



## **PLANNING REPORT for the TOWNSHIP OF WELLINGTON NORTH**

Prepared by the County of Wellington Planning and Development Department

**DATE:** September 22, 2021  
**TO:** Mike Givens, C.A.O.  
Township of Wellington North  
**FROM:** Curtis Marshall, Manager of Development Planning  
County of Wellington  
**SUBJECT:** **Interim Control By-law - Cannabis**

### **BACKGROUND**

On August 23, 2021, Council passed the following resolution:

RESOLUTION: 2021-263

*THAT the Council of the Corporation of the Township of Wellington North direct staff to undertake a study in respect of land use planning policies relating to Cannabis Operations within the municipality with respect to noise, odour, water usage, security, traffic, etc.*

In response to the resolution, Planning Staff have prepared an Interim Control By-law (ICBL) for Council's consideration which would prohibit the establishments of "Cannabis Production Related Uses" in the Township for a one year period. The prohibition would be in place while the Township undertakes a review/study of the Township's land use planning policies (including zoning), and determines if any changes or new policies should be implemented.

A copy of the proposed ICBL is attached as **Schedule 1** to this report.

### **PLANNING ACT REQUIREMENTS**

Section 38 (1) of the *Planning Act* provides that a Council may pass an Interim Control By-law prohibiting the use of lands, buildings or structures for specific purposes while the municipality conducts a review of land use planning policies.

The By-law and prohibitions remain in effect for one year while a review/study is undertaken. The ICBL may be extended for a second year under the *Planning Act*.

Public notice (including the holding of a public meeting) is not required prior to the passing of an ICBL. The passing of an ICBL is not subject to appeal, however an extension of an ICBL for a second year is subject to appeal under the *Planning Act*.

It should be noted that if an ICBL is passed by the Township, the Township will not be able to pass another ICBL for a three year period.

## **PROPOSED INTERIM CONTROL BY-LAW**

The proposed ICBL prohibits the use of lands, buildings or structures for “Cannabis Production Related Uses” for a one year period in the Township.

A “Cannabis Production Related Use” is defined in the By-law as:

*The use of lands, buildings or structures for the purpose of growing, cultivating, raising, producing, processing, drying, harvesting, packaging, treating, testing, destroying, storing and/or distribution of Cannabis as defined by the Cannabis Act, 2018, c. 16 as amended. A Cannabis Production Related Use does not include the growth, production or processing cannabis plants at a residence in accordance with personal use allotments permitted under the Cannabis Act, and by the Province of Ontario for recreational purposes.*

The by-law prohibits new commercial and medical cannabis production facilities from being established in the Township. Planning Staff note that the two properties in the Riverstown rural industrial area which have previously obtained zoning by-law amendments to grow cannabis can continue to exist in their current form as “legal non-conforming uses” while the ICBL is in place.

The proposed ICBL also does not prohibit the growing of cannabis plants for recreational purposes at a residence as permitted by the *Cannabis Act* and provincial regulations (currently 4 or fewer).

## **RETAIL CANNABIS SALES**

The proposed ICBL does not prohibit the establishment of new provincially licensed retail cannabis stores.

In January 2019, the Township “opted in” and agreed to host provincially licensed cannabis retail stores. Under provincial regulations retail cannabis stores are permitted anywhere retail uses are permitted in the Township. The one exception is that stores are prohibited from locating within 150 meters of a school. According to the regulations once a municipality “opts in” and agrees to host provincially licensed retail cannabis stores they cannot “opt out” in the future.

The Ontario Alcohol and Gaming Commission (ACGO) licenses cannabis retail stores. Similar to the “liquor license” process, the public and municipalities are given an opportunity to comment on new license applications to the ACGO.

Local residents and the municipality are given notice of applications through a notice posted at the proposed store and through the ACGO’s website.

The municipality or local residents may submit written submissions to the Registrar about whether the proposed store is in the public interest. The submissions must be sent within 15 calendar days after the notice is posted.

The Registrar will consider written submissions as to why the proposed store is not in the public interest as set out in the regulation made under the Cannabis Licence Act, 2018. Only the following matters of public interest can be considered by the Registrar when reviewing a license application:

- Protecting public health and safety

- Protecting youth and restricting their access to cannabis
- Preventing illicit activities in relation to cannabis

The Registrar's decision to issue or to refuse a Cannabis Retail Store Authorization is final. Relief may be sought by way of an Application for Judicial Review to the Superior Court of Justice.

### **CANNABIS STUDY**

Planning Staff together with Township Staff will be commencing a study of the Township's planning policies related to cannabis production facilitates. The study will include:

- A review Federal licensing regulations and requirements for cannabis production and processing (Medical and Commercial)
- A review of other municipal studies, by-laws and regulations in the province.
- A review of the existing Provincial planning policies, County Official Plan polices and the Township Zoning By-law regulations related to cannabis
- Consideration of the land use impacts of cannabis production and processing facilities including but not limited to: *noise, odour, water usage, security, traffic, etc.*
- The preparation of draft recommendations for Council's consideration
- A Public Meeting under the Planning Act
- A final recommendation report which may include a draft zoning by-law amendment for Council's consideration.

In terms of next steps, Planning Staff will be preparing a report summarizing the background review for Council's information.

### **CONCLUSION**

Planning Staff have prepared an ICBL for Council's consideration that (if approved) would prohibit the establishment of new "Cannabis Production Related Uses" in the Township for a one year period while the Township undertakes a study on cannabis production and processing.

Respectfully submitted



Curtis Marshall, RPP MCIP  
Manager of Development Planning

**Schedule 1 – Proposed ICBL**

**THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH  
BY-LAW NUMBER \_\_\_\_\_.**

**BEING AN INTERIM CONTROL BY-LAW TO PROHIBIT THE USE OF LAND BUILDINGS AND  
STRUCTURES FOR CANNABIS PRODUCTION RELATED USES ON ANY AND ALL LANDS LOCATED  
WITHIN THE TOWNSHIP OF WELLINGTON NORTH.**

WHEREAS, Section 38 of the *Planning Act*, R.S.O. 1990, c. P.13 as amended, provides that where the Council of a local municipality has, by By-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the Council of the municipality may pass a By-law to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the By-law;

AND WHEREAS Council for the Township of Wellington North passed a resolution on August 23, 2021, directing that a planning study be undertaken to review land use planning policies relating to Cannabis Operations within the municipality;

AND WHEREAS Council for the Township of Wellington North has determined that it is in the public interest to prohibit the use of specific lands within the Township for Cannabis Production Related Uses, as more particularly defined herein, so as to allow the Township to review and, if considered appropriate, implement the findings of the review and study referred to herein;

NOW THEREFORE the Council of the Corporation of the Township of Wellington North enacts as follows:

1. For the purposes of this By-law the following definition applies:
  - a. “Cannabis Production Related Uses” means:

The use of lands, buildings or structures for the purpose of growing, cultivating, raising, producing, processing, drying, harvesting, packaging, treating, testing, destroying, storing and/or distribution of Cannabis as defined by the Cannabis Act, 2018, c. 16 as amended. A Cannabis Production Related Use does not include the growth, production or processing of cannabis plants at a residence in accordance with personal use allotments permitted under the *Cannabis Act*, and by the Province of Ontario for recreational purposes.
2. Notwithstanding all permitted uses and regulations of the Township of Wellington North Zoning By-law 66-01 as amended, no lands, buildings or structures shall be used for Cannabis Production Related Uses within the Township of Wellington North.

3. This By-law shall be in effect for one (1) year from the date of passing unless otherwise extended in accordance with the provisions of the *Planning Act*.

READ A FIRST AND SECOND TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021

READ A THIRD TIME AND PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021

\_\_\_\_\_.

MAYOR

\_\_\_\_\_.

CLERK