

**TO:** Mayor Grant & Members of Council  
**FROM:** Sarah Ivins, Planner  
**DATE OF MEETING:** March 19, 2024  
**SUBJECT:** Cannabis Production Facilities

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**RECOMMENDATION(S):**

**THAT** Planning Staff Report PSR-002/2024 be received; and

**THAT** Council endorse the proposed amendments to Zoning By-law 034-2014, Site Plan Control By-law 028-2015 and Medical Marihuana Licensing By-law 057-2017 outlined within this report; and

**THAT** staff be directed to initiate a zoning by-law amendment file and to schedule a public meeting for April 30, 2024.

**EXECUTIVE SUMMARY:**

The purpose of this report is to provide Council with recommendations respecting amendments to Zoning By-law 034-2014, Site Plan Control By-law 028-2015 and the Medical Marihuana Licensing By-law 057-2017 to address the production of cannabis within the Township. Staff recommend replacing the term 'medical marihuana facility' with the term 'cannabis production facility' and refining some of the provisions for this use to address common concerns from the public.

**BACKGROUND:**

The Government of Canada enacted various regulations between 2001 and 2016 regarding the growing and production of cannabis for medical purposes – Marihuana Medical Access Regulations (MMAR) in 2001, Marihuana for Medical Purposes Regulation (MMPR) in 2013 and Access to Cannabis for Medical Purposes Regulations (ACMPR) in 2016. The ACMPR were replaced with the enactment of the Cannabis Act in 2018 and the new regulations under that Act. The new cannabis regulations allow for the cultivation and production of cannabis through micro-cultivation, standard cultivation and nursery licences, and also, allows residents to grow up to four (4) plants per residence for personal recreational use.

In 2014 and 2015 the Township adopted zoning provisions and site plan guidelines to regulate Medical Marihuana Facilities.

Zoning Bylaw 034-2014 defines a 'medical marihuana facility' as "a facility that is licensed under the Marihuana for Medical Purposes Regulations, or a successor thereto, for

growing of medical marihuana as well as for the processing, testing, packaging, distribution and destruction of medical marihuana as accessory uses". The zoning bylaw permits Medical Marihuana Facilities in the Agricultural & Rural zones (A1, A2, A3 and A4) through a site specific zoning bylaw amendment and is subject to the following regulations:

- A Medical Marihuana Facility or portion thereof shall not be permitted in a dwelling;
- A Medical Marihuana Facility shall be located a minimum of 150m from the lot line of any Residential or Institutional use or zone, including a day nursery;
- A sign identifying the facility or property as being or containing a medical marihuana facility shall be prohibited;
- Outdoor storage shall be prohibited.

The Township Site Plan Control Guidelines state that a Medical Marihuana Facility requires a Level 1 approval. A Level 1 approval is a decision of Council and requires that a site plan agreement be executed by bylaw. The site plan guidelines for a Medical Marihuana Facility are as follows:

- Buildings are sited as far as reasonably possible from surrounding dwellings and a minimum of 150m from the lot line of any residential or Institutional zone, including a day nursery;
- Buildings should resemble greenhouse or farm buildings as much as possible and rooftop ventilation equipment should be screened from view of the street and adjacent properties with noise mitigating screening;
- Surface parking is provided to the rear or to the side of the building and all loading and garbage pickup zones are located indoors;
- Security fences that abut the public street should be screened with a 3m landscape area located between the lot line and the fence and native and/or drought resistant planting is used throughout the site;
- Security lighting is located low on the building elevations and directed downward to reduce glare on adjacent lots and public roads.

In December of 2017, The Township also adopted a licensing bylaw for medical marihuana facilities. The Medical Marihuana Facilities Licensing Bylaw is similar to a business licensing bylaw and provides further regulation for this type of facility within the Township. Key highlights of the bylaw are:

- Every Medical Marihuana Facility is required to obtain and hold a valid licence from the Township – the licences are to be renewed each year;
- Licence application requirements include zoning compliance, proof of a Health Canada licence, Fire Code compliance, general inspection report by the Electrical Safety Authority, proof of insurance, police check, etc.;
- Authorizes the Licence Manager to issue, renew, revoke or suspend a license and outlines grounds for each action;
- Provides the opportunity for applicants to appeal the decision of the Licence Manager to the Appeal Tribunal;
- Authorizes inspections of the facility;
- Requires that a registry of licences be established and maintained;

- Outlines nuisance abatement requirements and penalties for bylaw contraventions.

There are several properties within the Township that have received a Health Canada licence for medical marijuana and are currently producing product. However, these properties have not obtained the appropriate zoning amendment or site plan approval and as such staff are working with the property owners to achieve compliance.

Staff continue to receive inquiries regarding the construction of buildings and structures for the purpose of growing cannabis as Wainfleet's rural setting is attractive for this type of operation. Since the Township's Zoning Bylaw only defines a medical marijuana facility changes are required to address recreational cannabis.

Staff have conducted research, attended workshops and consulted with various municipalities and organizations regarding the legalization of cannabis. This includes:

- Jurisdictional scan of municipal by-laws and policies regarding cannabis production from other Ontario municipalities, British Columbia municipalities, and the states of Washington, Oregon, Colorado and California;
- Review of publications regarding the legalization of cannabis from municipal organizations such as the Federation of Canadian Municipalities (FCM), Association of Municipalities of Ontario (AMO), the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) and the Municipal Information Network;
- Review of the Ministry of Environment, Conservation and Parks environmental land use planning guide D-6 for compatibility between industrial facilities and its applicability for cannabis production facilities;
- Participation in the Municipal Property Assessment Corporation (MPAC) "How MPAC Assesses and Classifies Cannabis Facilities" webinar;
- Participation in the Cannabis Land Use Workshop hosted by Niagara Region;
- Participation in the Aird & Berlis LLP "Opportunities in the Canadian Cannabis Market: Licensing, Leasing and Land Use" webinar.

### **OPTIONS/DISCUSSION:**

Based on the research completed to date, staff are of the opinion that the current Township requirements for medical marijuana facilities are appropriate and generally aligned with the policies of other municipalities. However, there are some specific amendments to Zoning By-law 034-2014, Site Plan Control By-law 028-2015, and the Medical Marijuana Licensing By-law 057-2017, that staff recommend, to address the legalization of cannabis and to address complaints regarding odour and security.

#### **Zoning By-law 034-2014**

To capture the growing of cannabis for all forms/purposes, staff recommend that the term medical marijuana facility be replaced with the term 'cannabis production facility.' Staff propose that 'cannabis production facilities' be defined as any land, building or structure used for growing, producing, processing, testing, destroying, storing, packaging and/or shipping of cannabis for medical or non-medical purposes but does not include the growing, producing and processing of four (4) or less cannabis plants

on a lot for personal use or the retailing of cannabis or cannabis products under a retail operator license issued under the *Cannabis License Act, 2018*.

The current zoning provisions within Section 6 (Agricultural and Rural Zones) permit a medical marihuana facility within all of the Agricultural and Rural zones (A1, A2, A3 and A4). The Agricultural Transition – A1 zone is used for agricultural lands adjacent to the Township's Hamlets and prohibits intensive animal operations to reduce impact on the primarily residential, institutional and commercial land uses within the Hamlets. Given that a cannabis production facility can produce a significant amount of odour, staff propose that Table 5 (Permitted Uses in the Agricultural and Rural Zones) be updated to permit a CPF only within the A2, A3 and A4 zones, subject to a site specific zoning by-law amendment.

The current zoning provisions for medical marihuana facilities (Section 6.2.2.6) requires the facility to be located a minimum of 150m from the lot line of any Residential or Institutional use or Zone, including a day nursery. Staff propose that recreational uses such as parks and arenas as well as other Open Space uses be added to this section to reduce impact on properties that are frequented by members of the public. Additionally, staff propose that outdoor growing and cultivation be prohibited to reduce further land use compatibility issues with surrounding properties.

A summary of the proposed amendments to Zoning By-law 034-2014 is attached as Appendix "A".

#### Site Plan Control By-law 028-2015, Schedule A (Site Plan Control Guidelines)

Staff propose that all references to a medical marihuana facility within the Site Plan Control Guidelines, be updated to the term cannabis production facility. This includes Section 2 (Site Plan Control Levels) and Guideline 4e (Medical Marihuana Facilities). A summary of the proposed amendments to Schedule A of Site Plan Control By-law is attached as Appendix "B".

#### Medical Marihuana Licensing By-law 057-2017

In consultation with the By-law Enforcement Officer, staff are of the opinion that the current licensing by-law is appropriate. However, in order for the licensing by-law to align with Zoning By-law 034-2014 and Site Plan Control By-law 028-2015, the term medical marihuana facility (MMF) should be replaced with the term cannabis production facility (CPF). Staff propose to use the same definition of cannabis production facility as proposed for Zoning By-law 034-2014. Staff also propose to replace references to outdated legislation throughout the licensing by-law with the current governing legislation.

#### Fence By-law 012-2020

In addition to the above by-laws, By-law staff previously added provisions to the Township Fence By-law to allow taller fencing around cannabis production facilities for security purposes.

**FINANCIAL CONSIDERATIONS:**

There are no anticipated financial considerations for the proposed amendments.

**OTHERS CONSULTED:**

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|--|--|
| <input checked="" type="checkbox"/> Chief Administrative Officer | <input checked="" type="checkbox"/> Finance        |
| <input checked="" type="checkbox"/> Clerks                       | <input checked="" type="checkbox"/> Communications |
| <input checked="" type="checkbox"/> Community & Dev. Services    | <input checked="" type="checkbox"/> Operations     |
| <input checked="" type="checkbox"/> Fire                         | <input type="checkbox"/> Other:                    |

**ATTACHMENTS:**

1. Appendix "A" – Chart Outlining Proposed Changes to Zoning By-law 034-2014
2. Appendix "B" – Chart Outlining Proposed Changes to Site Plan Control By-law 028-2015

Respectfully submitted by,

Approved by,

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Sarah Ivins  
Planner

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Mallory Luey  
Chief Administrative Officer

**APPENDIX “A”**

By-law Section	Existing Text	Proposed Amendment																								
<p><b>Section 3: Definitions</b></p>	<p><b>Medical Marihuana Facility</b> means 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.</p>	<p><b>Cannabis Production Facility</b> means any land, building or structure used for growing, producing, processing, testing, destroying, storing, packaging and/or shipping of cannabis for medical or non-medical purposes but does not include the growing, producing and processing of four (4) or less cannabis plants on a lot for personal use or the retailing of cannabis or cannabis products under a retail operator license issued under the <i>Cannabis License Act, 2018</i>.</p>																								
<p><b>Section 6: Agricultural and Rural Zones</b></p>	<p><b>Table 5: Permitted Uses in the Agricultural and Rural Zones</b></p> <table border="1" data-bbox="359 781 1115 894"> <thead> <tr> <th>Permitted uses</th> <th>A1</th> <th>A2</th> <th>A3</th> <th>A4</th> </tr> </thead> <tbody> <tr> <td><i>Medical Marihuana Facility</i></td> <td>Q4</td> <td>Q4</td> <td>Q4</td> <td>Q4</td> </tr> </tbody> </table> <p>Q4: Permitted only through a site specific zoning by-law amendment.</p> <p><b>Table 6: Regulations Applying to Agricultural and Rural Zones</b></p> <table border="1" data-bbox="359 1149 1140 1227"> <thead> <tr> <th>Uses</th> </tr> </thead> <tbody> <tr> <td><i>Greenhouses and Medical Marihuana Facilities</i></td> </tr> </tbody> </table> <p>6.2.2.6 For <i>medical marihuana facilities</i>:</p> <ol style="list-style-type: none"> <li>A <i>medical marihuana facility</i> or portion thereof shall not be permitted in a dwelling;</li> <li>A <i>medical marihuana facility</i> shall be located a minimum of 150 metres from the lot line of any</li> </ol>	Permitted uses	A1	A2	A3	A4	<i>Medical Marihuana Facility</i>	Q4	Q4	Q4	Q4	Uses	<i>Greenhouses and Medical Marihuana Facilities</i>	<p><b>Table 5: Permitted Uses in the Agricultural and Rural Zones</b></p> <table border="1" data-bbox="1169 781 1925 894"> <thead> <tr> <th>Permitted uses</th> <th>A1</th> <th>A2</th> <th>A3</th> <th>A4</th> </tr> </thead> <tbody> <tr> <td><i>Cannabis Production Facility</i></td> <td></td> <td>Q4</td> <td>Q4</td> <td>Q4</td> </tr> </tbody> </table> <p>Q4: Permitted only through a site specific zoning by-law amendment.</p> <p><b>Table 6: Regulations Applying to Agricultural and Rural Zones</b></p> <table border="1" data-bbox="1169 1149 1950 1227"> <thead> <tr> <th>Uses</th> </tr> </thead> <tbody> <tr> <td><i>Greenhouses and Cannabis Production Facilities</i></td> </tr> </tbody> </table> <p>6.2.2.6 For <i>cannabis production facilities</i>:</p> <ol style="list-style-type: none"> <li>A <i>cannabis production facility</i> or portion thereof shall not be permitted in a dwelling;</li> <li>A <i>cannabis production facility</i> shall be located a minimum of 150 metres from the lot line of any</li> </ol>	Permitted uses	A1	A2	A3	A4	<i>Cannabis Production Facility</i>		Q4	Q4	Q4	Uses	<i>Greenhouses and Cannabis Production Facilities</i>
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By-law Section	Existing Text	Proposed Amendment
	<p>Residential or Institutional use or Zone, including a day nursery;</p> <p>c) A sign identifying the facility or property as being or containing <i>medical marihuana facility</i> shall be prohibited; and</p> <p>d) Outdoor storage shall be prohibited.</p>	<p>Residential, Institutional or Open Space use or Zone, including nursery;</p> <p>c) A sign identifying the facility or property as being or containing <i>cannabis production facility</i> shall be prohibited; and</p> <p>d) Outdoor growing, cultivation and storage shall be prohibited.</p>

**APPENDIX “B”**

<b>Guideline Section</b>	<b>Existing Text</b>	<b>Proposed Amendment</b>
<b>Section 2: Site Plan Control Levels</b>	<p>Level I – Site Plan Approval WITH a site plan agreement:</p> <ul style="list-style-type: none"> <li>• New building or additions larger than 25% of the site’s existing GFA (gross floor area);</li> <li>• Any medical marihuana facility (MMAR or MMPR); and</li> <li>• New buildings or additional of any size that change the configuration of a site such as: grading, parking areas, loading areas and vehicular access.</li> </ul>	<p>Level I – Site Plan Approval WITH a site plan agreement:</p> <ul style="list-style-type: none"> <li>• New building or additions larger than 25% of the site’s existing GFA (gross floor area);</li> <li>• Any cannabis production facility; and</li> <li>• New buildings or additional of any size that change the configuration of a site such as: grading, parking areas, loading areas and vehicular access.</li> </ul>
<b>Guideline 4 e. Medical Marihuana Facilities Checklist</b>	Title: Agriculture Zone – Medical Marihuana Facilities (MMF)	Title: Agriculture Zone – Cannabis Production Facilities