



Town of East Gwillimbury

DEVELOPMENT SERVICES REPORT P2020-25

To: Council

Date: October 6, 2020

Subject: Terms of Reference for the Cannabis Production Facilities Land Use Study

Origin: Development Services, Planning Branch
Legal and Council Support Services

RECOMMENDATIONS

1. **THAT** Development Services Report P2020-25, dated October 6, 2020 entitled “Terms of Reference for the Cannabis Production Facilities Land Use Study” be received; and
2. **THAT** Council endorse the Terms of Reference for the Cannabis Production Facilities Land Use Study outlined in Appendix 1 of this report, subject to any further input.

PURPOSE

The purpose of this report is to seek Council’s input and direction on the Cannabis Production Facilities Land Use Study. Staff is proposing the attached draft Terms of Reference to be used as the framework to help conduct the Cannabis Production Facilities Land Use Study. The proposed Land Use Study is scheduled to be completed by Q1 of 2021 with an implementing by-law being enacted by Council.

BACKGROUND

On June 9, 2020 Council passed an Interim Control By-law (ICBL) By-law 2020-044 to temporarily restrict the development of cannabis production facilities Town-wide, with exemptions provided for existing Employment Prestige (M1) and Employment General (M2) zones.

Understanding that as part of the passing of the ICBL, Council directed that a study be undertaken to review and develop appropriate land use planning policies, the purpose of this report is to provide Council with a framework and work plan on the land use study.

ANALYSIS

Purpose of the Terms of Reference

The attached Terms of Reference is intended to provide a framework for guiding the development of the Council directed Cannabis Production Facilities Land Use Study.

Components of the Terms of Reference to be incorporated into the Study

1) Objectives and Scope of Work

Cannabis Production Facilities was not legalized at the time of the preparation of the Town's Official Plan. The main objective of this Land Use Study is to examine where Cannabis Production Facilities are the most appropriate, what types of review process are needed and criteria that will be applicable to ensure appropriateness. Finally, how the Town can enforce and implement these new measures for compliance. New/ updated by-laws will be required as a result of this study.

2) Cannabis Production in Canada

Staff will undertake to provide an introduction to the Cannabis Act. Staff will clarify the 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 non-medical purposes.

3) Existing Cannabis Production Facilities

Working with Legal and By-law Services, Staff will provide an overview of the location and scale of the existing Cannabis Production Facilities in Town.

4) Planning Framework

Currently, the Town of East Gwillimbury Official Plan does not make any direct reference to cannabis or marihuana, nor cannabis production facilities. Similarly, the Town's Zoning By-law does not specifically regulate cannabis production facilities as a permitted land use except in the Employment zone where Medical Marihuana production facility is permitted.

Staff will undertake a review to examine the opportunity for cannabis production facilities to be located in other zoning categories, more specifically within the Rural and Agricultural Areas.

Staff will also examine the Site Plan Control process and make recommendations to ensure that any Cannabis Production Facilities moving forward are developed and designed in an appropriate, safe, and functional manner that minimizes potential impacts on neighboring properties.

5) Best Practices

Staff will conduct a best practice review of nearby municipalities and other similar size municipalities to help identify provisions are commonly referenced and establish a best practice for the Town of East Gwillimbury. A best practice review on matters such as: definitions for Cannabis Production Facilities, zoning permissions between indoor vs. outdoor cannabis cultivation and setback requirements. Furthermore, Staff will conduct a best practice review on site plan requirements/ criteria such as air filtration, security, signage, parking, fencing requirement and minimum distance separation.

6) Enforcement

Working in conjunction with the Town’s Legal and By-law Services, the proposed land use study will evaluate and identify the most appropriate enforcement measures and tools available.

Next Steps

Planning Act requires the Study to be completed by June 2021 or have the ICBL extended to a maximum of June 2022.

Council adopted the ICBL by-law 2020-044 on June 9, 2020 and is effect for one year (June 9, 2021). During the one-year freeze on development of Cannabis Production Facilities except for lands that are zoned employment, Staff will complete a land use study in accordance with the work plan below.

| Phase | Task | Timeline |
|----------|----------------------------|-----------------|
| 1 | Terms of Reference Report | October 6, 2020 |
| 2 | Land Use Planning Study | Q1 2020 |
| 3 | Statutory Public Meeting | Q1/Q2 2021 |
| 4 | Implementing Zoning By-law | Q2 (June) 2021 |

If necessary, under section 38(2) of the Planning Act, Council may extend the time period of the interim control by-law for an addition year, provided the total time does not exceed two years from the date of the passing of the ICBL. In addition, the ICBL can be lifted by Council before the period lapsed. Lastly, under section 38(4.1) of the Planning Act, the extension of the ICBL can be appealed by any person or public body who was given notice of the extension within 60 days of the passing of the extension.

It is important for Council to consider the above timeframes as directed by the Planning Act. Under section 38(7) of the Planning Act, once the ICBL ceases to be in effect,

(regardless if the study has been completed or any implementation has been adopted) Council will not be able to pass another ICBL that applies to any lands to which the original ICBL applied. Since the ICBL is applicable Town-wide, Council will not be able to pass another ICBL in Town for any purposes until June 2024.

FINANCIAL IMPLICATIONS

It is important to note that every inquiry, investigation, and staff report costs the taxpayers money and takes time away from other issues or problems that require attention. To date, Legal Services has confirmed that the Town has spent upwards to \$40,000 in Legal fees to enforce the Town's Zoning By-law on existing non-compliant Cannabis Production Facilities. The proposed Cannabis Production Facilities Land Use Study will help establish clear policy and process to minimize the need for additional future legal cost related to enforcement.

Recently, other municipalities experiencing the pressure of these facilities operating in the rural area have conducted similar studies by obtaining the services of external planning consultants, at an estimated cost in the range of \$40,000 to \$50,000. It is Planning staff's opinion that internal staff have the necessary skills and capacity to undertake the work at a much lower cost. As noted in the next steps portion of this report, staff is required to complete the study and present the results of the study and a proposed Zoning By-law Amendment for Council's consideration for enactment by June 2021.

NEED FOR PUBLIC CONSULTATION

There is no need for public consultation at this point. As part of the subsequent Cannabis Production Land Use Study process, thorough public consultation and engagement will be held in accordance with the Planning Act requirements.

ALIGNMENT TO STRATEGIC PLAN

The recommendations of this report align with the following Strategic Priorities:



Responsible Growth & Environmental Protection

Ensure that communities are built in a respectful manner, with resident and business quality of life protected



Build Complete Communities

Effectively manage new and existing assets to deliver exceptional services to residents while ensuring a sustainable community



Quality Programs & Services

Continue to advocate for a safe and livable community for our residents while leveraging opportunities and partnerships



Culture of Municipal Excellence

Ensure strong fiscal responsibility and program delivery

CONCLUSION

Council’s direction for the Cannabis Production Facilities Land Use Study in accordance with the draft Terms of Reference attached as Appendix 1 to this report will help Staff complete the Study within the timeframe as outline by the Planning Act. A future report will be presented for Council’s consideration on Staff’s finding from the Land Use Study and options available to help regulate Cannabis Production.

APPENDICES

Appendix 1 – Terms of Reference – Cannabis Production Facilities Land Use Study

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| Prepared by: |
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APPENDIX 1 – Terms of Reference

Terms of Reference Structure

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| 1 | Introduction | |
| 2 | Objectives, Deliverables and Scope of Work | |
| 2.1 | Background | |
| 2.2 | Location and Context..... | |
| 2.2.1 | Existing Cannabis Production Facilities | |
| 2.3 | Objectives, Deliverables and Scope of Work..... | |
| 2.3.1 | Objectives..... | |
| 2.3.2 | Scope of Work..... | |
| 2.3.3 | Land Use Study..... | |
| 2.3.4 | Interim Control By-law..... | |
| 2.3.5 | Implementing Zoning By law..... | |
| 3 | Cannabis Production in Canada..... | |
| 3.1 | Legal Framework of Cannabis Production in Canada..... | |
| 3.1.1 | Cannabis Licensing Structure..... | |
| 3.2 | Cannabis Act and Policy..... | |
| 4 | Planning Framework | |
| 4.1 | Official Plan | |
| 4.1.1 | Rural and Agricultural Areas..... | |
| 4.1.2 | Employment Area..... | |
| 4.2 | Comprehensive Zoning By-law 2018-043 | |
| 4.2.1 | Rural and Agricultural Zones | |
| 4.2.2 | Employment Zones | |
| 4.3 | Site Plan Control Process..... | |
| 5 | Best Practices..... | |
| 5.1 | Summary of Best Practice Review | |
| 5.1.1 | Cannabis Production Facility Definitions | |
| 5.1.2 | Zoning Permissions – Indoor Cultivation | |
| 5.1.3 | Zoning Permissions – Outdoor Cultivation | |
| 5.2 | Additional Zoning and Site Plan Requirements | |
| 5.2.1 | Air Filtration - Odour control..... | |

- 5.2.2 Security – Crime prevention.....
- 5.2.3 Signage – Advertising.....
- 5.2.4 Parking.....
- 5.2.5 Fencing requirement.....
- 5.2.6 Minimum Distance Separation.....
- 6 Enforcement.....**
- 7 Next Steps**