



**Community Planning & Development Department
Planning Application Report**

June 26, 2024

**Subject: Information Report: Cannabis and Industrial Hemp Zoning
By-law Amendment**

Recommendation:

THAT Committee receive Report #2024-0154 Information Report: Cannabis and Industrial Hemp Zoning By-law Amendment, for information;

AND THAT Committee direct Planning staff to prepare the Recommendation Report on the Cannabis and Industrial Hemp Zoning By-law Amendment to Town of Pelham Comprehensive Zoning By-law 4481(2022) for Council's Consideration.

Executive Summary:

This report provides background information to Council and the public for the public meeting being held on June 26, 2024, regarding a technical Amendment to Town of Pelham Comprehensive Zoning By-law 4481(2022)("new Zoning By-law (4481)"), to regulate cannabis and industrial hemp cultivation in the Town.

Background:

In July 2020, Council approved amendments to the Town's Official Plan and Zoning By-law (1136) to regulate cannabis and industrial hemp cultivation in Pelham. These amendments were appealed to the Ontario Land Tribunal (OLT) by three cannabis producers: CannTrust Inc. (later known as Phoena Inc.), Woodstock Biomed Inc., and Redecan & Redecan Pharm ("Redecan"). The OLT hearing proceeded over several days in January and July 2022. Phoena Inc. withdrew its appeal prior to the July 2022 hearing date. On August 23, 2022, the OLT released an interim decision confirming the withdrawal of the Phoena Inc. appeal and dismissing the appeal of Woodstock Biomed Inc. The interim decision also granted the Redecan appeal in part and approved versions of the Official Plan and Zoning By-law amendments that had been negotiated by Redecan and the Town.



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The interim decision provided that the Official Plan amendment came into effect immediately but withheld final approval of the Zoning By-law amendment until Redecan provided certain odour management documentation to the Town's satisfaction. This material remains outstanding, with the result that the final order of the OLT remains pending.

In April 2023, the new Zoning By-law (4481) approved by Council on August 30, 2022, came into effect. The new Zoning By-law (4481) replaces the prior Zoning By-law (1136) and all amendments, including those approved by the OLT in the interim decision. This creates a procedural issue as the former by-law is no longer operative and the new Zoning By-law (4481) is not before the OLT.

In order to incorporate the OLT-approved zoning changes into the new Zoning By-law(4481) and bring it into alignment with the Town's Official Plan, it is necessary to undertake a technical process to amend the new Zoning By-law (4481).

Location:

The proposed Cannabis and Industrial Hemp Zoning By-law Amendment ("Cannabis Amendment") applies specifically to Sections 1.4 (Zones and Symbols), Section 2 (Definitions), Section 4.1 (Parking Space Requirements), and Section 5 (Rural/Agriculture Zones) of the Town's new Zoning By-law (4481). No mapping changes are being considered at this time.

Project Description and Purpose:

As noted, the Town's new Zoning By-law (4481) was approved by the Ontario Land Tribunal on April 3, 2023, save and except site specific lands identified on Appendix A of the decision. The proposed amendments to regulate cannabis and industrial hemp cultivation are a result of the OLT interim decision issued on August 23, 2022.

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Generally speaking, changes are proposed to:

- Section 2: Definitions
 - Introducing definitions for Cannabis-related use – indoor and outdoor;
 - Introducing definitions for Industrial hemp-related use – indoor and outdoor;
 - Defining Sensitive Land Use.
- Section 4: Parking Provisions
 - Regulations specific to indoor cannabis and industrial hemp-related uses.
- Section 5: Rural/Agricultural Zones
 - Additional setback requirement of 300m for outdoor cannabis-related and industrial hemp-related uses from a sensitive land use in the Agriculture Zone and Specialty Agriculture Zone.
 - New Section 5.1.A: Agriculture Zone – Cannabis (A-CAN) and specific regulations applicable to indoor cannabis-related and indoor industrial hemp-related uses.
 - New Section 5.2.A: Specialty Agriculture Zone – Cannabis (SA-CAN) and specific regulations applicable to indoor cannabis-related and indoor industrial hemp-related uses.
 - New Section 5.3.A: Rural Employment Zone – Cannabis (RE-CAN) and specific regulations applicable to indoor cannabis-related and indoor industrial hemp-related uses.

Policy Review:*Planning Act*

Section 34 of the *Planning Act* enables Council to pass and consider amendments to the Zoning By-law to regulate the use of land and the location, height, bulk, size, floor area, character and use of buildings and structures, as well as parking and loading requirements and lot requirements.



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In accordance with Section 24(1), zoning by-laws must also conform to the Official Plan and be consistent with the Provincial Policy Statement (PPS), Provincial Plans, and the Niagara Region Official Plan.

Provincial Policy Statement

It is required that municipal decisions are consistent with the policies of the Provincial Policy Statement (PPS). The PPS provides policy direction from the province on land use planning and development to promote strong, healthy communities, wise use of management and resources, and the protection of public health and safety.

The PPS recognizes Zoning By-laws as an important tool for implementing the PPS and planning authorities are required to keep their Zoning By-law up to date and consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

It is required that municipal decisions affecting planning matters should be consistent with the principles and policies of the Growth Plan for the Greater Golden Horseshoe (Growth Plan). Schedule 2 of the Growth Plan designates the Town as being within the 'Greater Golden Horseshoe Growth Area' and portions of the Town are designated as being within the 'Greenbelt Area'. Permitted uses and regulations for development are to conform to the Growth Plan.

Greenbelt Plan (2017)

The intent of the Province's Greenbelt Plan is to protect against the loss and fragmentation of agricultural land uses, protect natural heritage and water resources and support agriculture as the predominant land uses. A significant portion of the lands within the Town of Pelham are subject to the policies contained within the Greenbelt Plan, which establishes the limits of the Region's urban structure, identifies where urbanization should not occur and extends permanent protection to agricultural lands and environmental lands that contain ecological and hydrological features.



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The Greenbelt Plan designates four major land use types in Pelham: Niagara Peninsula Tender Fruit and Grape Area and Natural Heritage System within the Protected Countryside, Town/Villages and Hamlets. Permitted uses and regulations for development are to conform to the policies of the Greenbelt Plan.

Niagara Escarpment Plan (2017)

The Niagara Escarpment Plan protects ecological and historical areas, ensuring the compatibility of new development with escarpment features and maintaining the open landscape character of the Escarpment area through agriculture, forestry, and preservation of natural scenery. That area of the Town that is under the jurisdiction of the Niagara Escarpment Plan area is also under development permit control. The Niagara Escarpment Plan identifies multiple land use designations in Pelham including the Escarpment Protection Area, Escarpment Rural Area, and Escarpment Natural Area.

Municipal zoning by-laws and their provisions do not apply to lands that are under the development permit control area within the Niagara Escarpment Plan area.

Region of Niagara Official Plan (2022)

It is required that the municipality ensure that municipal decisions conform to the Regional Official Plan (ROP). Policies in the ROP focus on managing growth and providing appropriate density and intensification targets for new growth, growth of the economy, protecting the environment and agricultural lands, providing infrastructure, and guidance for the development of lower tier municipal Official Plans.

Town of Pelham Official Plan (2014)

The Town's Official Plan outlines the goals and objectives for the community and identifies land use policies to help guide and direct growth and development over the next 20 years. The OLT interim order issued on August 23, 2022, put policies into place to permit and regulate cannabis and industrial hemp production in the Town. In addition to permitting the use,



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the policies provide guidance in terms of mitigating potential compatibility issues, site plan control, specific study requirements, and general setback requirements.

Town of Pelham Zoning By-law (4481-2022)

As noted, the Town's Zoning By-law was approved by the Ontario Land Tribunal on April 3, 2023. In order to incorporate the OLT-approved zoning changes into the new Zoning By-law (4481) and bring it into alignment with the Town's Official Plan, it is necessary to undertake a technical process to amend the new Zoning By-law (4481).

Agency Comments:

Staff have circulated the draft changes to all required agencies and reviewed the document internally with various departments. As of the date of writing this report, no agency comments have been received.

Public Comments:

Notice of this Statutory Public Meeting was posted on the Town's website and social media platforms, on the Cannabis Zoning Amendment project page at www.engagingpelham.ca and posted digitally at the pelhamtoday.ca. Additionally, a copy of the notice was emailed out to the members of the former Cannabis Control Committee (CCC) and to the landowners of the three cannabis operations located within the Town.

As of the date of writing this report, no public comments have been received.

Staff Comments

The purpose of this report is to provide the Committee of the Whole and the public with information regarding the Cannabis Amendment, applicable policies and comments received. The purpose of the public meeting is to receive feedback and input from the public and for Town Staff to respond to inquiries. Committee may also provide comment and recommendations for



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proposed changes based on the public, agency or staff input and consistency with approved plans.

A future report with recommendations on the Cannabis Amendment will be presented to Council for decision once all feedback is received.

This amendment has been prepared as per the Ontario Land Tribunal's interim decision issued on August 23, 2022, which was based on the Town's former Zoning By-law (1136). The requirements from the interim decision have been reformatted to reflect the existing layout and formatting of the Town's new Zoning By-law (4481). The Cannabis Amendment has been prepared in accordance Provincial, Regional and local Town policy documents.

A redlined version of the proposed changes to the new Zoning By-law (4481) is attached to this report as Appendix A. Additionally, a concordance chart has been prepared and is attached as Appendix B. The chart has been prepared to highlight the appropriate section of the OLT decision, the location of the amendment in relation to the previous Zoning By-law (1136), the location in the new Zoning By-law (4481) and the specific page number where the amendments can be found within the redlined version. The draft zoning amendment which will be considered by Council at a later date is attached as Appendix C.

The following outlines key changes that are being proposed through this amendment:

Section 1: Interpretation and Administration

- Section 1.4 is amended to add the Agriculture Zone – Cannabis (A-CAN), Specialty Agriculture Zone – Cannabis (SA-CAN) and Rural Employment Zone – Cannabis (RE-CAN) to the chart for Rural and Agricultural Zones.

Section 2: Definitions

- Section 2 is amended to include new definitions for Cannabis-Related Use – Indoor, Cannabis-Related Use – Outdoor, Industrial Hemp-



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Related Use - Indoor, Industrial Hemp-Related Use – Outdoor and Sensitive Land Use.

Section 4: Parking

- Section 4.1.1 a) is amended to include minimum parking requirements for Cannabis-Related Uses – Indoor and Industrial Hemp-Related Uses – Indoor.

Section 5: Rural/Agricultural Zones

- Section 5 is amended by adding the following zoning categories and their permitted uses:

Zone	Permitted Uses
Agricultural Zone – Cannabis (A-CAN)	<ul style="list-style-type: none"> • Cannabis-Related Use – Indoor; and • Industrial Hemp-Related Use – Indoor.
Specialty Agriculture Zone – Cannabis (SA-CAN)	<ul style="list-style-type: none"> • Cannabis-Related Use – Indoor; and • Industrial Hemp-Related Use – Indoor.
Rural Employment Zone – Cannabis (RE-CAN)	<ul style="list-style-type: none"> • Cannabis-Related Use – Indoor; and • Industrial Hemp-Related Use – Indoor.

- Sections 5.1.2 and 5.2.2 are amended to include a minimum 300.0m setback from sensitive land uses from Cannabis-Related Use – Outdoor and Industrial Hemp-Related Use – Outdoor
- Section 5 is amended to add Section 5.1.A: Agriculture Zone - Cannabis (A-CAN) and associated permitted uses, regulations and setback requirements.
- Section 5 is amended to add Section 5.2.A: Specialty Agriculture Zone – Cannabis (SA-CAN) and associated permitted uses, regulations and setback requirements.
- Section 5 is amended to add Section 5.3.A: Rural Employment Zone – Cannabis (RE-CAN) and associated permitted uses, regulations and setback requirements.



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Alternatives:

There are no alternatives as Council is statutorily obligated to host a public meeting prior to making a decision on the Cannabis Amendment.

Strategic Plan Relationship: Community Development and Growth

Appropriate zoning regulations for cannabis and industrial hemp cultivation benefits the community.

Attachments and Other Pertinent Reports:

Appendix A – Redlined Comprehensive Zoning By-law (4481)

Appendix B – Chart of Concordance

Appendix C – Draft Zoning By-law Amendment

Prepared and Recommended by:

Lindsay Richardson, MCIP, RPP
Policy Planner

William Tiggert,
Acting Director of Community Planning and Development

Reviewed and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer