



Municipal Corporation of the Town of Fort Erie

By-law No. --

**Being A By-law To Enact an Amendment To The
Official Plan Adopted By By-law No. 150-06
For The Town Of Fort Erie Planning Area**

**Amendment No. 61
Cannabis Production Facilities
Town of Fort Erie**

The Municipal Council of The Corporation of the Town Of Fort Erie in accordance with the provisions of Section 17 of the Planning Act R.S.O. 1990 enacts as follows:

1. **That** amendment No. 61 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text is hereby adopted and approved.
2. **That** this by-law shall come into force and take effect on the day of the final passing thereof.
3. **That** the Clerk of the Town of Fort Erie is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this -- day of --, ----.

Mayor

Clerk

I, Carol Schofield the Clerk, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. -- of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 20__.

**AMENDMENT NO. 61 TO THE
OFFICIAL PLAN FOR
THE
CORPORATION OF THE TOWN OF FORT ERIE**

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PART "A" - THE PREAMBLE

SECTION 1

TITLE AND COMPONENTS

This document, when approved in accordance with Sections 17 and 21 of The Planning Act, 1990, shall be known as Amendment No. 61 to the Official Plan adopted by By-law No. -- of the Fort Erie 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. 61 to the Official Plan adopted by By-law No. -- for the Fort Erie Planning Area.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment to the Town's Official Plan is to establish new policies and direction for cannabis production facilities regulated by the Federal Cannabis Act. This amendment removes reference to Medical Marijuana Grow and Production Facilities as introduced within Official Plan Amendment 18 to the Official Plan.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, include the entirety of the Town.

SECTION 4

BASIS OF THIS AMENDMENT

Subsection 13.7(III) of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area provides that amendments may be made to the Official Plan. Policies in Subsection 13.7(III) have been considered in the preparation of this amendment and the following factors have been reviewed in supporting this amendment to the Official Plan:

a) The need for the proposed amendment

The proposed policy amendment establishes new policies and direction regarding permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations of the Official Plan. A Cannabis Facilities Land Use Study was undertaken in 2020 and 2021 by SGL Planning and Design Inc. The Study recommended a

number of policy and zoning changes to address cannabis cultivation and related uses such as processing, packaging, storage, testing, research, shipping, etc. within the Town of Fort Erie. While the production of cannabis is addressed within the Fort Erie Official Plan through Official Plan Amendment No. 18, these permissions are only in the context of marihuana for medical purposes permitted under the earlier Marijuana for Medical Purposes Regulations. With the change in legislation, cannabis production is now permitted for commercial growth for both medical and recreational purposes, and as such, the existing Official Plan provisions no longer capture the full range of legal uses.

This amendment provides policies related to cannabis to ensure the use is only permitted through permission granted by Health Canada and operated in accordance with all applicable Federal Regulations. Policies have been established to ensure appropriate separation distances from sensitive land uses are established and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.

b. The extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing *development*

The proposed policy amendment applies to the entirety of the Town. Its policies are not a reflection of any existing development, rather they provide new permissions and direction for cannabis production facilities now permitted under the Federal Cannabis Act.

c. The physical suitability of the land for such proposed use, and in the case of lands exhibiting or abutting a Natural Heritage feature, demonstration of compliance with the Natural Heritage policies of this plan

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Application processes to permit the use will ensure development has regard for all Natural Heritage features and the Natural Heritage policies of the Official Plan. The amendment requires that cannabis cultivation be subject to Site Plan Control, which may require the submission of studies relating, but not limited to, environmental impacts, to the satisfaction of the Town. Any development would be subject to all other applicable policies of the Official Plan and Comprehensive Zoning By-law.

d. The location of the area under consideration with respect to:

- i. The adequacy of the existing and proposed highway system in relation to the *development* of such proposed areas;
- ii. The convenience and accessibility of the site for vehicular and pedestrian traffic and the traffic safety in relation thereto, and
- iii. the adequacy of the potable water supply, sewage disposal facilities, and other municipal services in view of the policies contained in this Plan and in accordance with technical reports or recommendations of the Ministry of the Environment and the Regional Niagara Public Health Department and any other appropriate authority deemed advisable.

The proposed policy amendment applies to the entirety of the Town. The amendment requires that cannabis cultivation be subject to Site Plan Control, which will address matters of access and site servicing and may require the submission of studies relating to, but not limited to, traffic and

servicing, to the satisfaction of the Town. Any development would be subject to all other applicable policies of the Official Plan and Comprehensive Zoning By-law.

e. The compatibility of the proposed use with uses in adjoining areas

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Policies have been established to ensure appropriate separation distances from sensitive land uses and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to nuisance matters that impact on land use compatibility including, but not limited to, air quality control, environmental impacts, traffic and lighting.

f. The effects of such proposed use on the surrounding area in respect of the minimizing of any possible deprecating or deteriorating effect upon adjoining properties

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Policies have been established to ensure appropriate separation distances from sensitive land uses are established and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.

g. The potential effect of the proposed use on the financial position of the municipality

The proposed amendments are not expected to impact significantly on municipal resources in the short or long term.

h. The potential effect of the proposed use in relation to the intent and implementing regulations of the Environmental Protection Act.

There are no new perceived issues arising out of the proposed approval of this amendment in relation to the Environmental Protection Act. The proposed Official Plan policies do not relieve any proposed facility from any obligations under the Environmental Protection Act.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

The relevant policies of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area shall apply to the implementation and interpretation of this Amendment.

PART "B" - THE AMENDMENT

All of this part of the document entitled "Part "B" - "The Amendment" consisting of the following policies constitute Amendment No. 61 to the Official Plan adopted by By-law No. -- for the Fort Erie Planning Area.

1. Policy 4.5.1.I of the Agricultural policies is amended by the addition of the words "the indoor, but not outdoor, cultivation of cannabis" between the words "agro-forestry" and "maple syrup production".
2. New policy 4.5.2.VIII is added to the Agricultural policies with the following wording:

"4.5.2.VIII Permitted cannabis cultivation shall be in accordance with the following:

- a. Cultivation is only permitted to occur within an enclosed building and the use may not emit any odour.
- b. Cultivation of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.
- c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
- d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
- e. Notwithstanding, Section 4.5.2 VII c) the 150 metre separation distance is not required from a residence located on the same lot as the cannabis cultivation.
- f. Cannabis cultivation shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
- g. Accessory land uses and activities related to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping must occur on the same lot as cultivation and are subject to the policies of this section that apply to cultivation."

3. New policy 4.6.2 VII is added to the Rural policies with the following wording:

"4.6.2.VII Permitted cannabis cultivation shall be in accordance with the following:

- a. Cultivation is only permitted to occur within an enclosed building and the use may not emit any odour.
- b. Cultivation of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.

- c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
 - d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
 - e. Notwithstanding, Section 4.6.2.VII c) the 150 metre separation distance is not required from a residence located on the same lot as the cannabis cultivation.
 - f. Cannabis cultivation shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
 - g. Accessory land uses and activities related to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping must occur on the same lot as cultivation and are subject to the policies of this section that apply to cultivation.”
4. Policy 4.10.1.I of the Industrial-Business Park designation is amended by the addition of the words “the indoor production of cannabis” between the words “dairies” and “printing establishments”.
 5. Delete Policy 4.10.1.III, which references growing of marihuana plans in accordance with the Marihuana for Medical Purposes Regulations.
 6. Policy 4.10.1.XI is added with the following wording:
 - “4.10.1.XI Permitted production of cannabis shall be in accordance with the following:
 - a. Production of cannabis is only permitted to occur within an enclosed building and the use may not emit any odour.
 - b. Production of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.
 - c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
 - d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
 - e. Cannabis production shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
 - f. Production of cannabis may include cultivation of cannabis and/or activities related

to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping.”

7. Policy 4.13.I of the Open Space designation is amended by the addition of the words “cannabis cultivation and its related uses” between “animal operations” and “and accessory dwellings”.
8. Policy 10.5 – Subject Heading is amended by removing **“AND MEDICAL MARIHUANA GROW AND PRODUCTION FACILITIES”**.
9. Policy 10.5.II is removed.
10. Policy 13.4.II b) is amended by replacing the words “medical marihuana grow and production facilities” with “cannabis cultivation and/or cannabis production”.

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PART "C" - THE APPENDICIES

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