



Town of Grimsby

Cannabis Growing Facilities Land Use Review

Phase 2 Formulating Policy Options

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1 Introduction



The Cannabis Act came into effect in October 2018. It had the effect of legalizing the production, sale and use of cannabis for recreational purposes in Canada.

Currently, cannabis production is not specifically addressed in the Grimsby Official Plan; it was not a legal activity at the time that the Official Plan was prepared. Production of cannabis for medical purposes is addressed in the Zoning by-law as, when the Zoning By-law was written, this was a new legal use. However, with the change in legislation, cannabis production is now permitted for commercial growth for both medical and recreational purposes, and as such, the existing zoning by-law provisions no longer capture the full range of legal uses.

The purpose of this Study is to examine the opportunities for the Town of Grimsby to regulate activities permitted under the Cannabis Act. The purpose is also to assess and recommend changes to the Official Plan and/or Zoning By-law, as needed, to regulate cannabis production as a land use.

This Study is broken down into three Phases:

- Phase 1: Best Practice Review of Current Standards & Legislation;
- Phase 2: Formulating Policy Options; and
- Phase 3: Policy Implementation.

Sections 2 through 5 of this report represent the work of Phase 1 of this Study.

Section 6 of this report represents the work of Phase 2 of this Study.



Phase 1: Best Practice Review and Current Standards & Legislation

2 Cannabis Production in Canada



2.1 Legal Framework of Cannabis Production in Canada

Prior to the introduction of the Cannabis Act, cannabis was an illegal substance and only permitted to be grown and sold for medical purposes. There were rules in place for the personal growth and consumption of medical cannabis, as well as rules for the commercial growth, processing and sale of cannabis for medical purposes.

With the introduction of the Cannabis Act, the consumption of cannabis for non-medical purposes became legal. This is sometimes referred to as “recreational” cannabis, as opposed to “medical” cannabis. With this legalisation, came a new permitted framework for cannabis production and distribution, which is generally described in this section.

The Cannabis Act permits the commercial growth of cannabis by licence holders in Canada. There are number of licences which can be applied for:

- Cultivation,
- Processing,
- Analytical Testing,
- Sale,
- Research, and
- Cannabis Drug Licence.

Cultivation licences are broken down into 3 classes:

- Micro-cultivation (surface area of cannabis less than 200 m²),
- Standard cultivation, and
- Nursery.

The federal licences do not permit sales to the general public, rather only sale of medical cannabis, through the mail and not a store format. **Figure 1** provides a summary of the types of licences that can be applied for under the Cannabis Act.

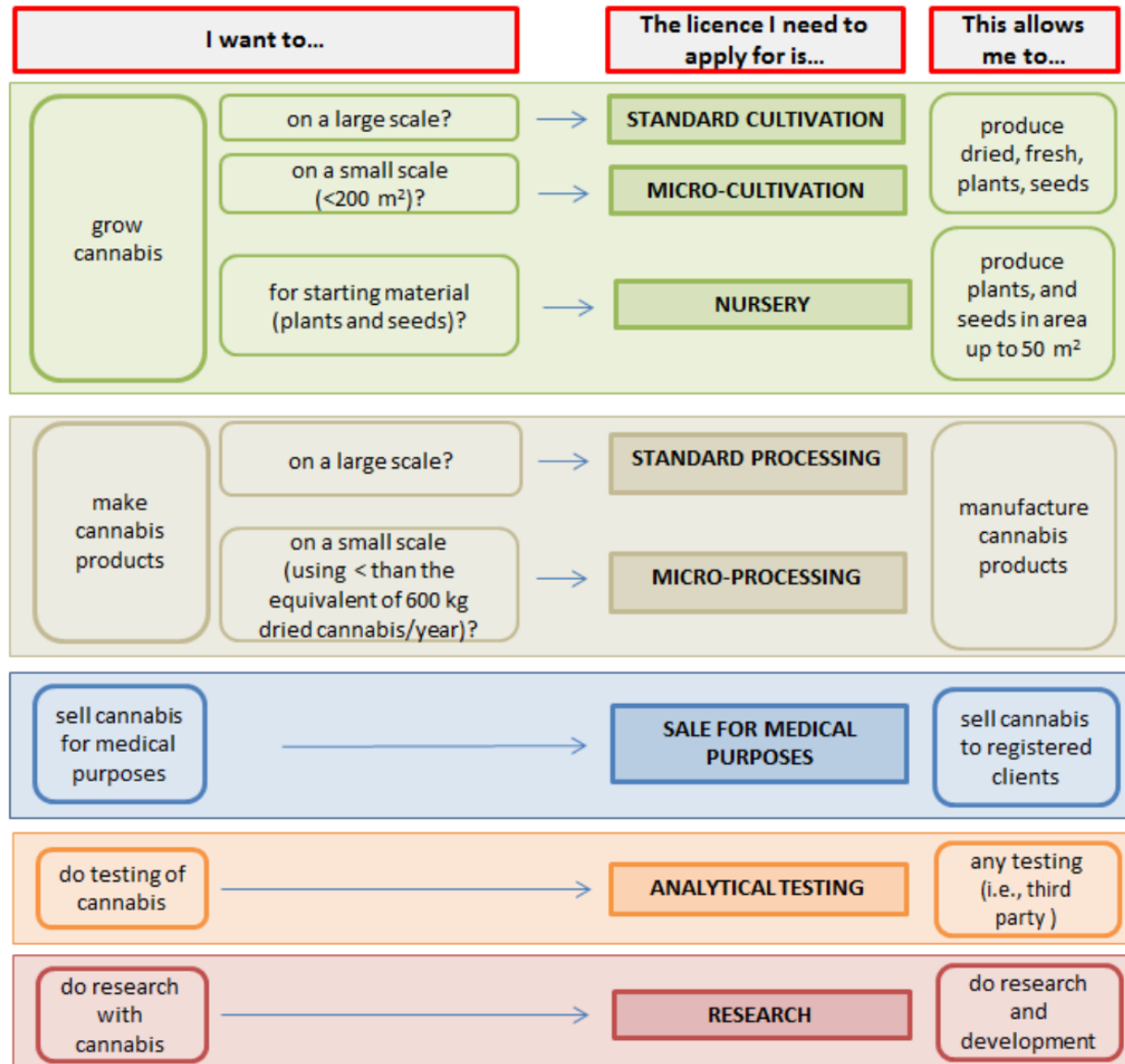


Figure 1: Types of licences under the Cannabis Act

Source: Cannabis Licencing Application Guide (Government of Canada)

The sale of recreational cannabis to the public is regulated at the Provincial level. In Ontario, recreational cannabis can either be purchased from the online Ontario Cannabis Store or from privately-run authorized dealers in a retail store format. The privately-run authorized dealers in Ontario are licenced by the Alcohol and Gaming Commission of Ontario (AGCO) and, at the beginning of 2019, municipalities in Ontario had a one-time chance to opt out of having cannabis retail stores in their municipality. The Town of Grimsby opted out from cannabis retail stores; thus, this Study does not consider the sale of cannabis in retail stores.

The Cannabis Act also permits, without a licence, personal growth of cannabis, with a permission for up to 4 plants per dwelling. As this is a legal permission within a land use (i.e. residential dwellings), as opposed to a new land use in itself, there is no avenue from a land use perspective to regulate the permission for growth of cannabis within a household, though there may be nuisance, building code or property standards considerations associated with the same. Thus, personal growth of cannabis within a household falls outside of the scope of this Study and report.

Per the above, the focus of this study and report is the consideration of the land uses regulated by the federal government with regards to commercial growth, processing, analysing and medical sales of cannabis regulated under the Cannabis Act. These are broadly referred to “cannabis-related uses” in the report.

2.2 Cannabis Act and Regulations

The Federal Government released both the Cannabis Act and Cannabis Regulations. Under the Act, someone may not “cultivate, propagate or harvest any cannabis plant at a place that is not their dwelling-house or to offer to do so” (Part 1, Section 12 (6) of the Act). Thus, there is no legal permission for cannabis growth outside of a home for personal use if not in a licenced facility/area.

The Act also permits licences issued under the previous Access to Cannabis for Medical Purposes Regulations to continue under the Cannabis Act.

The Cannabis Regulations set out a number of requirements related to land use as follows:

- There is a requirement that prior to an individual submitting an application for a licence for cultivation, processing or sale, they must notify the local government, the local fire authority and the local police force. The notice must contain a number of elements, including the address, and if applicable, the buildings where the cannabis related activities will be conducted. The notice must be addressed to a senior official at the local government (i.e. the Town of Grimsby) (Under Part 2 (Licensing) Section 7). A licence holder must also notify the local municipality if the licence is granted, suspended, revoked, reinstated or amended; (Under Part 2, 35 (1), Part II, Section 34(1,2 and 3))
- A licence holder is required to notify the Minister of any changes to a site plan within 5 days of these occurring, except if they relate to meeting the required security measures, in which case, the Minister must be notified in advance (Part 2, 24 (1)).

Location of uses

- No activity authorized by a licence can take place in a dwelling. (By Part 2, Section 40,)
- Only cultivation, propagation and harvesting may occur outdoors while testing, storage, packaging and labeling of cannabis cannot occur outdoors. (B Part 2, Section 41,)

Security

- The site must be designed in a manner that prevents unauthorized access. (Part 4, 63)
- The perimeter must be monitored by a visual recording device capable of recording any unauthorized access attempt, must have an intrusion detection system to detect intrusions at all times and this system must be monitored at all times. (Part 4, 64,65)
- Operation and storage areas are to be designed with a physical barrier to only permit access to those individuals who require access to perform their work and these areas are to be monitored by a visual recording device. The entrance and exits to the growth area must also be monitored by a visual recording device. Operation and storage areas must also have an intrusion and movement detections systems. For growing areas, intrusion into but not movement within needs to be monitored. (Part 4, 68 and 69, 70(2))
- The security measures for micro-cultivation, micro processing and nurseries are somewhat less stringent, requiring only physical barriers to the site and storage areas. (Part 4, 75)

Air filtration

- There must be an air filtration system that prevents the escape of odors from any building where cannabis is produced, packaged, labelled and stored.

2.3 Other Acts and Policy

2.3.1 Farming and Food Production Protection Act, 1998

The farming and Food Productions Act in Ontario is an Act that serves to protect the agricultural use of land. Under the Act, the term “agricultural operation” is defined to include:

“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”

and

“the processing by a farmer of the products produced primarily from the farmer’s agricultural operation;

From these definitions, the cultivation of cannabis, as well as the processing of the same, where legal through the licencing process, are captured in the definition of agricultural operation.

Under section 6 of the Act, the Act states,

“No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation.”

2.3.2 Provincial Policy Statement, 2014

The Provincial Policy Statement (PPS), which provides direction for planning in Ontario, supports the viability of rural areas and agricultural uses in municipalities and seeks to balance economic growth and prosperity and.

Policy 1.1.4.1 states in part that healthy, integrated and viable rural areas should be supported by:

- promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources; and
- providing opportunities for economic activities in prime agricultural areas.

Section 2.3 of the PPS contains policies applying to agricultural areas. Section 2.3.1 states that prime agricultural areas shall be protected for long-term agricultural use.

Policy 2.3.3.1 states that agricultural uses, agriculture-related uses and on-farm diversified uses are permitted in prime agricultural areas, and that proposed uses are to be compatible with, and shall not hinder, surrounding agricultural operations.

According to Policy 2.3.3.2, in accordance with provincial standards, all types, sizes and intensities of agricultural uses and farm practices shall be promoted in prime agricultural areas.

The PPS provides the following definition for ‘agricultural use’:

“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”.

The PPS defines ‘on-farm diversified uses’ as the following:

“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.”

3 Grimsby Planning Framework



This section examines the current policy and zoning permissions related to Cannabis production in Grimsby.

3.1 Official Plan

The Grimsby Official Plan does not make any direct reference to cannabis or marihuana, nor cannabis facilities. Under the current framework, there is opportunity for the use and operation of cannabis facilities to be considered under the Rural and Agricultural Areas designations, as well as potentially the Employment Areas designation.

3.1.1 Rural and Agricultural Areas

The policies for Rural and Agricultural Areas are outlined in Section 3.3 of the Grimsby Official Plan. The goals of these areas seek to preserve prime agricultural land for a wide variety of agricultural uses while maintaining the farming industry for future generations. Land use conflicts between different uses are to be minimized, while ensuring compatibility.

The Rural and Agricultural Areas within the Official Plan are divided into four designations: Specialty Crop Area – Tender Fruit and Grape Lands; Agricultural Area; Rural Area and Escarpment Rural Area. Agricultural uses are permitted in all four designations.

As defined by the Official Plan, “agricultural uses means the growing of crops, including nursery 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 accommodation for full-time farm labour when the size and nature of the operation requires additional employment. Agricultural uses include value retention uses required to make a commodity saleable (i.e. corn dryer, washing, sorting, packing and packaging).” (Section 9.20.9).

Under the General and Rural Agricultural Policies, which applies to all areas within the designation, Policy 3.3.1.7 of the Official Plan provides direction specific to greenhouses, stating:

“New and existing greenhouse operations outside the Urban Settlement Area shall be encouraged to expand and develop at a reasonable level of intensity, but should take into consideration any adverse impacts, particularly impacts

related to noise and light, that the expansion or development would inflict on adjacent residential uses and definite measures should be taken to mitigate these impacts.”

3.1.2 Employment Area

Policies for the Employment Area designation are outlined within Section 3.7 of the Grimsby Official Plan. The intent of the Employment Area is to provide for a broad range of employment uses in manufacturing, warehousing and distribution, as well as office development. Employment Area uses are intended to encourage prestige employment development and a broad range of industries to achieve a strong live-work balance.

The Official Plan defines Employment Area as “areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities” (Section 9.20.42).

According to Policy 3.7.1, permitted uses within the Employment Area designation include:

- Manufacturing;
- Processing;
- Servicing;
- Storage of goods and raw materials;
- Warehousing;
- Research and laboratories;
- Data processing; and
- Development and uses of similar nature.

Within the General Policies of this designation, Policy 3.7.12 states:

“Employment buildings shall be setback from existing residential dwellings where determined necessary to ensure incompatibilities and minimized to promote compatibility. Substantial buffer planting, berming or fencing adjacent to residential areas shall be required.”

Policy 3.7.16 states that applications for new developments or extensions of existing uses will be evaluated based on a development or site plan as appropriate and any expert studies needed to evaluate the creation of excessive air, water or noise pollution in order to control the pollution for the safety of Town residents.

3.2 Zoning By-law

3.2.1 Rural and Agricultural Zones

The Rural and Agricultural Zones include the Agricultural Zone (A), Speciality Crop Area Zone (SC), and the Rural Zone (RU). Within these three zones, both agricultural uses and medical marihuana facilities are permitted.

The by-law currently defines medical marihuana facilities as

“a facility that is licensed under the Marihuana for Medical Purposes Regulations, or successor thereto, for the growing of medical marihuana as well as for the processing, testing, packaging, distribution and destruction of medical marihuana as accessory uses”.

It is noted that since the writing of this by-law, the Marihuana for Medical Purposes Regulations was replaced by the Access to Cannabis for Medical Purposes Regulations.

The following are the lot, building and yard requirements that apply to commercial greenhouses and medical marihuana facilities in Rural and Agricultural Zones:

Minimum Lot Area	40 ha. except 16.2 ha. in the Specialty Crop Zone north of the escarpment. (As delineated by the “N.E.D.C Area” on Schedules 1 to 17.)
Maximum Lot Coverage	Lots less than 5 ha: 70% Lots 5 to 20 ha: 50% Lots over 20 ha: 25%
Minimum Lot Frontage	50 m.
Minimum Front Yard	30 m.
Minimum Exterior Side Yard	10 m.
Minimum Interior Side Yard	10 m.
Minimum Rear Yard	15 m.
Height	No Requirement

Additional provisions for medical marihuana facilities within Rural and Agricultural zones are outlined in Section 6.2.2.7. The by-law sets requirements for the use, stating that

they are not permitted in a dwelling unit. A facility must be located 150 metres from a Residential or Institutional Zone, including a day care, and signs identifying the use as a medical marijuana facility are prohibited, as is any outdoor storage.

3.2.2 Employment Zones

Employment Zones within Section 10 of the Zoning By-law consist of General Employment (GE), Prestige Employment (PE) and Utility (U) Zones. Agricultural uses and industrial uses are permitted in General and Prestige Employment Zones, but not Utility Zones.

The following are the lot, building and yard requirements applicable to General and Prestige Employment Zones:

Regulation	General Employment Zone	Prestige Employment Zone
Minimum Lot Area	1850 sq.m.	4200 sq.m.
Maximum Lot Coverage	50%	50% when serviced, 20% when not serviced
Minimum Lot Frontage	30 m.	30 m.
Minimum Front Yard	15 m	15 m.
Minimum Exterior Side Yard	9 m.	9 m.
Minimum Interior Side Yard	4.5 m. but 9 m. adjacent to a residential zone	4.5 m. except 9 m. abutting a residential zone
Minimum Rear Yard	7.5 m. except 15 m. abutting a street	7.5 m., except 15 m. abutting a Residential Zone, or a street
Maximum Height	No requirement	No requirement

3.3 Site Plan Control

According to the Town of Grimsby's website

“the whole of the Town of Grimsby as an area of site plan control. All classes of development are subject to site plan control under By-law 86-8, as amended, with the exception of agricultural buildings and structures, save and except greenhouses and help houses.”

4 Best Practice Review



4.1 Summary of Best Practice Review

The available information from 14 municipalities was reviewed in order to analyze and assess the various approaches that other municipalities have taken to deal with the permission for cannabis growing facilities in Ontario. Six municipalities within Niagara were reviewed, which include: Niagara-on-the-Lake, Niagara Falls, Wainfleet, Lincoln, West Lincoln, and Pelham. Other Ontario municipalities were chosen to represent urban and rural approaches. These include Chatham-Kent, Halton Hills, Leamington, Norfolk, Oakville, Arnprior, Haldimand County, and Brant County.

At the time of this review, within Niagara Region, the Town of Niagara-on-the-Lake, the City of Niagara Falls, the Township of Wainfleet, the Town of Lincoln and the Town of Pelham all have Interim Control By-laws in place to assess current land use planning policies and ensure the provision of adequate tools to regulate the growing and processing of cannabis. The majority of these will expire early to mid 2020, unless extended. Draft Official Plan and Zoning by-law amendments for the Town of Pelham are discussed in this Best Practice review, recognising that their final form, if approved, may differ than what is presented in this report.

The other municipalities reviewed permitted cannabis-related uses within their documents, either as-of-right or requiring a zoning by-law amendment. The details of Best Practice Review are provided in detail in **Appendix A** to this report and key takeaways are summarised below in **Table 1** and the sections to follow.

Table 1 illustrates that municipalities have permitted cannabis growing facilities either as-of-right or through a zoning by-law amendment. The designation and/or zone where cannabis and related uses are permitted, as well as any special regulations that are applied, are described within the table to follow.

Table 1. Summary of Municipal Cannabis Facility Regulations

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
Niagara Region				
Niagara-on-the-Lake	Interim Control By-law in place			
Niagara Falls				
Wainfleet				
Lincoln				
West Lincoln	Not specifically addressed	Permits through site-specific/Zoning by-law amendment in Agricultural and Employment Zones the following: <ul style="list-style-type: none"> • indoor cultivation, • processing; • testing; • destruction; • packaging 	<ul style="list-style-type: none"> • Minimum setback from all other lot lines (50m where permitted in Agricultural Zones and 45m where permitted in Employment Zones) • Security fence requirements • No outdoor storage/growing 	

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
Pelham (Draft)	<ul style="list-style-type: none"> Outdoor storage, growing and production of cannabis addressed, 	<p>Permits as-of-right in Agricultural and Light Industrial Zones the following:</p> <ul style="list-style-type: none"> indoor cultivation, processing; testing; destruction; packaging <p>Permits through site-specific/Zoning by-law amendment the following:</p> <ul style="list-style-type: none"> outdoor storage, growing and production 	<ul style="list-style-type: none"> Minimum setback to sensitive land uses (150m) Minimum planting strip Maximum parking area Minimum separation distance between greenhouse operations (500m) No retail sale permitted 	<ul style="list-style-type: none"> Fence By-law Fortification By-law Cannabis Nuisance By-law Odour By-law Site Plan Control
Other Municipalities				
Chatham-Kent	<ul style="list-style-type: none"> Cannabis production is permitted within the Employment, Agricultural and Rural Industrial designations 	<p>Permits as-of-right in Agricultural and Industrial Zone:</p> <ul style="list-style-type: none"> indoor cultivation; processing; sale; analytical testing; and research 	<ul style="list-style-type: none"> Minimum separation distance of buildings/structures from residential, institutional or open space boundary (75m in Industrial Zones and 100m in Agricultural and Rural zones) Parking requirements 	<ul style="list-style-type: none"> Site Plan Approval

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
		Permits of right in Agricultural Zone: <ul style="list-style-type: none">• outdoor cultivation		
Halton Hills	<ul style="list-style-type: none">• Indoor and outdoor cannabis cultivation and processing is a permitted use	Permits as-of-right in EMP1 and RU-EMP Zone: <ul style="list-style-type: none">• indoor cultivation,• processing;• testing;• research. Permits as-of-right in A and PC Zone <ul style="list-style-type: none">• outdoor cultivation.	<ul style="list-style-type: none">• Parking requirements• Loading space requirements• Setback from sensitive uses (150m)• Outdoor growth of cannabis must be 50m from lot lines	<ul style="list-style-type: none">• Site Plan Control
Leamington	Not specifically addressed	Permits as-of-right in Agricultural Zones where greenhouses are permitted or in Industrial Zone: <ul style="list-style-type: none">• indoor cultivation• processing;• extracting;• packaging;• testing;• destruction;• storage;• shipment.	Independent By-law <ul style="list-style-type: none">• Odour protocol regulations• Applicable licences and permits• Setback from sensitive uses (200m)• Inspection and compliance regulations	
Norfolk	Not specifically addressed	Permits as-of-right in Agricultural and Industrial Zones:	<ul style="list-style-type: none">• Minimum setback from Residential Zones, Institutional Zones or	<ul style="list-style-type: none">• Site Plan Control

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
		<ul style="list-style-type: none"> • producing; • processing; • testing; • destroying; • packaging; • shipping. <p>No reference is made to indoor vs. outdoor cultivation.</p>	<p>Open Space Zones (70m where equipped with air treatment control in Industrial Zones and 150m in Agricultural Zones)</p> <ul style="list-style-type: none"> • Minimum setback from sensitive land uses (existing use as opposed to zone) (150m in Industrial or Agricultural Zones and equipped with air treatment control and 300m in Industrial or Agricultural Zones and not equipped with air treatment control) • Security building/structure requirements • No outdoor storage 	
Oakville	Not specifically addressed	<p>Not specifically addressed. Town’s website implies permission through existing permitted uses e.g. manufacturing, agriculture. Discussion with the Manager of Zoning confirmed cannabis facilities are considered to be captured within the existing definitions of "agriculture" and "manufacturing". Therefore, under the agricultural use, outdoor growing facilities would be permitted.</p>	N/A	

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
Arnprior	Not specifically addressed	Permits as-of-right within the Employment Zone: <ul style="list-style-type: none"> • cultivation; • processing; • analytical testing; • research. No reference is made to indoor vs. outdoor cultivation..	<ul style="list-style-type: none"> • Setback from residential or institutional (100m) • No residential is permitted on the same lot • Loading space and storage must be within a fully enclosed building • Retail sales are not permitted • Parking space requirements • 	
Haldimand County	Not specifically addressed	Permits as-of-right in the Agricultural and Industrial Zones within a building: <ul style="list-style-type: none"> • shipment; • delivery; • transport; • destruction; • growth; • drying; • exporting; • importing. 	<ul style="list-style-type: none"> • Dwelling units are not permitted on same site • Minimum setback from Residential, Commercial, Institutional or Open Space Zones; any sensitive land uses; and any settlement area boundary (150m) • Increased setbacks based on building/structure size (less than 6,967m²: 150m; less than 9,260 m²: 200m; greater than 9,260m²: 300m) • Setback where an air treatment control system is not provided (300m) • Parking requirements • Outdoor storage is prohibited 	<ul style="list-style-type: none"> • Site Plan Control

Municipality	Official Plan	Zoning		Other
		Uses Permitted	Regulations	
			<ul style="list-style-type: none"> • Outdoor signage is prohibited • No other uses permitted other than growing of accessory agricultural crops • Minimum lot area • Minimum setback of structures from all property lines • Security building regulations • Loading spaces must be within wholly enclosed building 	
Brant County	Not specifically addressed	Permits as-of-right within Agricultural and Industrial Zones: <ul style="list-style-type: none"> • indoor cultivation; • processing; • testing; • destroying; • packaging; • shipping. 	<ul style="list-style-type: none"> • Setback from Residential Zone or use, Industrial Zone or use or Open Space Zone (150m) • Loading space requirements • Security building regulations • Parking space requirements 	<ul style="list-style-type: none"> • Site Plan Control

4.1.1 Official Plan Permissions

Of all the municipalities reviewed, only three address cannabis facilities within their Official Plans.

Pelham is in the process of drafting an Official Plan Amendment, which will permit the outdoor storage, growing and production of cannabis in Agricultural and Industrial Zones. Additional requirements for greenhouses for cannabis production will also be outlined in order to ensure compatibility with neighbouring land uses with respect to odour and light mitigation, as well as addressing appropriate setbacks and the requirement of a waste management plan.

The Chatham-Kent Official Plan lists cannabis production as a permitted use within the Employment Area, Agricultural Area and Rural Industrial designations. Cannabis Production is addressed as its own section, providing the objective of supporting and promoting new industry through diversification and requiring setbacks from sensitive land use, site plan approval and impact mitigation in accordance with Federal regulations and a Health Canada licence.

Through OPA 35, the Halton Hills Official Plan permits cannabis cultivation and processing in the General Employment Area and Prestige Industrial Area designations. Outdoor cultivation is also permitted in the Protected Countryside Area and Agricultural Area. The Official Plan also establishes setbacks of 150 metres to sensitive uses and 50 metres to lot lines for outdoor uses. The Official Plan permits indoor cultivation of cannabis and processing of cannabis in the Protected Countryside Area and Agricultural Areas through a Zoning By-law Amendment and Site Plan control.

4.1.2 Mechanism for Permissions

Most of the municipalities reviewed permit cannabis growing facilities in some way, whether as-of-right or through a zoning by-law amendment process.

Unique in our review, the Town of Oakville does not refer to cannabis specifically at all. It is our understanding from a review of their website and discussion with the Manager of Zoning that cannabis facilities and their uses are considered to be captured by the existing defined terms of “agriculture” and “manufacturing” within the zoning by-law.

The Municipality of Leamington is also unique, as they have chosen to implement a stand-alone Cannabis Regulation By-law, which sets aside similar provisions to those of the other municipality’s zoning by-laws, however it is a by-law independent of their zoning by-law.

The Town of Pelham is the only municipality that has considered additional by-laws to accompany implementation of an official plan and zoning by-law amendment, including a Fence By-law, a Draft Fortification By-law, a Draft Cannabis Nuisance By-law and a Draft Odour By-law.

4.1.3 Cannabis Facility Definitions

Various approaches have been taken to define cannabis growing, production and harvesting. The following terms have been used within zoning by-laws and official plans reviewed:

- Cannabis Production
- Cannabis Production Facility
- Cannabis Growing and Harvesting Facility
- Cannabis Production and Processing
- Cannabis Related Facility

The definitions of these terms all seek to describe the specific cannabis related uses that are encompassed by the term, these often being cultivation, growing, processing, production, testing, destruction, packaging and shipping of cannabis etc. Many of the definitions had a structure similar to the following example by Chatham-Kent:

“Cannabis Production Facility: means any building structure, or lands licensed by, Health Canada to undertake cultivation, processing, sale, analytical testing, and research of cannabis, pursuant to the Cannabis Regulations under the Cannabis Act, or successor legislation.”

Approximately half of the definitions mention that the cannabis related uses must be done pursuant to applicable regulations and provisions, some of them naming the Act and Regulations directly, and a few mention that retail sale is not to be permitted on the premises.

Some municipalities have also chosen to revise their current definition of other uses, such as “agricultural use” and “industrial use” to either include or specifically exclude cannabis facilities and production:

- Chatham-Kent amended their definition of ‘Agricultural Use’ to include “a Cannabis Production Facility” and their definition of “Industrial Use” to include “a Cannabis Production Facility excluding the outdoor cultivation of cannabis”;
- Pelham (draft) amended their definition of ‘Agricultural Use’ to exclude “cannabis production” within their zoning by-law; and
- Norfolk County amended definitions within their zoning by-law for “farm”, “garden centre”, and “wholesale outlet” to specifically exclude “Cannabis Production and Processing”.

The Town of Halton Hills introduces 6 different definitions relating to cannabis production into the zoning by-law, which mirror the various definitions associated with the licences that will be available. These include:

- Cannabis Analytical Testing Facility;
- Cannabis Cultivation – Indoor;

- Cannabis Cultivation – Outdoor;
- Cannabis Drug Production Facility;
- Cannabis Processing Facility; and
- Cannabis Research Facility.

4.1.4 Zoning Permissions – Indoor Cultivation

The majority of the municipalities permit the indoor cultivation of cannabis as-of-right within their zoning by-laws, in agricultural, employment or industrial zones:

- Pelham permits indoor cultivation within agricultural and light industrial zones;
- Chatham Kent permits indoor cultivation within agricultural and industrial zones;
- Halton Hills permits indoor cultivation within employment and rural employment zones;
- Leamington permits indoor cultivation within agricultural zones (where greenhouses are permitted) and industrial zones;
- Arnprior permits cultivation within employment zones;
- Norfolk County permits cannabis production and processing within agricultural and industrial zones;
- Haldimand County permits indoor cultivation within agricultural and industrial zones; and
- Brant County permits indoor cultivation within agricultural and industrial zones.

The Town of West Lincoln is the only municipality under review that requires a site specific/zoning by-law amendment to permit the indoor cultivation of cannabis along with processing, testing, destruction and packaging.

4.1.5 Zoning Permissions – Outdoor Cultivation

Only some of the municipalities reviewed specifically allow the outdoor cultivation of cannabis. Chatham-Kent and Halton Hills permit outdoor cultivation as of right within their Agricultural and Protected Countryside Zones, and according to Pelham's draft amendments, the Town will permit the outdoor storage, growing and production of cannabis through site-specific/zoning by-law amendments within the Agricultural and Industrial Zones.

As the Town of Oakville considers cannabis facilities as an agricultural use, according to discussion with the Manager of Zoning, outdoor cultivation facilities would therefore be permitted where agricultural uses are permitted.

Within the zoning by-laws of the Township of West Lincoln, the Municipality of Leamington, Haldimand County and Brant County, specific reference is made that either directly prohibits the outdoor storage and growing of cannabis or only permits indoor cultivation.

The Norfolk County and Town of Arnprior zoning by-laws make no reference to indoor or outdoor cultivation, however Norfolk County does prohibit outdoor storage.

4.1.6 Additional Zoning and Site Plan Requirements

While specific zoning provisions and requirements for facilities differ across municipalities, the following summary captures the provisions that are commonly referenced:

- A minimum setback or separation regulation for cannabis facilities from other uses and lots. Typically, from residential, institutional and open space zones, and specific sensitive land uses. The distances vary depending on which zone the use is permitted within (i.e. setbacks for facilities within the agricultural zone will differ from those for facilities within employment zones). Setbacks range from 40 metres to 300 metres but are often set at 150 metres within by-laws that only specify one requirement;
- Separation distance between greenhouses, buildings and structures within a cannabis facility operation;
- Requirement of a security fence around the premises to a certain standard. Many regulations also state that security buildings will require the same setbacks as facilities;
- Parking requirements including number of spaces and maximum coverage, which depend on the size of the facility and number of employees;
- Loading requirements, requiring either hidden or fully enclosed spaces to be provided;
- Subjectivity of any cannabis facility to site plan control in order to address on site matters;
- The requirement for mitigation from potential impacts such as light, air and odour emissions, which may include the submission of studies to the municipality related to odour and dust, transportation, light, hydrogeological requirements, and any other applicable study as part of compliance;
- The design and operation of facilities in accordance with Federal regulation, a licence from Health Canada, and any other requirements of the Province or competent authority;
- Prohibition on retail stores and sales;
- Restriction on outdoor signage or advertisement of the facility; and
- Restriction on residential uses or dwelling units located on the same lot as a cannabis facility.

5 Considerations of Next Steps



The next phase of the study will be to develop options for considering cannabis facilities in the Grimsby planning documents. The Official Plan is silent on the matter of cannabis growth and the zoning by-law only addresses medical and not recreational cannabis.

One of the questions raised in the Request for Proposals for this Study is whether a municipality has the authority to regulate cannabis growing facilities. Licenced facilities must adhere to local laws, thus there is some ability to regulate cannabis growing facilities. However, defensible regulations require justified planning grounds. Outright prohibition of a legal use may be difficult to justify.

Further, because of the Farming and Food Production Protection Act, prohibition of cultivation and associated activities on farmlands may not be enforceable, as the Farming and Food Production Protection Act prohibits municipal by-laws that restrict normal farm practices. However, some other municipalities have only permitted cannabis cultivation indoors.

Based on the background discussed above, a number of considerations are raised that will be further examined and as part of the options analysis in the Phase 2 of this Study.

- Should indoor cannabis growing facilities be permitted in agricultural and/or employment areas?
- Should outdoor cannabis growing be permitted?
- Should cannabis growing facilities be permitted as-of-right or require a site specific zoning by-law amendment?
- Should a separation distance be required between residential and other potentially sensitive uses and cannabis-related uses?
- Should setbacks from the lot line be required for certain cannabis related uses?
- Should fencing and access restriction be specifically regulated for the site?
- What other requirements should be considered to address matters of nuisance, security, servicing etc.?
- Should cannabis growing facilities be subject to the Site Plan Control By-law?



Phase 2: Formulating Policy Options

6 Consideration of Options



6.1 Permitting the Use

6.1.1 Should cannabis related uses be permitted in agricultural and/or employment areas?

Option 1a. Specifically permit indoor cultivation of cannabis in Agricultural Areas

As evidenced in the best practice review undertaken in **Phase 1** of this study, several municipalities in Ontario have taken the position that indoor cannabis growth is permitted in agricultural areas.

The current definition of agricultural use within the Grimsby Zoning By-law includes:

“the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; horse boarding; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures.”

The Official Plan mirrors this definition, with additional wording at the end of it:

“ ... including accommodation for full time farm labour when the size and nature of the operation requires additional employment. Agricultural uses include value retention uses required to make a commodity saleable (i.e. corn dryer, washing, sorting, packing and packaging).”

According to these definitions as currently written, both the indoor and outdoor cultivation of cannabis would be allowed in the Town where agricultural uses are permitted.

If indoor cultivation is to be permitted, consideration should be given towards whether this allowance applies to some or all of the different agricultural areas in Grimsby. These areas include the Agricultural, Rural and Specialty Crop areas/zones, all three of which permit agricultural uses. There is no compelling reason for restricting the use to some of these areas as opposed to others.

Further, all three of Grimsby’s agricultural and rural zones already permit Commercial Greenhouses, defined in the zoning by-law as:

“means a structure used to cultivate or grow floral, vegetable or other horticultural produce in a climatically controlled environment and made primarily of translucent building material usually of plastic or glass but shall not

include greenhouses which are less than 46.5 square metres in area and are accessory to a residential use.”

According to this definition, indoor cannabis cultivation within a building that meets the definition of a commercial greenhouse within the zoning by-law is already permitted.

The zoning by-law also permits accessory uses. For indoor cultivation of cannabis, this would include accessory uses for which licences can be sought, including processing, testing, sale for medical purposes, and packaging. It should be highlighted however, that unlike the Official Plan’s definition for agricultural use, the agricultural use definition within the zoning by-law does not permit processing or value-added components on their own.

The following outlines the pros and cons of permitting indoor cultivation in the Agricultural Areas of Grimsby:

Pro	Con
<ul style="list-style-type: none"> Indoor cultivation would currently constitute a permitted use in agricultural areas. Post cultivation uses (processing, packaging, etc.) are currently permitted as an accessory use to the cultivation process, so long as they occur on the same lot as the cultivation. This approach aligns with that of the existing by-law, which already permits medical marijuana facilities in Grimsby. 	<ul style="list-style-type: none"> Little information is available from Health Canada on the complaint/mitigation system related to cannabis uses. Nuisance concerns related to noise, odour, security, lighting, etc. may occur. Regulations and complaint mechanisms for indoor uses may not be sufficient to enforce mitigation of an odour nuisance.

Mechanisms for permission of the indoor cultivation of cannabis in agricultural areas would include:

- No change to the Official Plan, with the interpretation that the indoor cultivation of cannabis and associated uses are already permitted through the definition of agricultural use; **or**
- Amend the Official Plan to specifically clarify that the indoor cultivation of cannabis is permitted in agricultural designations;

and

- Amend the zoning by-law to clarify that the indoor cultivation of cannabis and associated uses are permitted, by updating the existing references to medical marihuana facilities to include any licenced cannabis facility.

Option 1b. Do not permit indoor cultivation of cannabis in Agricultural Areas

When licenced, the production of cannabis is a legal undertaking in Canada. In order to prohibit the uses outright, planning grounds would be required for why the use is not appropriate anywhere within the Town Grimsby. While there are nuisance concerns, as discussed within the following sections of this report, it must be determined whether such concerns are sufficient grounds for outright prohibition of cannabis cultivation and production.

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has been considering this matter. Personal communication with staff at the Ministry has indicated that they consider the growth of cannabis to be subject to the Farming and Food Production Protection Act, 1998. Any restriction on the cultivation of cannabis may need to stand up to the test of whether “normal farm practices”, as defined by the Farming and Food Production Protection Act, have been restricted.

We contacted the Normal Farm Practices Protection Board to ask if any hearings have considered the protection of normal farm practices as it relates to cannabis. They indicated that one application has been brought forward related to municipal by-laws and cannabis. This application had been made to the Board regarding Beckwith Township’s Zoning By-law 91-14, section 3.12, which addresses Medical Marijuana Facilities. The provisions of that by-law include a required separation from residential uses and institutional zones of 150 metres, as well as building setback of 70 metres. However, the application was withdrawn before any hearings on the matter took place.

The following outlines the pros and cons of not permitting indoor cultivation in Agricultural Areas in Grimsby:

Pro	Con
<ul style="list-style-type: none"> • Alleviates nuisance concerns related to indoor cultivation of cannabis. 	<ul style="list-style-type: none"> • Indoor cultivation (and accessory packaging, processing, etc.) would currently constitute a permitted use in agricultural areas, for which permission would be removed. • Medical Marijuana Facilities, which include indoor cultivation, are currently permitted, for which permission (for new facilities) would be removed. • No planning grounds for outright prohibition of legal use were discovered in the best practice research; making defending the recommendation more difficult. • By-laws that prohibit indoor cultivation may be deemed to not apply anywhere agricultural uses are currently permitted by the Normal Farm Practices Protection Board.

The mechanisms for removing the permission of indoor cultivation of cannabis in agricultural areas would include amending both the Official Plan and zoning by-law to define the use and list it as a prohibited use, as well as to remove the reference to medical marihuana facilities.

Option 2a. Permit outdoor cultivation of cannabis in Agricultural Areas.

The key concerns associated with outdoor cultivation include lighting and odour. However, there is currently limited information available to assist in understanding the nuisances related to outdoor cultivation of cannabis. While outdoor growing is able to take advantage of sunlight, which reduces the need for artificial light, nuisances may still result from lighting required for security measures. In terms of odour, to our knowledge, only one outdoor plant exists within Ontario at the time of writing this report. As discussed further in the report, none of the literature reviewed with regards to odour speaks directly to outdoor cultivation; however, it is understood that odours generally occur when the plant flowers and produces the buds.

The following outlines the pros and cons of permitting outdoor cultivation in Agricultural Areas in Grimsby:

Pro	Con
<ul style="list-style-type: none"> • Outdoor cultivation would currently constitute a permitted use in agricultural areas. • The post cultivation uses (processing, packaging, etc.) are currently permitted as an accessory use to a cultivation process. 	<ul style="list-style-type: none"> • Little information is available about the nuisance effects of outdoor cultivation. • Little information is available from Health Canada on complaint/mitigation systems related to cannabis uses. • Nuisance concerns related to noise, odour, security, lighting etc. may occur.

The mechanisms for permission of outdoor cultivation in Agricultural Areas are very similar to those discussed in Option 1a for permitting indoor cannabis growth. These include amending the Official Plan and/or zoning permissions.

Option 2b: Do not permit outdoor cultivation of cannabis in Agricultural Areas

As previously discussed, the licenced production of cannabis is a legal undertaking, and planning grounds would be required as to why the outdoor cultivation of cannabis is not appropriate within any of Grimsby's Agricultural Areas. While there are nuisance concerns, little information is available on outdoor cultivation to inform the potential potency of this nuisance.

Only a few of the municipalities we reviewed actually permit outdoor cannabis cultivation. However, it is important to note that the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) considers cannabis cultivation a normal farm practice. Therefore, a municipal by-law preventing outdoor cultivation could be challenged at the Normal Farm Practices Protection Board.

The following outlines the pros and cons of not permitting outdoor cultivation in Agricultural Areas in Grimsby:

Pro	Con
<ul style="list-style-type: none"> Alleviates nuisance concerns related to the uses. 	<ul style="list-style-type: none"> Outdoor cultivation would currently constitute a permitted use in agricultural areas, for which permission would be removed. The post cultivation uses (processing, packaging, etc.) are permitted currently as an accessory use to a cultivation process. By-laws preventing outdoor cultivation of cannabis may be deemed to not apply anywhere agricultural uses are currently permitted by the Normal Farm Practices Protection Board.

The mechanisms for restricting outdoor cannabis cultivation in Agricultural Areas are very similar to those discussed in Option 1b for not permitting indoor cannabis cultivation. This includes amending the Official Plan and zoning by-law to both define and list the use as a prohibited.

Option 3a: Permit cannabis related uses in Employment Areas

The Grimsby Zoning By-law contains three different employment zone categories. Two of them, the General Employment and Prestige Employment Zones, already permit agricultural uses. The Utility Zone does not. As the Utility Zone is intended entirely for public use purposes, such as a utility corridor or a water treatment plant, it is not being considered in the context of permissions for cannabis related uses.

Currently, the other two employment zones permit agricultural uses including packaging, processing, testing etc., which could be interpreted to include cultivation.

Conceptually, the benefit of permitting cannabis related uses in employment areas is that processing functions such as testing, drying, packaging, etc., are already have an inherently industrial function, not unlike many other forms of processing. While nuisance concerns associated with the processing of cannabis may occur, these concerns are not unlike the concerns associated with other industrial functions.

A certain level of nuisance is expected and accepted in industrial areas, hence the typical separation from sensitive uses and one of the reasons cannabis related uses may be suited for employment areas.

The following outlines the pros and cons of permitting cannabis related uses in Employment Areas in Grimsby:

Pro	Con
<ul style="list-style-type: none"> • Cultivation (indoor and outdoor) would currently constitute a permitted use as agricultural uses are permitted in the Employment Zones. • The post-cultivation uses (processing, packaging, etc.) are not that different from other industrial uses and have similar nuisance potential. • Employment areas are typically removed from sensitive uses, thus there may be less potential for nuisance impacts. 	<ul style="list-style-type: none"> • Nuisance concerns related to noise, odour, security, lighting, etc. may occur. • Little information is available from Health Canada on complaint systems or mitigation related to cannabis related uses. • Regulations and complaint mechanisms may not be sufficient to enforce mitigation of an odour nuisance.

Mechanisms for the permission of indoor cannabis cultivation in Employment areas would include:

- Leave the Official Plan policies as they are, with the interpretation that the cultivation of cannabis and its associated uses are already captured as agricultural uses and processing uses are permitted in Employment Zones; **or**
- Amend the Official Plan to specifically clarify that cannabis cultivation/processing /packaging etc. is permitted in Employment Areas;

And

- Amend the zoning by-law to clarify that cannabis cultivation and processing /packing/testing etc. are permitted in Employment areas;

Option 3b: Do not permit cannabis related uses in Employment Areas

As thoroughly discussed, the licenced production of cannabis is a legal undertaking in Canada. Even though nuisance concerns may persist, it must be determined whether such concerns are sufficient grounds for the outright prohibition of cannabis related uses in Employment Areas.

Any restriction on the cultivation of cannabis may need to stand up to the test of whether “normal farm practices”, as defined by the Farming and Food Production Protection Act, have been restricted. While it is apparent that the Act would apply in the Agricultural Areas, communication with OMAFRA indicated that they also consider the Act and its associated protections for normal farm practices, to also apply in Employment Areas where agriculture activities are currently permitted.

The following outlines the pros and cons of not permitting cannabis related uses in Employment Areas in Grimsby:

Pro	Con
<ul style="list-style-type: none">• Alleviates nuisance concerns related to the uses.	<ul style="list-style-type: none">• Cultivation (indoor and outdoor) would currently constitute a permitted use as agricultural uses are permitted in the Employment Zones, for which permission would be removed.• The post-cultivation uses (processing, packaging, etc.) are not that different from other industrial uses and have similar nuisance potential.• By-laws may be deemed not to apply by the Normal Farm Practices Protection Board anywhere agricultural uses are currently permitted.

If the Town of Grimsby decided to restrict the use in Employment Areas, the most transparent mechanism for prohibiting indoor cultivation would be to amend the Official Plan and zoning by-law to define the use and list it as a prohibited use, as well as to remove the reference to medical marihuana facilities.

6.2 Regulating the Use

6.2.1 What specific provisions should the By-law address?

Option 1: Implement a separation distance requirement to sensitive uses or zones

While more than one reason may exist for separating cannabis-related uses from sensitive uses, odour is often raised as the primary consideration. The difficulty, however, lies in determining an appropriate setback to address odour concerns.

Currently, the Grimsby zoning by-law requires a medical marijuana facility to be 150 metres from the lot line of any Residential or Institutional use or Zone, including a day care.

As mentioned previously within this report, the Cannabis Act Regulations require “a system that filters air to prevent the escape of odours”. In addition, Health Canada has produced a guide entitled “Good Production Practices Guide for Cannabis”, which provides additional direction to fulfilling the Regulations related to air filtration. The guide indicates that:

- “The building or part of the building used for the production, packaging labelling and storage of cannabis is equipped with an adequate ventilation system that is capable of maintaining air quality within it.
- The number and quality of air filters is sufficient for preventing the escape of odours from the building or part of the building where all activities with cannabis are taking place, as well as to maintain air quality within these areas.
- Ventilation and air filtration is maintained in accordance with a schedule.
- Maintenance operations are carried out in a manner that does not present any risk to the quality of the cannabis.
- The presence of odours surrounding the facility is monitored in accordance to a schedule and responded to if necessary.
- Inspection and repair activities occur when required.”

The Health Canada guide provides no specific technical requirements for the form or type of air filtration system; it simply requires implementation of a system that successfully blocks the escape of odours.

In 2018, a planner from the Town of Grimsby contacted Health Canada, inquiring how odour concerns with regards to cannabis production will be addressed. Health Canada’s response dated January 17th, 2019 stated that:

“All of Health Canada’s licence holders are inspected on a regular basis to ensure that cannabis is produced, sold, and distributed in accordance with the *Cannabis Regulations*.

Under the Good Production Practices requirements of the Regulations, federal licence holders must ensure that they have sufficient air filtration to

prevent the escape of odours in all buildings or part of buildings where cannabis is produced, packaged, labelled, and stored.

During an inspection, if any strong odours are perceived outside the licensed facility, the inspection report will include a citation under the Regulations and the regulated party will be expected to address the situation as part of their corrective action plan.

The Department takes issues and complaints related to the activities of licence holders seriously and ensures that appropriate actions are taken to correct any potential non-compliance with the regulations.”

Based on the above, odour from indoor cultivation facilities where a proper ventilation system is in place and is appropriately maintained should be properly mitigated, as required by the Cannabis Act Regulations and the Health Canada Guide. However, there could be interpretation differences with regards to what is considered an appropriate level of odour mitigation and what constitutes a “strong odour”. As well, odour related to outdoor cultivation is not addressed in the regulations or guidelines.

In a separate email from July of 2019, Health Canada stated:

“Federal licence holders must also comply with all relevant provincial, territorial and municipal laws, including local by-laws about zoning, electrical and fire safety, and odour controls.

Odour issues are a shared responsibility between Federal / Provincial / Municipal government. Each level of government may have different requirements and licence holders must meet all of them. All levels of government can also verify compliance with their respective regulations, and can apply their individual compliance and enforcement measures as necessary.”

Health Canada was telephoned as part of this Study to determine if there was any information available on the number of complaints that have been filed, but no information was available at the time of writing this report. There was also no information available on the investigation of complaints and the timing associated with the same.

The Normal Farm Practices Protection Board also provides a mechanism for complaints. From our discussions with them, there is currently one application in progress from a private party complaining of nuisance related to a cannabis facility, which specifically pertains to odours, light and dust. As only a prehearing has occurred at this time, no decision on the matter has occurred. As well, to our knowledge, the Normal Farm Practices Protection Board has not yet had to make a determination on what constitutes a normal farm practice as it relates to cannabis production.

Our best practice review did identify that a number of municipalities have implemented separation requirements for cannabis growing facilities in zoning by-laws. One of the

concerns with implementing a setback and/or separation distance is that these requirements in zoning by-laws could be appealed. For example, matters currently under appeal after the City Hamilton implemented Official Plan and Zoning by-law changes to address cannabis as regulated under the Cannabis Act include:

- A policy of the Official Plan requiring that an appropriate setback between cannabis facilities and sensitive land uses be established in the zoning by-law;
- A zoning by-law requirement for a building setback of 30 metres for cannabis facilities in the Agricultural and Rural Zones; and
- In the Agricultural and Rural Zones, a separation distance requirement for cannabis facilities of 150 metres to residential dwellings and zones which permit sensitive uses.

Similar zoning provisions were also put in place by the City, which were not appealed, within the Airport Light Industrial and Prestige Business Zones.

As previously mentioned, the current Grimsby zoning by-law requires a medical marijuana facility to be 150 metres from the lot line of sensitive land uses. Should the implementation of separation distances for cannabis-related uses be desired within the zoning by-law, 150 metres, similar to medical marijuana, is recommended. This specific separation distance has been the most often utilised by the other municipalities reviewed.

The following outlines the pros and cons of implementing a separation distance for cannabis-related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> • Provides some level of nuisance mitigation by separating uses that may not be compatible. • There is already a specific provision for medical marijuana facilities within the zoning-by law • 150 m to sensitive uses and/or zones is standard across different municipalities reviewed. 	<ul style="list-style-type: none"> • Difficult to determine appropriate setback as lack of evidence/studies exist around nuisance related to Cannabis facilities. • Health Canada inspects air filtration and enforces where “strong odours” occur so separation distance may not be needed. • Provisions may be appealed to the Normal Farm Practices Protection Board. • An application for a minor variance or zoning by-law amendment could potentially reduce/modify the setback

Mechanisms for implementing a separation distance would be implemented through the zoning by-law.

Option 2: Provide a requirement for fencing in the by-law

The following outlines the pros and cons of implementing a use-specific fencing requirement for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> Provides an additional security measure. 	<ul style="list-style-type: none"> Health Canada reviews facility applications to assess the adequacy of the security measures proposed. This provision may not be needed.

Option 3: Provide parking rates specific to the use

The following outlines the pros and cons of implementing use-specific parking rate requirements for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> Parking requirements for cannabis facilities would help to regulate the size of lots and number of spaces. In Employment Areas, the industrial parking rate of 1 space per 90 square metres of gross floor area would be applied. There are currently no parking requirements for agricultural uses, and it is not clear what would be applied in if no changes to the by-law were made. 	<ul style="list-style-type: none"> Limited information is available on appropriate parking rates for cannabis related uses.

Option 4: Require loading spaces to be enclosed in a building

The following outlines the pros and cons of requiring enclosed loading spaces for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> As a security measure, some by-laws also require that the loading bays be wholly enclosed within a building. 	<ul style="list-style-type: none"> Health Canada reviews the applications to assess the adequacy of the security measures proposed. This provision may not be needed.

Option 5: Restriction on outdoor signage and advertisement of the facility

Currently, the Grimsby zoning by-law prohibits signs identifying medical marihuana facilities. The following outlines the pros and cons of implementing signage and advertisement requirements for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The restriction of outdoor signage and advertisement would further outline the municipality’s expectations on advertisements. There is already a specific zoning provision prohibiting signs for medical marihuana facilities. 	<ul style="list-style-type: none"> Marketing is addressed by the Cannabis Act and Regulations. Further, any use would also be subject to the Municipality’s sign by-law, thus this provision may not be required.

Option 6: Restrict outdoor storage

The following outlines the pros and cons of restricting outdoor storage related to cannabis uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The specific restriction on outdoor storage of cannabis product, other than harvesting, would provide additional clarity to the public and applicants as to what the permitted uses entail. 	<ul style="list-style-type: none"> This is something addressed in the Act and Regulations already, and therefore it may not be needed.

Option 7: Prohibit residential uses or dwellings located on the same lot

Currently, the Grimsby zoning by-law restricts a medical marihuana facility, or portion thereof, to be located in a dwelling unit. The following outlines the pros and cons of prohibiting dwellings on lots containing licenced cannabis uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The restriction of residential uses on the same lot as a cannabis related facility would provide additional clarity to the public and applicants as to what the permitted uses entail. There is already a specific zoning provision restricting medical marihuana facilities in a dwelling unit. 	<ul style="list-style-type: none"> The Cannabis Act does not allow any of the licenced activities to take place in a dwelling.

6.3 Implementing Changes

6.3.1 Should cannabis related uses be permitted as of right?

Option 1: Require a zoning by-law amendment application to permit the use

If the Town were to list cannabis related uses within their zoning by-law as a permitted use, it would be considered an as-of-right use.

Alternatively, the Town could restrict the use within any zone through its definition, therefore requiring a site specific zoning by-law amendment in order to permit a facility on any site.

The requirement of a site-specific zoning by-law amendment to permit cannabis cultivation and/or associated activities would provide the municipality with additional control over the design, security and structure of cannabis growing facilities. Specific requirements for a zoning by-law amendment application could potentially include the completion of studies and plans that address nuisance concerns related to noise, odour, lighting, traffic, or any additional matters.

The following outlines the pros and cons of requiring a zoning by-law amendment to permit cannabis related uses:

Pro	Con
<ul style="list-style-type: none"> • Provides the Town the opportunity to consider the use on a case by case basis and involve the public each time. • Could give the Town the opportunity to request studies or reports related to, among other things, parking, lighting, noise, odour etc., to ensure nuisance is not a concern. 	<ul style="list-style-type: none"> • This approach may be viewed as a restriction of normal farm practices.

The most straightforward mechanism for permitting the use through a site-specific zoning by-law amendment would be to define the use in the zoning by-law, but not list it as a permitted use in any of the zones. This would require a zoning by-law amendment for permission. Further, the Official Plan could be amended to outline that cannabis-related uses require a site specific zoning by-law amendment and set out the study requirements for any application.

Option 2: Permit Cannabis related uses in the by-law so all that is needed from the Town is a Building Permit

Should cannabis related uses be permitted in Grimsby, allowing these as-of-right is more consistent with the existing policies and provisions of the zoning by-law, which already allow for the cultivation of crops in Agricultural areas and processing in employment areas. This option is also less likely to be considered a restriction of Normal Farm Practices, and provides more clarity and certainty for prospective licence holders.

The following outlines the pros and cons of permitting cannabis related uses as of right:

Pro	Con
<ul style="list-style-type: none"> Better transparency for licence holders. Less chance of challenge of implementing by-laws. 	<ul style="list-style-type: none"> No process to assess each individual new use. No public process to take place for each individual new use.

The most straight-forward option to implement permissions for cannabis related uses as-of-right would be to define the use and list it as a permitted use within the desired zones.

6.3.2 Should the Site Plan Control By-law be updated to address cannabis related uses?

Option 1: Update the Site Plan Control By-law to specifically address the use

Grimsby By-law 86-6 designates the entire Town as an area under site plan control. As such, all classes of development are subject to site plan control, except for agricultural buildings and structures. However, this exception does not extend to greenhouses nor help houses, which are still subject to site plan control.

In order to require site plan control for cannabis related facilities, the provision of the above site plan by-law could be amended to clarify whether these facilities are classified as agricultural buildings and structures, or greenhouses; the later of which is subject to site plan control. Alternatively, the by-law could additionally specify that any cannabis related use is subject to site plan control.

The requirement of site plan control for cannabis facilities would allow the Town more control in ensuring sites are designed in a way that mitigate impact and nuisance. As greenhouses are already subject to site plan control, it is not unreasonable to require cannabis related buildings to be subject to site plan control.

Outdoor cultivation is not typically covered by site plan control, however given the need for fencing and or security measures, it may be worth considering.

The following outlines the pros and cons of making cannabis related uses subject to site plan control:

Pro	Con
<ul style="list-style-type: none"> • Site Plan control would allow the Town better opportunity to mitigate nuisance potential. • With the current wording of the site plan control by-law, it is not clear if a cannabis facility would currently be captured as an agricultural building which is exempt from control or a greenhouse which is not exempt. • Since greenhouses are currently subject to site plan control, it is reasonable to extend this to other similar uses, such as an indoor cannabis cultivation facility. • A site plan agreement can address matters such as odour allowing for easier enforcement. 	<ul style="list-style-type: none"> • Health Canada reviews the site plans and layouts of proposed facilities to ensure compliance with the Act and Regulations.

Option 2: Leave the Site Plan Control By-law as it stands today

Health Canada reviews the site plans and layouts of proposed cannabis facilities to ensure compliance with the Act and Regulations. The Town may choose to leave the design of the site, subject to meeting any by-law requirements, to the Health Canada application/licencing process.

The following outlines the pros and cons of not making cannabis related uses subject to site plan control:

Pro	Con
<ul style="list-style-type: none"> • Health Canada already reviews the site plans and layouts of proposed facilities. 	<ul style="list-style-type: none"> • The Town will lack the ability to control placement of buildings on site and also require additional study requirements such as odour control measures.

6.4 Summary Discussion

As with all planning matters, with any of the options discussed above, a balance will have to be struck between regulation and flexibility. In Ontario, Cannabis related uses are unique to other uses owing to the interplay of Provincial and Federal legislation. The Cannabis Act and Regulations clearly outline that municipal by-laws apply to any cannabis related use, giving Grimsby some control of this use through their planning processes.

However, the Ontario Farming and Food Production Protection Act stipulates that by-laws which restrict normal farm practices do not apply. As OMAFRA has taken the stance that cannabis is a crop subject to the Act, any by-law implemented that overly regulates these uses could be brought forward to the Normal Farm Practices Board and deemed not to apply. However, as cannabis cultivation is a new use, there is not yet a clear standard for normal practice in the context of nuisance concerns.

From a planning perspective, regulating any use must be justified with a rationale of what makes a use unique and what steps are appropriate to regulate nuisance and concerns related to that use.

The purpose of Phase 2 of this Study and this section of this report is to identify options for addressing cannabis related uses in the Town of Grimsby's Planning documents. The next step of this process is to seek public consultation on the options in order to inform the recommendations developed in Phase 3 of this Study.



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