

Please see comment (in red) below

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW NO. (2019)

Being a by-law to amend Zoning By-law 1136 (1987), as amended, with respect to Cannabis Production in the Town of Pelham

Town of Pelham

File No. AM-07-19

WHEREAS, Section 34 of the Planning Act, RSO 1990, as amended provides that the governing body of a municipal corporation may pass by-laws to regulate the use of lands and the character, location and use of buildings and structures;

WHEREAS, the Council of the Town of Pelham considers it to desirable to amend Zoning By-law 1136 (1987) to implement the policies of Official Plan Amendment No. XX with respect to cannabis production in the Town of Pelham;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF PELHAM ENACTS AS FOLLOWS:

1. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of Section 6.18(a) (xxiv) to Section 6.18(a) Prohibited Uses as follows:

(xxiv) outdoor storage, growing and production of cannabis.

2. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of Section 7.1(i) to Section 7.1 as follows:

(i) Cannabis production **(and processing?)** within a Greenhouse or Structure;

3. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of Section 7.8 as follows:

7.8 REQUIREMENTS FOR CANNABIS PRODUCTION

The regulations of Section 7.3 shall apply to greenhouses and structures used for cannabis production. In addition, greenhouses and structures used for cannabis production shall be subject to the following regulations:

(a) Minimum Setback to a Sensitive Land Use

the greater of 150 metres or the distance recommended by an odour impact analysis

Comment: The Ministry of the Environment, Conservation and Parks (MECP) has guidance on setbacks. For example, the D-6 Land Use Planning guides categorizes industries into classes and based on those designations, recommends minimum separation distances between the industrial use and sensitive receptors. Following D-6, a facility with persistent and/or intense odour emissions, with frequent outputs of major annoyance (like a cannabis facility) would be designated Class 3 and require a minimum setback of 300m and the MECP acknowledges that the potential influence area can be 1000m or larger. D-6 also requires the proponent to prepare a study (odour, noise, dust) that documents how the emissions can be effectively reduced to a level of trivial impact (i.e. no adverse effect).

The MECP also has Environmental Compliance Approval (ECA) and Environmental Activity and Sector Registry (EASR) that provides setback guidance and associated permit requirements. Perhaps the Town should review and incorporate some of these requirements into this odour bylaw.

The Town should provide guidance on the requirements of the odour impact study and the objectives should be clearly identified (e.g. shall not cause adverse effect).

Suggested wording:

(a) Minimum Setback to a Sensitive Land Use

the greater of 150 metres or the distance recommended by an odour impact analysis, **prepared and sealed by a Licensed Engineering Practitioner, that documents how odour impact can be reduced to a level of trivial impact (i.e. no adverse effect).**

(b) Minimum Planting Strip 3.0 metres where abutting a sensitive land use.

(c) Maximum Parking Area Coverage 25 percent

(d) Minimum Separation Distance Between Cannabis Production Greenhouse Operations
500 meters

Comment: If two cannabis operations are in proximity to one another, 500m may be inadequate even if each facility on its own has an odour mitigation plan that reduces their off-property impact to a level of trivial impact, because, the neighbourhood odour impact will be cumulative.

4. **THAT** By-law 1136 (1987), as amended, is hereby amended by inserting the following alphabetically to Section 22.1(a):

“cannabis production within a Greenhouse or Structure”

5. **THAT** By-law 1136 (1987), as amended, is hereby amended by replacing Section 7.3 (b) with the following:

(b) Minimum Lot Area 3 hectares (7.4 acres)

6. **THAT** By-law 1136 (1987), as amended, is hereby amended by replacing Section 7.3 (c) with the following:

(i) Greenhouse only 30 percent

(ii) Greenhouse in conjunction with use permitted in 7.1
40 percent

7. **THAT** By-law 1136 (1987), as amended, is hereby amended by inserting the following in Section 7.3:

(h) A retail store is not permitted as an accessory use to a greenhouse.

(i) Greenhouses requiring more than 10,000 litres of water per day are not permitted.

8. **THAT** By-law 1136 (1987), as amended, is hereby amended by inserting the following in Section 22:

22.3 REGULATIONS FOR CANNABIS PRODUCTION

The regulations of Section 22.2 shall apply to greenhouses and structures used for cannabis production. In addition, greenhouses and structures for cannabis production shall be subject to the following regulations:

(a) Minimum Setback to a Sensitive Land Use

the greater of 150 metres or the distance recommended by an odour impact analysis

Comment: see 7.8 above

(b) Minimum Planting Strip 3.0 metres where abutting a sensitive land use

(c) Maximum Parking Area Coverage 25 percent

(d) Minimum Separation Distance Between Cannabis Production Greenhouse Operations 500 meters

Comment: see above

9. **THAT** By-law 1136 (1987), as amended, is hereby amended by adding the following to Section 6.16(a) Parking Requirements:

Greenhouses and Structures for Cannabis Production 1 parking space per employee on the largest shift

10. **THAT** By-law 1136 (1987), as amended, is hereby amended by deleting the definition of “Agricultural Use” from Section 5.5 and replacing it with the following:

“Agricultural Use” means a use of land, building or structure for the purpose of animal husbandry, bee-keeping, dairying, fallow, field crops, forestry, fruit farming, horticulture, market gardening, pasturage, nursery, poultry-keeping, greenhouses, or any other farming use and includes the growing, raising, packing, treating, storing or sale of farm products produced on the farm and other similar uses customarily carried on in the field of general agriculture and which are not obnoxious, but does not include cannabis production.

11. **THAT** By-law 1136 (1987), as amended, is hereby amended by adding and alphabetically inserting new definitions into Section 5 as follows:

“Cannabis Production” means lands, buildings or structures used for the commercial cultivation of marihuana (or alternative names including marijuana) and/or the processing, testing, destruction, packaging and/or shipping of marihuana.

“Sensitive Land Use” means a grade school, secondary school, day care, playground, sporting venue, residential use, place of worship or a community centre.

Comment: This definition is not consistent through your bylaws. This particular one seems too specific on school types and excludes some uses that perhaps should be

incorporated such as campgrounds, hotels/motels. Provided below is a Ministry of the Environment, Conservation and Parks (MECP) definition of Sensitive Receptor. Perhaps the Town could incorporate these uses in their definition.

"Sensitive Receptor" means any location where routine or normal activities occurring at reasonably expected times would experience adverse effect(s) from odour discharges from the Facility to the atmosphere, including one or a combination of:

(a) private residences or public facilities where people sleep (eg: single and multi-unit dwellings, nursing homes, hospitals, trailer parks, camping grounds, etc.);

(b) institutional facilities (eg: schools, churches, community centres, day care centres, recreational centres, etc.);

(c) outdoor public recreational areas (eg: trailer parks, playgrounds, picnic areas, etc.); and

(d) other outdoor public areas where there are continuous human activities (eg: commercial plazas and office buildings).

NOTE: A sensitive receptor could also include land that is zoned for sensitive uses.

12. **THAT** this Bylaw shall come into effect and force from and after the date of passing thereof, pursuant to Section 34(21) and 34(30) of the Planning Act, RSO 1990, as amended.

ENACTED, SIGNED AND SEALED THIS
XXth DAY OF XXXXXXXXXX, 2019 A.D.

MAYOR MARVIN JUNKIN

CLERK NANCY J. BOZZATO