

THE BLUE PRINT

OFFICIAL PLAN REVIEW




Cannabis Facilities Policies Background Paper



June 2023

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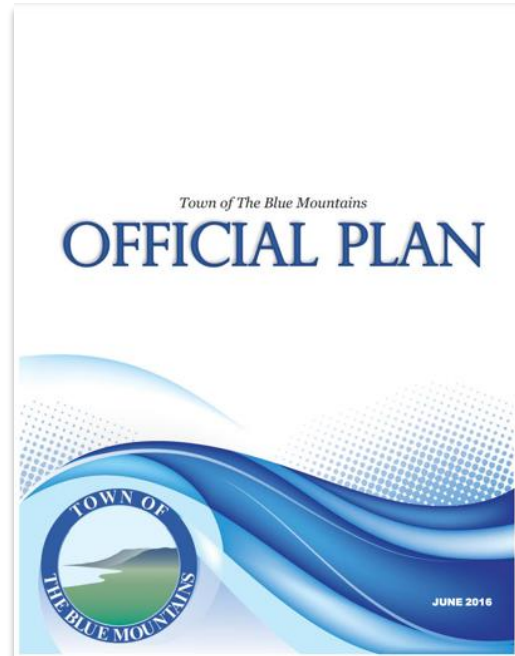
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1 Introduction

1.1 Purpose

The Town of the Blue Mountains is updating its Official Plan. The Blue Mountains Official Plan is the primary planning document that will direct the actions of the Town and shape growth and development. It establishes a unified vision for the future, land use structure for the Town and policies guiding growth and development.

Over the past years, the Town has been experiencing unprecedented growth which is expected to continue due to demographic changes, technological advances and the physical attraction and amenities of the Town. The Official Plan sets the foundation for where and how growth is to occur while ensuring it is balanced to protect the unique rural, environmental and community characteristics of the Town.



The purpose of this Cannabis Facilities Policies Background Paper is to consider updates to the Town's existing Medical Marihuana Facility policies in alignment with the 2018 Cannabis Act and Regulations, which set out new permissions for the growing of recreational cannabis in addition to medical marihuana.

1.2 Report Structure

This Cannabis Facilities Policies Background Paper is structured as follows:

Section 1 – Introduction: Provides an introduction to the Background Paper and its purpose.

Section 2 – Cannabis Production Framework in Canada: Discusses the relevant Acts and Regulations related to cannabis production in Canada and Ontario.

Section 3 – Official Plan Policy Framework and Analysis: Sets out the Town's current policy framework for Medical Marihuana Production Facilities and analyzes updates needed to align with the updated Federal Regulations and best practices.

Section 4 – Policy Opportunities and Recommendations: Sets out policy opportunities for updating the Official Plan.

2 Cannabis Production Framework in Canada

The Cannabis Act came into effect in 2018, legalizing the production, sale and use of cannabis for recreational purposes 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 the commercial growth, processing and sale of cannabis for medical purposes.

Section B2.12 of The Blue Mountains Official Plan currently sets out regulations for Medical Marijuana Production Facilities, in accordance with the permissions of the previous 2013 Medical Marijuana for Medical Purposes Regulations (MMPR). The Town's policies need to be updated to reflect the new Cannabis Act framework and regulate both medical and recreational cannabis production and related activities.

2.1 The Cannabis Act

The Cannabis Act permits the commercial growth of cannabis by licence holders in Canada. There are number of licences which can be applied to Health Canada 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 Cannabis Act also addresses growing permissions under the Access to Cannabis for Medical Purposes Regulations (ACMPR), which replaced the previous Medical Marijuana for Medical Purposes Regulations (MMPR) in 2016. The ACMPR allows individuals or their designated growers to provide a specific amount of cannabis for their own medical purposes as prescribed by their health care provider. Production is allowed both indoors and outdoors at the registered person's place of residence, land owned by the registered person or land owned by another with authorization from the owner. Health Canada's website clearly states that holders of registration certificates are expected to comply with all relevant Provincial and municipal laws including local

by-laws about zoning, electrical and fire safety, as well as all related inspection and remediation requirements.

Additionally, the Cannabis Act also permits the personal growth of cannabis, with a permission for up to 4 plants per dwelling. A licence is not required for personal growth.

2.2 Cannabis Act Regulations

Licence applications to Health Canada must provide a range of information pertaining to land use planning and site design including physical security, storage, building design, air filtration and ventilation systems, water supply and lighting. Applicants are also required to be familiar with the applicable municipal requirements and by-laws.

Under the Act, the Cannabis Regulations set out a number of requirements related to land use as follows:

- Prior to an individual submitting an application for a licence for cultivation, processing or sale, the applicant 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 The Blue Mountains) (Part 2 (Licensing) Section 7).
- A licence holder must notify the local municipality if the licence is granted, suspended, revoked, reinstated or amended (Part 2, Section 35 (1), and Part 2 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 the changes relate to meeting the required security measures, in which case, the Minister must be notified in advance (Part 2, Section 24 (1)).

Location of Uses

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

Security

- The site must be designed in a manner that prevents unauthorized access. (Part 4, Section 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, Sections 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, Sections 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, Section 75).

Air Filtration

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

3 Official Plan Policy Framework and Analysis

Policies for Medical Marihuana Production Facilities (MMPF) are set out in Section B2.12 of the Town's Official Plan, which are only permitted on lands designated Rural Employment, Urban Employment and Rural. The following minimum requirements are set out in Section B2.12:

- a) "A site specific Zoning By-law Amendment is required;
- b) Minimum setbacks from sensitive land uses such as residential, institutional and open space shall be established by the Zoning By-law;
- c) Residential uses are prohibited on the same lot as MMPF; and
- d) All activities associated with a MMPF, including loading spaces and storage, must be conducted within a fully enclosed building".

While these policies of the Official Plan need to be updated to reflect the new Provincial permissions regulations, the Town's Comprehensive Zoning By-law has already been updated to reference Cannabis Production Facilities. The Zoning By-law defines but does not permit Cannabis Production Facilities within any Zone. This approach aligns with Policy B2.12 a) of the current Official Plan above, as a site-specific Zoning By-law Amendment is required to permit the use. Requirement for a Zoning By-law Amendment provides opportunity for the Town to additionally review the particulars of each application and request the completion of studies that address potential nuisance concerns, as well as ensure a public review process.

The definition for Cannabis Production Facilities set out in the Town's Zoning By-law is consistent with the Cannabis Act and Regulations, as well as similar definitions from other municipalities, and is recommended to be carried forward into the Town's updated Official Plan as well. Cannabis Production Facilities are defined as:

"The use of land, buildings or structures for the cultivation, processing, testing, destruction, packaging and shipping of cannabis used for medical and/or recreational purposes."

Table 1 below sets out the Town's current MMPF Official Plan policies alongside a discussion of their continued relevance and/or required changes.

Table 1. Current Medical Marihuana Production Facility Policies and Analysis

Current Policy	Analysis
<p>A medical marihuana production facility (MMPF) is only permitted on lands designated Rural Employment Lands, Urban Employment Lands and Rural.</p>	<p>This requirement needs to be updated to reference Cannabis Production Facilities.</p> <p>Cannabis Production Facilities should continue to be permitted in both the Town’s Rural and Employment Lands – a consistent approach to other municipalities across Southern Ontario.</p>
<p>A site specific Zoning By-law Amendment is required.</p>	<p>This requirement aligns with the approach of the Zoning By-law, as it defines but does not permit the use anywhere in the Town. Therefore, a Zoning By-law Amendment is required. Many municipalities permit the use as-of-right in employment and agricultural/rural areas, however there are a few municipalities who require a site specific Zoning By-law Amendment.</p> <p>As the approach aligns with how facilities have been permitted in the past in the Town, this policy requirement should be carried forward as it allows the Town to assess each application on a site-specific basis, in addition to review by Health Canada under the Cannabis Act and Regulations.</p>
<p>Minimum setbacks from sensitive land uses such as residential, institutional and open space shall be established by the Zoning By-law.</p>	<p>There is no standard minimum setback for Cannabis Production Facilities in the Town’s Zoning By-law. This requirement directs minimum setbacks to sensitive land uses to be established through each site-specific Zoning By-law Amendment. While more than one reason may exist for separating cannabis-related uses from sensitive uses, odour is often raised as the primary consideration. It should be noted that the Cannabis Regulations already require “a system that filters air to prevent the escape of odours”, in addition to detailed review of air filtration and ventilation systems.</p> <p>The majority of other municipalities who have updated their Official Plans and Zoning By-laws to address cannabis facilities and related uses have implemented specific minimum setback distances, which typically range from 40 metres to 300 metres, but are often set at 150 metres. The Town has the option to set out a minimum setback</p>

	<p>requirement in the Official Plan or leave it to be determined on a site-by-site basis through the Zoning By-law each time.</p> <p>The permission for indoor versus outdoor growth also affects the requirement for minimum setbacks, as the Act and Regulations do not set out any specific odour control methods or requirements for outdoor cultivation nor is it possible to control odour from outdoor cultivation. Therefore, a larger separation distance will be required to address odour control to sensitive land uses in an outdoor environment. Outdoor cultivation is further discussed below.</p>
<p>Residential uses are prohibited on the same lot as MMPF.</p>	<p>The Cannabis Act already does not allow any licensed activities to take place in a dwelling.</p> <p>Only a handful of other municipalities have also restricted residential uses on the same lot as a cannabis facility or related use. This requirement could be carried forward, however it would restrict facilities from establishing on agricultural properties where residential dwellings already exist.</p>
<p>All activities associated with a MMPF, including loading spaces and storage, must be conducted within a fully enclosed building.</p>	<p>This existing requirement has the effect of prohibiting the outdoor growth of cannabis in The Blue Mountains. While the Cannabis Act and Regulations require odour mitigation measures for indoor cultivation, it is not possible to control odour from outdoor cultivation. While some municipalities permit outdoor cultivation, many do not. It is understood that the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is intending to study the odour effects of cannabis growth, but no information was available at this time. As such, outdoor cultivation should continue to be prohibited, which is achieved by requiring all activities to occur within a fully enclosed building.</p> <p>The prohibition of outdoor storage and security measures are already addressed in the Cannabis Act and Regulations, however carrying forward this specific restriction would provide additional clarity to the public and applications as to what the permitted uses entail.</p>

3.1 Site Plan Control

According to Section E1.5 of the Official Plan, all areas of the Town are designated as proposed Site Plan Control areas. Site Plan Control and issuance of a Site Plan Agreement ensures a development is designed to be compatible with adjacent development, is appropriately serviced and allows the Town to provide site-specific comment on the location of buildings, storage, parking, landscaping and buffering, among other elements.

The Town has the option to subject Cannabis Production Facilities to Site Plan Control which would add an additional local level review. As previously discussed, licensing applications to Health Canada require a broad range of site, security and good production practice measures to be implemented, with specific requirements for storage, building layout, air filtration and ventilation systems, water supply and lighting. Based on these existing Federal requirements, the Town will need to consider if additional site plan control measures are required to effectively control and regulate facilities. The Town may choose to require site plan control for cannabis facilities in order to be able to enter a site plan control agreement and have more tools with regards to enforcement if any issues arise.

As an added measure to ensure potential nuisances are mitigated, the Official Plan could specify that Site Plan Control for Cannabis Production Facilities may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.

4 Policy Opportunities and Recommendations

The following provides a summary of the preliminary opportunities and recommendations to update the Town's Medical Marijuana Production Facilities policies and regulate Cannabis Production Facilities:

- Permit Cannabis Production Facilities in the following designations, subject to a site-specific Zoning By-law Amendment:
 - Rural
 - Rural Employment
 - Urban Employment
- Introduce a new definition for “Cannabis Production Facility” either within Section E11: Glossary of the Official Plan or as part of the new Policy B2.12, using the same definition from the Town's Comprehensive Zoning By-law. Importantly this includes cultivation, as well as all cannabis related uses including processing, testing, destruction, packaging and shipping.
- Require the cultivation of cannabis to be in accordance with all applicable Federal Regulations, as amended from time to time.
- Specify that buildings shall be appropriately distanced from sensitive land uses including lands designated for residential, institutional and open space uses. Minimum setbacks shall be established through each Zoning By-law Amendment. The Town has the option to consider implementing a specific separation distance in the Official Plan, which each Zoning By-law Amendment application will need to comply with.
- Specify that Cannabis Production Facilities are subject to Site Plan Control, which may require the submission of studies relating to relevant matters including but not limited to, air quality control, environmental impacts, traffic and lighting.
- Specify that cultivation and processing are only permitted to occur within an enclosed building and the use may not emit any odour.
- Carry forward the restriction on outdoor storage and loading.
- Accessory land uses and activities related to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping must occur on the same lot as cultivation and are subject to the same policies.



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