

AMENDMENT NO. XX
TO THE OFFICIAL PLAN (2014)
FOR THE
CORPORATION FOR THE TOWN OF PELHAM

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PART “A” – THE PREAMBLE

SECTION 1 – TITLE AND COMPONENTS

This document was approved in accordance with Section 17 and 21 of the Planning Act, R.S.O. 1990, as amended and shall be known as Amendment No. _____ to the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Town of Pelham Planning Area.

Part “A”, the Preamble does not constitute part of this Amendment.

Part “B”, the Amendment, consisting of the following text constitutes Amendment No. _____ to the Official Plan adopted by By-law 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014 for the Town of Pelham Planning Area.

SECTION 2 – PURPOSE OF THIS AMENDMENT

The purpose of the Official Plan Amendment is to establish policies in the Town of Pelham Official Plan to control the location of cannabis-related uses and industrial hemp-related uses and set out the factors to be considered when establishing these uses in the Town.

SECTION 3 – LOCATION OF THE AMENDMENT

The lands that are subject to this Amendment are those that are in the Good General Agricultural Area and the Industrial Area designations as identified on Schedule A: Town of Pelham Land Use Plan.

SECTION 4 – BASIS OF THE AMENDMENT

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession. Following parliamentary review, the

Cannabis Act received royal assent on June 21, 2018 and it became law on October 17, 2018.

The Federal Cannabis Regulation SOR-2018-144 and the Industrial Hemp Regulation also came into effect on October 17, 2018. These two Regulations are part of a series of regulations that are intended to implement the Cannabis Act.

The indoor cultivation and processing of cannabis is anticipated to occur within greenhouse or industrial type buildings that can be larger than other similar buildings used for other purposes. As a consequence of the type of product being grown and processed in indoor facilities and the sizes of these facilities, the potential for adverse effects primarily from odour is significant. In this regard, it is anticipated that new indoor cannabis-related uses and industrial hemp-related uses will be required to be set back a significant distance from sensitive uses and from each other to mitigate against potential adverse effects. Setbacks are also required for outdoor cultivation as well, based on best practices.

The need for setbacks for cannabis-related uses and industrial hemp-related uses from other uses is consistent with Section 1.2.6.1 of the Provincial Policy Statement (2020), which states the following:

"Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures."

By virtue of the use of the word 'shall' in the above policy, this requirement to avoid any potential adverse effects is mandatory. A cannabis-related use and an industrial hemp-related use is considered to be a major facility as defined by the Provincial Policy Statement (2020) since any use, including a use that is carried out outdoors, which may require separation from sensitive land uses is considered to be a major facility.

Given the above, this Amendment does the following:

1. This Amendment establishes a Cannabis Overlay designation that applies to the Good General Agricultural designation and the Industrial designation as identified on Schedule A: Land Use Plan of the Town of Pelham Official Plan.

For lands within the Cannabis Overlay, cannabis-related uses and industrial hemp-related uses (indoor and outdoor) are permitted, subject to certain criteria being satisfied, including the establishment of appropriate setbacks to avoid, minimize and mitigate adverse effects. In order to trigger the consideration of the criteria, this Amendment establishes the requirement for a zoning by-law amendment to establish a new cannabis-related use or industrial hemp-related use. This Amendment also indicates that Site Plan Approval would also be required for such uses.

The Cannabis Overlay designation does not include lands that are designated Specialty Agricultural in the Town of Pelham Official Plan and which are subject to the Greenbelt Plan. The Cannabis Overlay will not apply in this designation primarily because of a combination of topography that is unique to the Greenbelt Plan and its relationship to odour concerns. In other words, the adverse effects from odour from cannabis-related uses and industrial hemp-related uses would be very difficult to avoid, minimize and mitigate as a consequence. This means that an Official Plan Amendment would be required, in addition to a zoning by-law amendment, to permit these uses within the Specialty Agricultural designation.

2. This Amendment also identifies the studies that are required to support the establishment of a cannabis-related use or industrial hemp-related use to ensure that all potential adverse effects are studied in advance.

In this regard, required studies include an Odour Emission and Dispersion Modelling Report, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan, Agricultural Impact Assessment and Traffic Impact Study. These studies would be in addition to all other required studies typically submitted as part of an application for re-zoning. The results of these studies are intended to establish the minimum setback from sensitive land uses to be included in the required site-specific zoning by-law amendment and may establish a maximum facility size for the use, if

it has been determined that the siting of the use can be supported. These studies will also establish minimum separation distances between cannabis-related uses and industrial hemp-related uses, as required.

3. This Amendment also sets out guidelines on what setbacks will be considered as a minimum if a cannabis-related use or an industrial hemp-related use is proposed through a zoning by-law amendment. These setbacks are based on best practices and knowledge of the adverse effects currently experienced by residents in the Town. Given that these setbacks are guidelines, they can be increased or decreased based on the merits of an individual application.

A supporting zoning by-law amendment has been prepared to implement this Amendment. The zoning by-law amendment indicates that cannabis-related uses and industrial hemp-related uses will not be permitted as-of-right in any zone in the Town. This will ensure that a trigger exists to require the completion of the appropriate studies and the establishment of a setback that relates specifically to the use proposed.

PART B – THE AMENDMENT

All of this Part of the document entitled Part B - The Amendment consisting of the following text and schedule constitutes Amendment No. ____ to the Official Plan of the Town of Pelham.

Details of the Amendment

The Town of Pelham Official Plan is hereby amended as follows:

1. That Section A4.2 – (Town Structure and Land Use - Rural Area Designations), be amended to include a new Section A4.2.7 – Cannabis Overlay as follows:

A4.2.7 Cannabis Overlay

Lands within the *Cannabis Overlay* apply to areas where cannabis-related uses and industrial hemp-related uses may be considered subject to meeting appropriate criteria and setback requirements.

2. That Section B2 – (Rural Area Designations), be amended by including a new Section B2.7 – Cannabis Overlay as follows:

B2.7 Cannabis Overlay

B2.7.1 Purpose

The purpose of the *Cannabis Overlay* is to establish an area in the Town where new cannabis-related uses and industrial hemp-related uses are directed, while ensuring compatibility with other land uses. For the purposes of this section, a cannabis-related use is any use that is authorized in accordance with Federal Cannabis Regulation SOR-2018-144 and an industrial hemp-related use is any use that is authorized in accordance with Federal Industrial Hemp Regulation SOR-2018-145. The policies in this section do not apply to the retail sale of cannabis.

B2.7.2 Location

The *Cannabis Overlay* applies to all lands designated as *Good General Agricultural* and *Industrial* on Schedule A of this Plan. As an overlay designation, the policies of this Section are supplementary to those of the underlying land use designation and where there is a conflict between the policies of this Section and Sections B2.1 and B2.3, this Section shall prevail to the extent of any conflict.

B2.7.3 Permitted Uses

Uses permitted in the *Cannabis Overlay* designation are those cannabis-related uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 or Federal Industrial Hemp Regulation SOR-2018-145 subject to Sections B2.7.4 to B2.7.7 of this Plan.

Notwithstanding the above, outdoor cannabis cultivation that is authorized by the Federal Cannabis Regulation SOR-2018-144 or Federal Industrial Hemp Regulation SOR-2018-145 is not permitted within the *Industrial* designation.

B2.7.4 General Policies

- a) One or more of the cannabis-related uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 and industrial hemp-related uses authorized by the Federal Industrial Hemp Regulation SOR-2018-145 may be permitted subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control in accordance with Section E1.4 of this Plan. Prior to considering the approval of a zoning by-law amendment, Council shall be satisfied that:
 - i) The proposed use will not have a negative impact on the enjoyment and privacy of residential properties in the area;
 - ii) The proposed use can be designed and sited to blend in with surrounding land uses such that the agricultural and rural character of the area is maintained, and where necessary the proposed use can be appropriately setback from sensitive uses;

- iii) The proposed use will not have a negative impact on agricultural uses in the general area and will not have an impact on normal farm practices as demonstrated by the required studies in Section B2.7.5 of this Plan;
 - iv) The impact of the noise, dust, odour, light and traffic generated by the proposed use on sensitive land uses in the area can be appropriately mitigated, as demonstrated by the required studies identified in Section B2.7.5 of this Plan;
 - v) There will be no negative impact on the quality and quantity of groundwater and surface water as a result of the taking of water and the generation of effluent;
 - vi) Adequate parking facilities are available on the lot for the proposed use;
 - vii) The proposed use can be serviced with an appropriate water supply and an appropriate means of sewage disposal;
 - viii) Stormwater management needs can be met on site;
 - ix) The signage advertising the use is to be designed and located in accordance with the Town's sign by-law;
 - x) The waste generated from the use can be appropriately managed; and,
 - xi) The proposed setback, as determined by the required studies in Section B2.7.5 of this Plan, from sensitive land uses in the area is appropriate to avoid any adverse effects.
- b) In addition to sub-section a), it must be demonstrated that any proposed cannabis-related use or industrial hemp related use other than cultivation satisfies all of the criteria below:
- i) Is directly related to farm operations in the area;

- ii) Supports agriculture;
- iii) Benefits from being in close proximity to farm operations; and,
- iv) Provides direct products and/or services to farm operations as a primary activity.

In considering the above, regard shall be given to the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas prepared by the Ontario Ministry of Agriculture Food and Rural Affairs in 2016.

B2.7.5 Specific Required Studies

The studies listed in this Section shall be required to satisfy the study requirements of Section B2.7.4 a) iii), iv) and xi) of this Plan and peer reviews of these studies may be carried out by the municipality at no cost to the municipality. The studies listed in this section would be in addition to any of the other studies required by Section E3 of this Plan.

- a) Odour Emission and Dispersion Modelling Report
 - i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Odour Emission and Dispersion Modelling Report that is prepared by a Licensed Engineering Practitioner.
 - ii) The Odour Emission and Dispersion Modelling Report shall include a detailed odour inventory and mitigation plan fully describing the proposed air filtration systems and other mitigation measures as well as off-property odour impact predictions that take into account known impacts from other cannabis-related uses and industrial hemp-related uses in the area.
 - iii) In addition to sub-section i) above, the Odour Emission Summary and Dispersion Modelling Report must demonstrate that the proposed cannabis-related use or industrial hemp-related use achieves a standard of compliance and that two odour units will only be exceeded at any given sensitive use up

to 0.5% of the time on an annual basis as per the MECP Technical Bulletin 'Methodology for Modeling Assessment of Contaminants with 10-Minute Standards and Guidelines, September 2016'.

- iv) The Odour Emission Summary and Dispersion Modelling Report must consider co-existence adverse effects associated with drift of cannabis emissions on existing farming operations in the area and provide recommendations on an appropriate greenspace separation distance to ensure that spray drift is minimized.
 - v) If the proposed cannabis-related use or industrial hemp-related use is determined not to be in compliance with sub-sections ii) and iii) additional mitigation measures must be provided.
 - vi) In addition to sub-section i), the proponent of the proposed use will submit a Contingency Odour Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional air filtration systems or other mitigation measures for use in the event of substantiated future complaints.
- b) Light Mitigation Plan
- i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Light Mitigation Plan, prepared by a Licensed Engineering Practitioner that fully describes the proposed light mitigation measures and demonstrates that the proposed use will not cause light pollution, including sky glow or light trespass, onto neighbouring properties.
 - ii) In addition to sub-section i), the proponent of the proposed cannabis-related use or industrial hemp-related use will also submit a Contingency Light Pollution Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional mitigation measures and implementation timelines for use in the event of substantiated future complaints.

- c) Agricultural Impact Assessment
 - i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit an Agricultural Impact Assessment, to the satisfaction of the Town and/or the Region, that demonstrates that the proposed use will not have a negative impact on agricultural uses in the area and is compatible with normal farm practices.

- d) Traffic Impact Study
 - i) At no cost to the municipality, the proponent of the proposed cannabis-related use or industrial hemp-related use will submit a Traffic Impact Study, to the satisfaction of the Town and/or the Region, that demonstrates that the proposed use will not cause any traffic hazards or an unacceptable level of congestion on roads in the area.

B2.7.6 Scope of Required Studies

In recognition of the varying types and scales of cannabis-related uses or industrial hemp-related uses that may be applied for, the Town will identify the scope of the additional supporting information needed at the required pre-consultation meeting in accordance with Section E3.1 of this Plan.

B2.7.7 Need for Setbacks

- a) In recognition of the known adverse effects of odour, setbacks from uses that are considered to be sensitive will be required for any new cannabis-related use or industrial hemp-related use in the Town. In this regard, the following setback guidelines will be applied and considered when an application for a new cannabis-related use or industrial hemp-related use is proposed:
 - i) Minimum setback to the lot line of a sensitive land use - 300 to 500 metres.
 - ii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing

facilities and/or indoor industrial hemp facilities from each other - 4,000 metres.

- iii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing facilities and/or indoor industrial hemp facilities from indoor micro processing/micro cultivation facilities - 3,000 metres.
 - iv) Minimum separation distance between separate indoor cannabis micro cultivation/micro processing facilities from indoor cannabis micro/processing/micro cultivation facilities - 2,000 metres.
 - v) Minimum setback between separate outdoor cannabis cultivation operations and between outdoor cannabis or industrial hemp cultivation with any indoor cannabis-related use or industrial hemp use - 500 metres
- b) The setback guidelines established in sub-section a) will be considered during the review of an application, in conjunction with the recommendations from the completion of the required studies in Section B2.7.5, to establish the setback for a cannabis-related use or industrial hemp-related use and can be lower or higher, depending on:
- i) Size and scale of the proposed cannabis-related or industrial hemp-related use;
 - ii) Proximity and number of residential uses in the area;
 - iii) Location of the proposed cannabis-related use or industrial hemp-related use in relation to prevailing winds;
 - iv) The nature of the adverse effects that exist at the time in relation to existing cannabis-related uses; and,
 - v) The impact of topography on the dispersion of odour.
- c) It is intended that the setbacks referenced in sub-section a) be from lot line to lot line. However, different approaches can be considered through the assessment of the application based the findings of the studies required in Section B2.7.5 of this Plan.

B2.7.8 Existing Indoor Cannabis-Related Uses

At the time this Amendment was prepared, two large indoor cannabis-related uses were present on lands that are not subject to the Niagara Escarpment Plan in the Town. It is a policy of this Plan to require a zoning by-law amendment in accordance with this Section B2.7 of this Plan for any additional floor area beyond what existed on the effective date of this Section B2.7 of this Plan.

There is also a smaller indoor cannabis-related use at 1760 Effingham Street on lands that are subject to the Niagara Escarpment Plan. It is also a policy of this Plan to not permit its expansion unless the requirements of Sections B2.7.4 and B2.7.5 have been met and that the setbacks set out in Section B2.7.7 have been considered through the Development Permit process administered by the Niagara Escarpment Commission.

B2.7.9 Implementing Zoning By-law

Only lands that have satisfied the requirements of this Section of the Plan shall be placed in a zone that permits cannabis-related uses or industrial hemp-related uses in the implementing Zoning By-law.

3. That Section E1.4 – Site Plan Control, be amended by including a new paragraph at the end of the section as follows:

It is the intent of this Plan that Site Plan Approval will be required for all proposed cannabis-related uses and industrial hemp-related uses listed in Section B2.7.3 to the maximum extent afforded under the Planning Act, in order to proactively mitigate adverse effects where possible and to maximize compatibility with land uses in the area.

Any construction of a building or structure associated with a proposed cannabis-related use or industrial hemp-related use is subject to the Ontario Building Code and will require the submission of Mechanical and Electrical Design Specifications and Drawings for review prior to the issuance of a building permit. These specifications and drawings include those associated with air/odour filtration systems and equipment for light pollution mitigation.

4. That Schedule A – Town of Pelham: Land Use, be amended by adding the Cannabis Overlay on the map and in the legend.