

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. DS-2019-0149**

**FOR THE CONSIDERATION OF  
COUNCIL  
DECEMBER 11, 2019**

**SUBJECT: CANNABIS PRODUCTION FACILITIES DRAFT ZONING BY-LAW  
AMENDMENT  
PLANNING DIVISION FILE: 05.258**

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**1. RECOMMENDATION:**

- 1. That Council receive Report No. DS-2019-0149 prepared by the Planning Division, Development Services Department dated December 11, 2019 respecting a draft zoning by-law for cannabis production facilities.**
- 2. That Planning staff be directed to initiate a general zoning by-law amendment as it relates to cannabis production facilities.**

**2. PURPOSE:**

The purpose of this report is to:

- 1. Present Council with a draft zoning by-law amendment (ZBA) dealing with cannabis production facilities (CPFs); and,**
- 2. Request that Council direct staff to undertake a general ZBA process, including the scheduling of a Statutory Public Meeting and releasing the draft ZBA provided as Attachment 1 to the public, internal departments and external agencies for review and comment.**

**3. BACKGROUND:**

On September 18, 2019, Council considered Report No. DS-2019-0100 respecting a Cannabis Production Facilities Land Use Planning Study in response to Interim Control By-law No. 2019-0003 (PL-3). The purpose of the report was three-fold:

- 1. To satisfy Council Resolution No. C-2019-0020 which directed staff to conduct a land use planning study with respect to 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.

Due to the length of the above-noted report, it has not been attached, but instead can be viewed online through the Agendas and Minutes webpage on the Town's website as follows:

- September 18, 2019 Council Meeting Agenda, pages 211 through 284. Link to the agenda: [https://www.georgina.ca/sites/default/files/agendas-and-minutes/2019/september\\_18\\_2019\\_continuous\\_2\\_agenda.pdf](https://www.georgina.ca/sites/default/files/agendas-and-minutes/2019/september_18_2019_continuous_2_agenda.pdf)

Following consideration of the report, Council passed Resolution No. C-2019-0494. Item 2 of the Resolution states:

*"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 or earlier."*

This report, and the draft ZBA provided as Attachment 1, have been prepared to satisfy Item 2. The draft by-law is explained in Section 4.1 below. Item 3 of the Resolution states:

*"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."*

In accordance with Item 3, a by-law to extend interim control for an additional year, to expire on January 16, 2021, was passed by Council on November 13, 2019.

### 3.1 CHANGE IN TERMINOLOGY

Since the last report was considered by Council, staff are utilizing a different terminology as it relates to the two types of CPFs to better reflect the Cannabis Act. In this regard, what was previously referred to as a '**commercial cannabis production facility**' is now referred to as a '**licensed cannabis production facility**', and what was previously referred to as a '**medical cannabis production site**' is now referred to as a '**designated cannabis production facility**'.

### 3.2 CANNABIS ACT REQUIREMENTS FOR PRODUCING CANNABIS

This section provides Council with a brief overview of the pertinent requirements contained in the Cannabis Act and Regulation as it relates to producing cannabis.

Cannabis may be produced three ways:

1. In accordance with a licence issued by Health Canada – this can be for recreational or medical purposes depending on the license(s) obtained. A facility which has obtained a Health Canada licence will be referred to as a **licensed cannabis production facility**.
2. In accordance with a registration certificate issued by Health Canada for a registered person or a designated person – this is for medical purposes only. A facility being operated by a designated person will be referred to as a **designated cannabis production facility**.
3. Any adult may grow up to four cannabis plants per household for recreational use.

### 3.2.1 Federal Cannabis Licence Holders –“Licensed Cannabis Production Facilities”

Health Canada is the federal agency responsible for regulating and licensing commercial cannabis production facilities. 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.

#### *Classes of Licences*

The various classes and subclasses of Health Canada licences are provided below:

- Cultivation Licences
  - Subclasses: micro-cultivation, standard cultivation and nursery
- Processing Licences
  - Subclasses: micro-processing and standard processing
- Licence for Sale for Medical Purposes
- Research
- Analytical Testing
- Cannabis Drug Licence
- Industrial Hemp Licence (under the Industrial Hemp Regulations)

Licences may be combined in order to permit a greater range of activities at a given facility.

#### *Requirements of Licensing*

Below is a summary of the various Health Canada requirements for licensed cannabis production facilities:

#### Licensing Process

- New applicants for cultivation, processing and sale for medical purposes licences (if cannabis is to be stored on-site) are required to have a fully built site that meets all the requirements of the Cannabis Regulations at the time of their application.

#### 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.
- Within 30 days after issuance, amendment, suspension, reinstatement or cancellation of a licence, written notice must be provided to the authorities advising of the new status of the licence.

#### Required Staff

- Licence holders must hire several key competent staff members to oversee the operations of the facility. This includes a responsible person, head of security, master grower (for cultivation licence), quality assurance person (for processing licence) and a head of laboratory (for analytical testing licence).

#### Physical Security Measures

- The site and facility is required to be designed in such manner that prevents unauthorized access.
- The site perimeter must contain visual recording devices and an alarm/intrusion detection system that must be monitored at all times.
- Indoor operations and storage areas are 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.

#### 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.
- A licence holder is not permitted to conduct any activity authorized by their licence in a “dwelling-house”<sup>1</sup>.
- Any 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.

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<sup>1</sup> 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”

- Production levels, inventory amounts and sales volume are required to be recorded and reported to Health Canada.

### 3.2.2 Registered and Designated Persons – “Designated 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.

#### *Requirements of Registration Certificate*

Below is a summary of the Health Canada requirements for registered and designated persons:

#### 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 (but not at the same time).

#### 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.

#### Limits on Growing Cannabis

- A designated person may grow cannabis for up to two registration certificates.
- A single site/facility may grow cannabis for up to a maximum of four registration certificates.
- A registered persons is only permitted to grow cannabis permitted under their own registration (i.e. not for anyone else).
- The amount of cannabis plants permitted to be grown under a single registration certificate is based on the quantity of cannabis per day as prescribed by a health care practitioner. This daily quantity is then inserted into a mathematical equation to determine the total cannabis plant yield.

#### Production Site Requirements

- 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.
- There is no requirement for indoor facilities to have air filtration systems.
- Section 326 (1) of the Cannabis Regulations titled “Prohibition – production of plants” states the following:

“An individual who is authorized to produce cannabis plants under this Division must not cultivate, propagate or harvest them:

- a) Indoors and outdoors at the same time; or,
- b) Outdoors if the production site is adjacent to a school, public playground, daycare facility or other public place frequented mainly by individuals under 18 years of age.”

None of the above-noted terms related to b) are defined within the Regulations.

#### 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 or other measures which must implemented.

## 4. **REPORT**

### 4.1 **EXPLANATION OF DRAFT BY-LAW**

The draft ZBA related to cannabis production facilities is provided as Attachment 1.

As discussed in Section 3.2 of this report, federal legislation permits persons to grow up to four cannabis plants per household for personal recreational use. The same federal legislation also permits a person to grow cannabis plants for medical purposes as long as the person has a prescription from a health care practitioner and has registered with Health Canada as a registered person. In order to recognize the supremacy of federal legislation and Charter Rights, the Town Solicitor has advised that the draft zoning by-law should not restrict or regulate registered persons who are permitted to grow cannabis for their own medical purposes or the personal cultivation of cannabis plants as permitted by the Cannabis Act.

The purpose of the draft zoning by-law is to regulate the establishment of licensed cannabis production facilities and designated cannabis production facilities, as defined within the draft by-law. Regulating these facilities through land use zoning control does not infringe upon or conflict with federal legislation or Charter Rights.

#### 4.1.1 Proposed Definitions

The draft zoning by-law defines a 'cannabis production facility, designated' and a 'cannabis production facility, licensed', as follows:

**CANNABIS PRODUCTION FACILITY, DESIGNATED:** means the use of land, buildings or structures for cultivating, propagating, harvesting, drying, storing, destroying, packaging and shipping of cannabis which is authorized by a valid registration certificate of a designated person issued by the Federal Minister of Health, pursuant to the Cannabis Regulations, SOR/2018-144, as amended, under the Cannabis Act, S.C. 2018, c. 16, as amended, or its successor.

**CANNABIS PRODUCTION FACILITY, LICENSED:** means the use of land, buildings or structures for cultivating, propagating, producing, harvesting, drying, processing, research, testing, storing, destroying, packaging, sale for medical purposes, and shipping of cannabis which is authorized by a valid licence issued by the Federal Minister of Health, pursuant to the Cannabis Regulations, SOR/2018-144, as amended, under the Cannabis Act, S.C. 2018, c. 16, as amended, or its successor.

**Staff Comment:** *Both of the above definitions have been created to recognize the various activities permitted in accordance with either a registration certificate of a designated person or a licence as issued by the Federal Minister of Health. In this regard, the use shall only be permitted on a property subject to the operator holding a valid registration certificate or licence and compliance with the zoning by-law.*

*The definition for a licensed CPF references "processing" as a permitted activity. A processing licence, as permitted by the Cannabis Act as of October 17, 2019, includes the ability to create:*

- *Edible cannabis: products containing cannabis that are intended to be consumed in the same manner as food (i.e. eaten or drunk);*
- *Cannabis extracts: products that are produced from cannabis using extraction processing methods or by synthesizing phytocannabinoids; and;*
- *Cannabis topicals: products that include cannabis and that are intended to be used exclusively on external body surfaces (i.e. skin, hair, and nails).*

*Similar to dried recreational cannabis, products containing cannabis are not permitted to be sold directly from the facility to the end-user (i.e. no point of sales). In this respect, the holder of the licence must sell their products to the Alcohol and Gaming Commission of Ontario, who then in turn wholesales the products to the individual approved retailers throughout the province.*

*The definition for a licenced CPF also references "sale for medical purposes" as a permitted activity. A licence for sale for medical purposes permits the sale of cannabis (or products containing cannabis) from the licence holder's facility directly to a*

*registered persons who has registered with Health Canada and the individual company to purchase cannabis for medical purposes. This does not permit point of sales from the facility. All sales for medical purposes must occur online and be shipped directly to the registered person.*

*As per the explanation at the beginning of this section, the definition for a designated cannabis production facility does not reference a “registered person”.*

#### 4.1.2 Zones Proposed to Permit Cannabis Production Facilities

The table below indicates the zone categories in which the two new cannabis production facility uses are proposed to be permitted within, subject to compliance with the non-residential use provisions.

Zone	Designated Cannabis Production Facility	Licensed Cannabis Production Facility
Restricted Industrial (M1)		X
General Industrial (M2)		X
Business Park 3 (BP-3)		X
Rural (RU)	X	X

**Staff Comment:** *Generally speaking, licensed CPFs can be considered a combination of an industrial use and an agricultural use based on the range of activities which could be authorized through federal licensing. This is why the use has been proposed to be permitted within the General Industrial (M1), Restricted Industrial (M2), Business Park 3 (BP-3) and RU zones, subject to compliance with the provisions for each zone as will be discussed below.*

*Designated CPFs on the other hand, are not permitted to undertake the same range of industrial type activities under their registration certificate as licensed CPFs. For example, the range of uses permitted under a registration certificate for a designated person includes cultivating, propagating and harvesting of cannabis. Ancillary activities such as drying, storing, packaging, shipping and the sale of cannabis to the registered person for whom they are growing on behalf of, are also permitted. Further, as noted above, the only persons permitted to undertake the above-noted activities as permitted by a registration certificate are the registered person or the designated person which are referenced on the certificate. For these reasons, staff are of the opinion that these facilities are more akin to an agricultural use and do not have a significant industrial/economic/employment component to warrant permitting them within the industrial zones noted above. In the case of the Keswick Business Park, the argument could also be made that designated CPFs would not be an efficient use of the Town’s supply of serviced industrial lands.*



#### 4.1.3 Proposed Parking Area Regulations

The draft ZBA proposes to amend the parking regulation in Section 5 of ZBL 500 by removing the existing parking requirements for a marihuana production facility and inserting new parking requirements for the two new CPF definitions.

The proposed parking requirements are as follows:

Use	Required Spaces
Cannabis production facility, licensed	2 spaces per 95 sq metres of non-residential floor area
Cannabis production facility, designated	1 space per 95 sq metres of non-residential floor area

**Staff Comment:** *A parking requirement of 2 spaces per 95 sq metres has been proposed for licensed CPFs. In accordance with ZBL 500, other industrial uses which require the same parking demand include communications facility, crematorium, research and development facility, and all other industrial other than a warehouse or public storage building.*

*A designated CPF on the other hand is not anticipated to generate the same parking demand to that of a licensed cannabis production facility given that only the designated person (and the registered person for whom the designated person is growing for, if they so choose) is permitted to undertake activities related to the cultivation and harvesting of the cannabis plants. For this reason, a lesser requirement has been proposed for a designated cannabis production facility. The parking ratio of 1 space per 95 square metres mirrors the existing requirement in ZBL 500 for a warehouse or public storage building.*

*The previous requirement for a marihuana production facility in ZBL 500 was 1 space per 95 sq metres or 1 space per every 2 employees, whichever is the greater. Staff are of the opinion that the proposed parking requirements noted above are reasonable to ensure that adequate parking is provided at these facilities.*

#### 4.1.4 Proposed Zoning Regulations by Zone

In general, staff are proposing that CPFs shall be subject to the zone requirements (i.e. lot frontage, lot area, setbacks, etc.) of the zone for which they are being proposed to be permitted within. Additional requirements for CPFs within each zone are also being proposed as discussed below. Staff are of the opinion that the additional requirements are necessary to ensure that the built form and operation of these facilities are appropriate for the zone they are located within.

*Proposed Restricted Industrial (M1) and General Industrial (M2) Zone Provisions*

The following provisions are being proposed for licensed CPFs in the M1 and M2 zones:

<b>Provision</b>	<b>Proposed Requirement/Staff Comment</b>
Lot Frontage (minimum)	No minimum, except that in the case of a lot fronting on Highway 48, the minimum lot frontage shall be 45 metres.  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Lot Area (minimum)	Private Sanitary Services, 4 000 sq metres Municipal Sanitary Sewers, no minimum required  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Front Yard (minimum)	15 metres  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Exterior Side Yard (minimum)	15 metres  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Rear Yard (minimum)	11 metres, provided that where the rear yard abuts a Residential or Transitional Zone, the minimum rear yard shall be increased to 15 metres.  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Interior Side Yard (minimum)	6 metres, provided that where the interior side yard abuts a Residential or Transitional Zone, the minimum interior side yard shall be increased to 15 metres.  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Lot Coverage (maximum)	20%, provided that where served by sanitary sewers, the maximum coverage maybe increased to 50%.  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.
Height of Building (maximum)	11 metres  <b>Staff Comment:</b> Standard M1 and M2 requirement for non-res use.

Gatehouse	<p>Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.</p> <p><b>Staff Comment:</b> <i>Given that these facilities are required to be designed in such a way that permits unauthorized access, staff are of the opinion that having permission for a gatehouse building is appropriate.</i></p>
Open Storage	<p>The storage of goods, material, or machinery, shall not be permitted other than in a wholly enclosed building.</p> <p><b>Staff Comment:</b> <i>The M1 zone does not permit open storage, but the M2 zone does. Staff are proposing that CPFs are not permitted to have open storage in any zone they are permitted within.</i></p>
Use Must be Wholly Contained	<p>Notwithstanding any other provision in this by-law to the contrary, growing, propagating and harvesting of cannabis shall be conducted in a wholly enclosed building or structure.</p> <p><b>Staff Comment:</b> <i>This provision is intended to prevent the outdoor cultivation of cannabis on industrial lands. The provision only references “cultivation, propagation and harvesting” given that federal licensing requires all other uses related to CPFs to be conducted within a building.</i></p>
Distance from Sensitive Land Uses	<p>Notwithstanding any other provision in this by-law to the contrary, a licensed cannabis production facility shall not be located closer than 70 metres from a:</p> <ul style="list-style-type: none"> <li>• Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest zone boundary.</li> <li>• Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.</li> </ul> <p>For the purpose of this provision, a licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with federal licensing. Further, no licensed cannabis production facility lawfully established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential,</p>

	<p>Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.</p> <p><b>Staff Comment:</b> <i>Minimum setbacks are proposed to provide adequate separation from sensitive land uses which could be established within all Residential (R, R1, R2 and R3) zones, Institutional (I) zones and Transitional (T) zones. The provision also recognizes that there are a number of smaller RU zoned lots (8,000 sq metres or roughly 2 acres or less) within the Town which contain or could contain dwellings. Given the smaller size of some of these RU lots, the dwellings located on them may be located relatively close to the property line, thereby necessitating an increased setback from new CPFs in order to mitigate potential adverse impacts associated with the use.</i></p> <p><i>The 70 metre separation distance has been taken from the Ministry of Environment, Conservation and Parks Environmental Land Use Guidelines document which provides separation distances for industrial facilities from sensitive land uses. The guideline defines a Class I Industrial Facility, which requires a separation distance of 70 metres from a sensitive land use, as follows:</i></p> <p><i>“A place of business for small scale, self-contained plant or building which produces/stores a product which is contained in a package and has low probability of fugitive emissions. Outputs are infrequent, and could be point source or fugitive emissions for any of the following: noise, odour, dust and/or vibration. There are daytime operations only, with infrequent movement of products and/or heavy trucks and no outside storage.”</i></p> <p><i>Staff are of the opinion that a CPF would fall within the definition of a Class I Industrial Facility and as such, a 70 metre separation distance is appropriate.</i></p>
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#### *Proposed Rural (RU) Zone Provisions*

The following provisions are being proposed for designated and licensed CPFs in the RU zone:

Provision	Proposed Requirement/Staff Comment
Lot Frontage (minimum)	<p>60 metres</p> <p><b>Staff Comment:</b> <i>Standard RU requirement for non-res use.</i></p>

Lot Area (minimum)	8,000 sq metres  <b>Staff Comment:</b> Standard RU requirement for non-res use.				
Front Yard (minimum)	15 metres  <b>Staff Comment:</b> Standard RU requirement for non-res use.				
Exterior Side Yard (minimum)	15 metres  <b>Staff Comment:</b> Standard RU requirement for non-res use.				
Rear Yard (minimum)	9 metres  <b>Staff Comment:</b> Standard RU requirement for non-res use.				
Interior Side Yard (minimum)	9 metres  <b>Staff Comment:</b> Standard RU requirement for non-res use.				
Lot Coverage (maximum)	30%  <b>Staff Comment:</b> The RU zone does not contain minimum lot coverage requirements for non-residential uses. Staff are of the opinion that it is appropriate to incorporate a maximum lot coverage requirement of 30% of the overall property to ensure the property does not become over developed with buildings and structures.				
Height of Building (maximum)	11 metres  <b>Staff Comment:</b> The RU zone also does not contain a maximum height requirement for non-residential uses. Staff are of the opinion that a maximum height of 11 metres, similar to the maximum height in the M1 and M2 zones is appropriate.				
Open Storage	Notwithstanding any other provision in this by-law to the contrary, the open storage of goods, material, or machinery, shall not be permitted other than in a wholly enclosed building.  <b>Staff Comment:</b> The RU zone permits open storage of school buses or commercial vehicles, subject to requirements. Staff are proposing that CPFs are not permitted to have open storage in any zone they are permitted within.				
Loading Spaces	Shall be provided in accordance with the requirements for a Commercial / Industrial / Business Park use pursuant to Section 5.25.  Section 5.25 requires the following number of loading spaces for Commercial / Industrial / Business Park uses based on floor area: <table border="1"> <thead> <tr> <th>Floor Area</th><th>Number of Loading Spaces Required</th></tr> </thead> <tbody> <tr> <td>185 sq m or under</td><td>0</td></tr> </tbody> </table>	Floor Area	Number of Loading Spaces Required	185 sq m or under	0
Floor Area	Number of Loading Spaces Required				
185 sq m or under	0				

	>185 sq m and up to 550 sq m	1
	>550 sq m and up to 2,300 sq m	2
	>2,300 sq m and up to 7,400 sq m	3
	>7,400 sq m	3 spaces plus 1 additional space for each 9,200 sq m or fractional part therefor in excess of 7,400 sq m
<p><b>Staff Comment:</b> Similar to lot coverage and height, there are no loading space requirements for non-residential uses in the RU zone. Given the nature of these facilities, staff are of the opinion that loading spaces are required and that it is appropriate to require the same number of loading spaces to that which is required for Commercial / Industrial / Business Park uses.</p>		
Gatehouse	<p>Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.</p> <p><b>Staff Comment:</b> Given that these facilities are required to be designed in such a way that permits unauthorized access, staff are of the opinion that having permission for a gatehouse building is appropriate.</p>	
Distance from Sensitive Land Uses	<p>Notwithstanding any other provision in this by-law to the contrary, a designated or licensed cannabis production facility shall not be located closer than 70 metres from a:</p> <ul style="list-style-type: none"> <li>• Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest zone boundary.</li> <li>• Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.</li> </ul> <p>For the purpose of this provision, a designated or licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with a federal certificate or federal licensing and also includes cannabis which is grown outdoors. Further, no cannabis production facility lawfully</p>	

	<p>established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential, Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.</p> <p><b>Staff Comment:</b> See comments above in the M1 and M2 zone chart. Additional comments provided below:</p> <p><i>In the last report to Council, staff had indicated that there had been an appeal to the Normal Farm Practice Protection Board (NFPPB) in relation to zoning setbacks imposed for outdoor cannabis cultivation (70 metres to all property lines) by the Town of Beckwith, Ontario. This hearing was scheduled to take place on November 18, 2019. On November 19, 2019, staff were advised by Ontario Ministry of Agriculture Farming and Rural Affairs staff that for unknown reasons, the appeal to the NFPPB had been withdrawn. This appeal was the first of its kind related to cannabis crop setbacks imposed by municipalities and as such, the resulting decision would have been beneficial to the Town in crafting our own by-law related to CPFs.</i></p> <p><i>Notwithstanding the above, the proposed definitions for designated and licensed CPFs references “the use of land, buildings or structures for cultivating...”. Therefore, by the definition, cannabis would be permitted to be cultivated outdoors as a field crop. Within the M1, M2 and BP-3 zones, the provision related to “use must be wholly contained” would prevent the outdoor cultivation of cannabis. The same provision is not included in the RU for the purpose of permitting outdoor cultivation, similar to any other crop in the RU zone. In this regard, the “distance from sensitive land uses” provision within the RU zone has been revised from that which is proposed in the M1, M2 or BP-3 zones in order to recognize that cannabis which is cultivated as a field crop outdoors would require the same separation distance (70 metres) as the actual CPF building.</i></p>
Restrictions	<p>Notwithstanding Section 2.36 B), the processing, research, testing, and sale for medical purposes as authorized by a license issued by the Federal Minister of Health, shall only be permitted if the cannabis used for such purposes is grown on the property. To further clarify, cannabis shall not be brought onto the property from any other property for any purpose.</p> <p>Further, the total maximum floor area devoted to uses such as processing, research, testing, and sale for medical purposes shall be 2% of the overall lot area of the property, to a maximum of 10,000 sq metres.</p>

	<p><b>Staff Comment:</b> The Provincial Policy Statement and the Greenbelt Plan permit agricultural uses, agricultural related uses and on-farm diversified uses in prime agricultural areas. Cultivating cannabis is considered an agricultural use. The other uses authorized by federal licensing such as processing, research, testing and sale for medical purposes can be considered on-farm diversified uses subject to them remaining secondary in nature to the primary agricultural use of the property (i.e. cultivating cannabis) and remaining limited in area. In order to ensure these provincial requirements for on-farm diversified uses are complied with, staff are proposing that:</p> <ol style="list-style-type: none"> <li>1. Any activities associated with processing, research, testing, and sale for medical purposes within the RU zone utilize cannabis which has been grown on the property. This is intended to prevent an strictly industrial use from being established in the RU zone without a primary agricultural component; and,</li> <li>2. Where there is a processing, research, testing, or sale for medical purposes use on the property, that there is a maximum floor area permitted for these uses. Staff are proposing a maximum floor area of 2% of the overall lot area of the property, to a maximum of 10,000 sq metres, be permitted for an on-farm diversified use. This requirement has been taken from OMAFRAs "Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas" publication.</li> </ol>
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*Proposed Business Park 3 (BP-3) Zone Provisions*

The following provisions are being proposed for licensed CPFs in the BP-3 zone:

Provision	Proposed Requirement/Staff Comment
Lot Frontage (minimum)	20 metres  <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Lot Area (minimum)	2,000 sq m  <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Front Yard (minimum)	6 metres  <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Exterior Side Yard (minimum)	6 metres  <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Rear Yard (minimum)	11 metres



	<b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Interior Side Yard (minimum)	6 metres <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Lot Coverage (maximum)	60% <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Height of Building (maximum)	15 metres or 4 storeys (whichever is greater) <b>Staff Comment:</b> Standard BP-3 zone requirement for non-res use.
Open Storage	Permitted only as an accessory use in conjunction with a permitted use in existence on the lot. However, open storage associated with a licensed cannabis production facility is prohibited.  <b>Staff Comment:</b> The open storage permissions in the BP-3 zone currently prohibit outdoor storage related to a “marihuana production facility”. The draft by-law proposes to amend the language in by-law to reference “licensed cannabis production facility”.
Use Must be Wholly Contained	Notwithstanding any other provision in this by-law to the contrary, growing, propagating and harvesting of cannabis shall be conducted in a wholly enclosed building or structure.  <b>Staff Comment:</b> Similar to a licensed CPF in the in the other industrial zones (M1 or M2 zone), staff are recommending that the outdoor cultivation of cannabis in the BP-3 zone be prohibited.
Gatehouse	Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.  <b>Staff Comment:</b> Given that these facilities are required to be designed in such a way that permits unauthorized access, staff are of the opinion that having permission for a gatehouse building is appropriate.
Distance from Sensitive Land Uses	Notwithstanding any other provision in this by-law to the contrary, a licensed cannabis production facility shall not be located closer than 70 metres from a:  <ul style="list-style-type: none"> <li>• Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest zone boundary.</li> </ul>

	<ul style="list-style-type: none"> <li>• Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.</li> </ul> <p>For the purpose of this provision, a licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with federal licensing. Further, no licensed cannabis production facility lawfully established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential, Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.</p> <p><b>Staff Comment:</b> See comments above in the M1 and M2 zone chart. Separation distances from sensitive land uses are also proposed within the BP-3 zone.</p>
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#### 4.2 NEXT STEPS

Following Council's consideration of the draft ZBA on December 11, 2019, staff will make any necessary revisions to the by-law. Once the by-law has been revised, staff will provide the by-law to the Agricultural Advisory Committee and the Economic Development Committee for their review and comment. Additionally, staff will also look to seek out and engage cannabis industry associations, groups, and/or experts to gather their input on the proposed draft ZBA for consideration.

Staff will undertake the necessary steps so that a Statutory Public Meeting can be held in Q1 of the New Year (March 4, 2020). This includes the formal circulation to internal departments and external agencies, and providing the public with notice of the Statutory Public Meeting in accordance with the Planning Act. Following the Statutory Public Meeting, staff will consider comments received and if necessary, revise the by-law further and bring it back for adoption/passing in Q2 of 2020 (possibly May 6, 2020).

The next steps and timeline are summarized below:

Item	Task	Timeline
1	Make any necessary changes to the by-law resulting from Council comments.	Following the Dec 11, 2019 Council mtg.
2	Provide the draft ZBA to the Agricultural Advisory Committee and the Economic Development Committee for review and comment.	Ag: Jan 30, 2019 EcDev: Feb 3, 2020
3	Statutory Public Meeting to receive comments from Council and the public.	March 4, 2020
4	Second Public Meeting and possible approval/passing of the ZBA.	Possibly May 6, 2020

5	Repeal Interim Control By-law	Once ZBA and new SPC By-laws are in force and effect.
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**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 initiate a general ZBA, public notification and consultation will be conducted in accordance with the requirements of the *Planning Act*, including providing notice and the holding of a Statutory Public Meeting.

**8. CONCLUSION:**

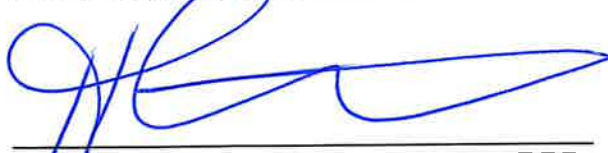
Staff recommend that Council approve the recommendations as set out in Section 1 of this report in order to direct staff to begin the general ZBA process as it relates to CPFs.

Prepared by:



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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

November 26, 2019

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

**BY-LAW NUMBER 500-2020-XXXX (PL-5)**

**A BY-LAW TO AMEND BY-LAW NUMBER 500, BEING A BY-LAW TO REGULATE  
THE USE OF LANDS AND THE CHARACTER, LOCATION AND USE OF BUILDINGS  
AND STRUCTURES WITHIN THE TOWN OF GEORGINA.**

Pursuant to Section 34 of the Planning Act, R.S.O., 1990, c.P.13, as amended, the Council of the Town of Georgina **ENACTS AS FOLLOWS:**

1. That Section 2 **DEFINITIONS** is hereby amended by adding the following new definitions:

**“2.36 A) CANNABIS PRODUCTION FACILITY, DESIGNATED:** means the use of land, buildings or structures for cultivating, propagating, harvesting, drying, storing, destroying, packaging and shipping of cannabis which is authorized by a valid registration certificate of a designated person issued by the Federal Minister of Health, pursuant to the Cannabis Regulations, SOR/2018-144, as amended, under the Cannabis Act, S.C. 2018, c. 16, as amended, or its successor.

**2.36 B) CANNABIS PRODUCTION FACILITY, LICENSED:** means the use of land, buildings or structures for cultivating, propagating, producing, harvesting, drying, storing, processing, research, testing, destroying, packaging, sale for medical purposes, and shipping of cannabis which is authorized by a valid license issued by the Federal Minister of Health, pursuant to the Cannabis Regulations, SOR/2018-144, as amended, under the Cannabis Act, S.C. 2018, c. 16, as amended, or its successor.”

2. That Section 2 **DEFINITIONS** is hereby amended by deleting Subsection 2.129 A) **MARIHUANA PRODUCTION FACILITY** in its entirety.

3. That Section 5.28 **PARKING AREA REGULATIONS**, and specifically the Industrial table within Subsection 5.28 (b) **NUMBER OF PARKING SPACES (MINIMUM), NON-RESIDENTIAL USES** be amended by deleting the reference to “marihuana production facility”, including the associated parking requirements, and replacing it with the following:

Industrial:

Use	Required Spaces
Cannabis production facility, licensed	2 spaces per 95 sq metres of non-residential floor area
Cannabis production facility, designated	1 space per 95 sq metres of non-residential floor area

4. That Section 20.2 **PERMITTED NON-RESIDENTIAL USES** in the Restricted Industrial (M1) Zone is hereby amended by adding “cannabis production facility, licensed”.
5. That Section 20.4 **ZONE REQUIREMENTS – NON-RESIDENTIAL USES** in the Restricted Industrial (M1) Zone is hereby amended by adding the following after Subsection (i) **OPEN STORAGE**:

**“(j) CANNABIS PRODUCTION FACILITY, LICENSED**

The requirements for lot frontage, lot area, front yard, exterior side yard, rear yard, interior side yard, lot coverage, height, and open storage shall be in accordance with the provisions of Section 20.4 (a), (b), (c), (d), (e), (f) (g), (h) and (i), respectively.

A licensed cannabis production facility is also subject to the following requirements:

**USE MUST BE WHOLLY CONTAINED**

Notwithstanding any other provision in this by-law to the contrary, growing, propagating and harvesting of cannabis shall be conducted in a wholly enclosed building or structure.

## **GATEHOUSE**

Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.

## **DISTANCE FROM SENSITIVE LAND USES**

Notwithstanding any other provision in this by-law to the contrary, a licensed cannabis production facility shall not be located closer than 70 metres from a:

- Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest zone boundary.
- Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.

For the purpose of this provision, a licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with federal licensing. Further, no licensed cannabis production facility lawfully established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential, Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.”

6. That Section 21.4 **ZONE REQUIREMENTS – NON-RESIDENTIAL USES** in the General Industrial (M2) Zone is hereby amended by adding the following after **AUTO BODY GARAGES**:

### **“CANNABIS PRODUCTION FACILITY, LICENSED**

In accordance with the provisions of Section 20.4 respecting cannabis production facility, licensed.”

7. That Section 28.2 **PERMITTED NON-RESIDENTIAL USES** in the Rural (RU) Zone is hereby amended by adding “cannabis production facility, designated” and “cannabis production facility, licensed”.
8. That Section 28.4 **ZONE REQUIREMENTS – NON-RESIDENTIAL USES** in the Rural (RU) Zone is hereby amended by adding the following:

**“CANNABIS PRODUCTION FACILITY, DESIGNATED OR LICENSED**

The requirements for lot frontage, lot area, front yard, and exterior side yard, rear yard and interior side yard shall be in accordance with the provisions of Section 28.4 (a), (b), (c) (d), (e) and (f), respectively.

A designated cannabis production facility and licensed cannabis production facility are also subject to the following requirements:

**LOT COVERAGE (MAXIMUM)** 30%

**HEIGHT OF BUILDING (MAXIMUM)** 11 metres

**OPEN STORAGE**

Notwithstanding any other provision in this by-law to the contrary, the open storage of goods, materials or machinery, shall not be permitted other than in a wholly enclosed building.

**LOADING SPACES**

Shall be provided in accordance with the requirements for a Commercial / Industrial / Business Park use pursuant to Section 5.25.

**GATEHOUSE**

Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.

## **DISTANCE FROM SENSITIVE LAND USES**

Notwithstanding any other provision in this by-law to the contrary, a designated or licensed cannabis production facility shall not be located closer than 70 metres from a:

- Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest zone boundary.
- Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.

For the purpose of this provision, a designated or licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with a federal certificate or federal licensing and also includes cannabis which is grown outdoors. Further, no cannabis production facility lawfully established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential, Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.

## **RESTRICTIONS**

Notwithstanding Section 2.36 B), processing, research, testing, and sale for medical purposes as authorized by a license issued by the Federal Minister of Health, shall only be permitted if the cannabis used for such purposes is grown on the property. To further clarify, cannabis shall not be brought onto the property from any other property for any purpose.

Further, the total maximum floor area devoted to uses such as processing, research, testing, and sale for medical purposes shall be 2% of the overall lot area of the property, to a maximum of 10,000 sq metres.”

9. That Section 32.2 **PERMITTED NON-RESIDENTIAL USES** in the Business Park 3 (BP-3) Zone is hereby amended by deleting “marihuana production facility” and adding “cannabis production facility, licensed”.



10. That Section 32.4 **ZONE REQUIREMENTS – NON-RESIDENTIAL USES** in the Business Park 3 (BP-3) Zone, and more specifically Subsection (i) **OPEN STORAGE**, is hereby amended by replacing the reference to “marihuana production facility” with “licensed cannabis production facility” such that the last sentence reads “However, open storage associated with a licensed cannabis production facility is prohibited.”
11. That Section 32.4 **ZONE REQUIREMENTS – NON-RESIDENTIAL USES** in the Business Park 3 (BP-3) Zone is hereby amended by adding the following after (i) **OPEN STORAGE**:

**“(j) CANNABIS PRODUCTION FACILITY, LICENSED**

The requirements for lot frontage, lot area, front yard, exterior side yard, rear yard, interior side yard, lot coverage, height of building and open storage shall be in accordance with the provisions of Section 32.4 (a), (b), (c), (d), (e), (f), (g), (h) and (i), respectively.

A licensed cannabis production facility is also subject to the following requirements:

**USE MUST BE WHOLLY CONTAINED**

Notwithstanding any other provision in this by-law to the contrary, growing, propagating and harvesting of cannabis shall be conducted in a wholly enclosed building or structure.

**GATEHOUSE**

Notwithstanding the yard and setback provisions of this by-law, a building or structure used solely for a gatehouse shall be permitted in the front and exterior side yard and may be located a minimum of 1.5 metres from any lot line. Such building or structure shall have a maximum floor area of 20 sq metres.

**DISTANCE FROM SENSITIVE LAND USES**

Notwithstanding any other provision in this by-law to the contrary, a licensed cannabis production facility shall not be located closer than 70 metres from a:

- Residential (R, R1, R2 or R3), Institutional (I) or Transitional (T) zone, including any related site-specific zones. The setback shall be taken from

the closest portion of the cannabis production facility measured to the closest zone boundary.

- Rural (RU) zoned lot, including any related site-specific zones, which has a lot area of 8,000 sq metres or less. The setback shall be taken from the closest portion of the cannabis production facility measured to the closest lot line of the RU zoned property.

For the purpose of this provision, a licensed cannabis production facility means any buildings or structures in which cannabis is permitted within in accordance with federal licensing. Further, no licensed cannabis production facility lawfully established under these provisions shall be deemed to be in violation of the zoning by-law by the subsequent establishment of a Residential, Institutional or Transitional zone or the creation of a RU zoned lot which has a lot area of 8,000 sq metres or less.”