural Affairs website. The Farming and Food Production Protection Act (FFPPA) and Nuisance Complaints webpage:
<http://www.omafra.gov.on.ca/english/engineer/facts/05-013.htm>

Tolek Makarewicz

From: Hilborn, Vicki (OMAFRA) <Vicki.Hilborn@ontario.ca>
Sent: August-22-19 9:55 AM
To: Tolek Makarewicz
Subject: RE: Cannabis odours - who to file a complaint with?

Hi Tolek,

I completely understand the confusion. We are in a tricky time right now and it can be complex. Cannabis production is somewhat unique as it can occur in urban areas, but looks/acts like agriculture. I have attempted to summarize the roles of each agency below. Please understand, the general approach to responding to cannabis production nuisances (i.e. odour, light, dust) may change over time and none of these approaches have been tested at the NFFPB or in courts.

Normal Farm Practices Protection Board (NFFPB) is an independent body, but it is administered through OMAFRA. Before a hearing can be held in front of the NFFPB, OMAFRA's local engineers and environmental specialists attempt conflict resolution. Typically, NFFPB responds to complaints related to sites zoned agriculture where the permitted uses include agriculture. Ultimately, only the NFFPB can decide if it has jurisdiction for a particular case.

MECP manages nuisance complaints for non-agriculture operations (urban, industrial etc.).

Indoor licenced cannabis operations are required to follow specific odour requirements as per the federal cannabis regulations.

Municipalities responds if there is a local odour bylaws. As you know, most municipalities only have odour bylaws in urban areas. However, if the bylaw is seen to infringe on "normal farm practices", an agricultural operation can request a hearing with the NFFPB.

Overall (again might change):

- Health Canada is the lead agency for enforcing requirements for cannabis production. Where appropriate, they should have an opportunity to respond.
- Municipalities can react based on their bylaws. This approach hasn't been tested in NFFPB/courts related to cannabis.
- NFFPB responds to concerns about cannabis producers in agricultural areas. OMAFRA provides conflict resolution (where appropriate) before the case is heard at the NFFPB. We will ask a person with concerns about a licenced producer to contact Health Canada first. To date, there has been no orders from the NFFPB related to cannabis and the jurisdiction of the board is still unclear.
- MECP responds to concerns in non-agricultural areas.

Thanks,
Vicki Hilborn, MAsc, PEng (she/her)
A/Engineering Program Coordinator
226-919-8492 (cell)

Report # DS-2019-0100
Attachment 10
Page 1 of 1