



SUBJECT: Cannabis Production Study– Stage Two Work Plan
TO: Planning and Development Committee
FROM: Department of City Building - Planning Building and Culture

Report Number: PB-68-19

Wards Affected: All

File Numbers: 502-02-72

Date to Committee: November 5, 2019

Date to Council: November 18, 2019

Recommendation:

Direct the Executive Director of Community Planning, Regulation and Mobility to proceed with the “Stage Two” Work Plan of the Cannabis Production Study, as outlined in department of community planning report PB-68-19.

Purpose:

On December 17, 2018 City Council passed a motion to “*Direct the Director of City Building to undertake a zoning study, including public consultation, for the production of recreational cannabis land use.*” This report provides a summary of the research completed to date and recommends further analysis of specific land use planning tools.

Background and Discussion:

The *Cannabis Act, 2018* became law on October 17, 2018, creating a new legal and regulatory framework for controlling the production (growing and processing), distribution, sale and possession of cannabis for medical and recreational use in Canada. Burlington’s existing policies pertaining to production facilities were developed in accordance with the former *Access to Cannabis for Medical Purposes Regulations* (ACMPR), under the *Controlled Drugs and Substances Act, 1996*, and address medical cannabis (marihuana) only. Based on the nature of the production facilities permitted under the ACMPR, Burlington’s Zoning By-law considers the commercial production,

storage and shipping of medical cannabis to be industrial in nature and therefore best suited to areas zoned for general employment. These policies were developed through a review of Zoning By-law 2020 and enacted on June 9, 2014 through By-law 2020.344, which:

- provided a definition for “Medical Marijuana Production Facility”;
- introduced medical marijuana production facilities as a permitted use in General Employment Zones GE1 and GE2;
- provided criteria around facility security, outdoor storage, loading space, setbacks etc.

As the new *Cannabis Act* repeals the ACMPR, the City’s policies must be updated to ensure that the appropriate review standards are in place for all cannabis production licence types. Further, on June 14, 2019, the federal government released the final “Regulations Amending the Cannabis Regulations (New Classes of Cannabis)”, adding “edible cannabis,” “cannabis extracts,” and “cannabis topicals” as three new classes of cannabis that may be legally sold as of October 17, 2019. This amendment introduces a new set of uses related to cannabis production that must also be evaluated.

The *Cannabis Act* enables applicants to apply for any combination of class in relation to the same site, although the federal Minister of Health may refuse to issue a licence depending on the combinations. This means that ancillary activities associated with cannabis production (i.e. processing, analytical testing and research) may be proposed within the same site. The various licence types available through Health Canada, their associated activities, and basic licence requirements are detailed in Appendix A to department of city building report PB-68-19.

Note that implementation of Federal and Provincial policy relating to cannabis retail stores was addressed through a separate process, as outlined in staff report “CM-20-18: Cannabis Legislation and Retail Cannabis Sales”. Therefore, this report and its appendices do not address cannabis retail facilities.

Strategy/process

The Cannabis Production Study has been divided into two stages. Stage One consists of background research, synthesis and analysis to develop an understanding of the applicable regulatory framework and the emerging cannabis industry, which includes pre-engagement with both the public and representatives of the cannabis industry.

Stage One has been completed and summarized in this staff report, along with recommendations to Council for the Stage Two Work Plan. Stage Two consists of

further study to develop and refine the preliminary recommendations, including formal internal and external engagement, to be summarized in a final recommendation report to Council.

Options considered

Summary of Stage One Findings

Cannabis production facilities range in size and land use requirements, depending on licence type, scale, and the nature of the operation (i.e. industrial or agricultural). For example, plant cultivation may occur in a completely indoor facility, in a greenhouse facility, or in an outdoor setting. Further, cultivation may occur as the sole activity or in combination with ancillary activities such as research or processing. Due to the variability of facilities and the evolving nature of the industry, planning tools must be adaptable to an array of potential application types.

According to background research, concerns relating to cannabis production facilities and land use compatibility are primarily based on potential nuisance issues such as odour and lighting. Currently, the federal licensing requirements are the only existing source of guidance for nuisance mitigation specific to cannabis. Beyond the regulations introduced to govern the retail sector, the Province has not made any cannabis-related revisions to provincial land use plans or policies.

As there are no documented human health effects associated with odours from cannabis production (according to a 2018 evidence brief released by Public Health Ontario), the industry is not regulated by the standards prescribed through Ontario Regulation 419/05: Air Pollution – Local Air Quality under the *Environmental Protection Act, 1990*. Staff is working with the Province to determine how the Provincial D-6 Guidelines for Compatibility between Industrial Facilities Guidelines may contemplate cannabis production facilities within settlement areas, and how the *Food and Farming Protection Act* and the Normal Farm Practices Protection Board may contemplate cannabis production facilities within rural and agricultural areas.

A large portion of the City's rural area is also within the Niagara Escarpment area of development control. Within this area, the Niagara Escarpment Commission (NEC) is the primary planning authority and the City acts as a commenting agency on NEC development permit applications. In this case, the City's Zoning By-law does not apply but the City can provide comments based on its Official Plan policies and any other by-laws which may apply, such as the Site Plan Control By-law. Overall, the basic suite of

tools that is available to the City to regulate the development of cannabis production facilities includes:

- Official Plan (including Council adopted guidelines)
- Zoning By-law (and Committee of Adjustment)
- Site Plan Control By-law (including Site Plan Application Guidelines)

Summary of Stage One Public Engagement

Staff conducted pre-engagement on September 14, 2019 by participating in the City's Food for Feedback Community Engagement BBQ. Utilizing a simple survey, feedback was collected regarding the community's initial response toward cannabis production, as well as topics they would like to City focus on throughout the study. The majority of participants indicated strong support for cannabis production, with the leading focus area being job opportunities. Concerns related primarily to security and odour.

Complete details are provided in Appendix B to department of city building report PB-68-19.

Staff has also received numerous inquiries from both active and prospective cannabis industry representatives, primarily relating to permitted uses within the urban area in relation to cannabis cultivation and processing. An industry stakeholder contact list has been developed to support future engagement efforts throughout Stage Two of the study.

Next Steps: Proposed Stage Two Work Plan

To ensure a comprehensive approach to evaluating proposals for cannabis production facilities across the various planning frameworks within the City, staff are recommending the preparation of:

- a) a set of cannabis production guidelines that address odour and light nuisance;
- b) an amendment to the Official Plan to enable the guidelines;
- c) an amendment to the Zoning By-law to incorporate updated language for cannabis; and
- d) an amendment to the Site Plan Control By-law to address cannabis production facilities.

Staff will prepare the draft guidelines and undertake public engagement in Q4 of 2019 and Q1 of 2020. Staff are targeting to report back to Council at a statutory public meeting with the proposed guidelines, the implementing Official Plan and Zoning By-law amendments, and a summary of public feedback and how it shaped the recommendations, at the beginning of Q2, 2020.

Financial Matters:

Not applicable

Total Financial Impact

Not applicable

Source of Funding

Not applicable

Other Resource Impacts

Not applicable

Connections:

The Burlington Economic Development Corporation (BEDC) is currently evaluating the potential of the cannabis industry in relation to attracting jobs and economic opportunity. Planning staff are working with BEDC to better understand industry interest and needs specifically in relation to Burlington.

Public Engagement Matters:

A summary of public engagement for Stage One is discussed under the section “Options Considered”, above. Formal public engagement for Stage Two will be planned in accordance with the statutory requirements for each planning tool (e.g. public meeting) and supplemented with additional engagement tools as appropriate (e.g. Get Involved Burlington).

Conclusion:

The recommended approach provides a consistent framework to guide the City in evaluating the impacts of the evolving cannabis industry, by ensuring that the appropriate review standards are in place for all cannabis production licence types and across all planning processes. The guidelines and implementing policy amendments will complement the basic federal requirements, help to ensure land use compatibility, and support industry growth and viability.

Respectfully submitted,

Kelly Cook

Planner II

905-335-7600 x 7641

Appendices:

- A. Health Canada Cannabis Production Licence Types
- B. Food for Feedback Results: Cannabis Production Study

Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.