

# The Corporation of the City of Owen Sound

## By-law No. 2019-192

### A By-law to amend Zoning By-law No. 2010-078, respecting cannabis and food/beverage production facilities (ZBA No. 25)

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WHEREAS section 34(1) of the *Planning Act*, R.S.O. 1990, c. P.13 (the "Planning Act") provides that the council of a local municipality may pass by-laws for prohibiting the use of land and for prohibiting the erection, location or use of buildings and structures for or except for such purposes as may be set out in the by-law and for regulating the use of lands and the character, location and use of buildings and structures; and

WHEREAS on April 12, 2010, the Council of The Corporation of the City of Owen Sound (the 'City') passed Zoning By-law No. 2010-078 to implement the City's Official Plan and to regulate the use of land in the City; and

WHEREAS City Council is desirous of adopting a zoning by-law amendment, pursuant to section 34 of the Planning Act, for cannabis and food/beverage production facilities; and

WHEREAS such amendment to Zoning By-law No. 2010-078 will maintain the terms and intent of the City of Owen Sound Official Plan; and

WHEREAS City Council has carefully considered all public comments throughout the process; and

WHEREAS on September 9, 2019, a public meeting was held under section 34 of the Planning Act to consider zoning for cannabis and food/beverage production facilities; and

WHEREAS on November 18, 2019, City Council passed Resolution No. R-191118-010 directing staff to bring forward a by-law to amend Zoning By-law No. 2010-078 respecting cannabis and food/beverage production facilities, in consideration of staff report CS-19-138;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

1. That By-law No. 2010-078 be amended as follows:
  - a. Amend 'Section 4.1 – List of Defined Terms' by deleting the following term:
    - i. Medical Marihuana Production Facility
  - b. Amend 'Section 4.1 – List of Defined Terms' by adding the following terms:
    - i. Air Treatment Control;
    - ii. Cannabis Production Facility;
    - iii. Food/Beverage Production Facility;
    - iv. Industrial Use, Accessory; and
    - v. Sensitive Land Use
  - c. Amend 'Section 4.2 – Definitions' by deleting the following definition:
    - i. 'Medical Marihuana Production Facility' means a facility used for the growing, producing, testing, destroying, storing or distribution of medical marihuana or cannabis by a producer licensed by the federal Minister of Health, pursuant to Section 25 of the Marihuana for Medical Purposes Regulations,

SOR/2013-119, under the Controlled Drugs and Substances Act, SC 1996, c 19, as amended.

- d. Amend 'Section 4.2 – Definitions' by adding the following to the end of the definition of 'Agricultural Use':
  - i. ...but does not include a Cannabis Production Facility.
- e. Amend 'Section 4.2 – Definitions' by deleting the definition of 'Storage, Outdoor' and replacing with the following:
  - i. 'Storage, Outdoor' means the storage of goods, materials, merchandise and equipment or the display and sale of goods and materials, including vehicles for hire or sale, but does not include raw inputs or waste associated with a Food/Beverage Production Facility or Cannabis Production Facility, outside a building in the open air.
- f. Amend 'Section 4.2 – Definitions' by adding the following:
  - i. 'Air Treatment Control' means the functional use of industrial grade multi-stage carbon filtration system, or similar technology, to reduce and/or treat the emission of pollen, dust and odours expelled from a facility and sized accordingly in comparison to the facility it serves as designed by a qualified person. For a Food/Beverage Production Facility all emissions and vapours created shall be wholly contained within the unit or discharged to the municipal sewer.
  - ii. 'Cannabis Production Facility' means buildings or structures used for producing, processing, testing, destroying, packaging and/or shipping of cannabis, including edibles, authorized by an issued license (of any license type) or registration by the federal Minister of Health, pursuant to the Cannabis Act, as amended from time to time, or any successors thereto.
  - iii. 'Food/Beverage Production Facility' means lands, buildings or structures used for the industrial manufacture, processing, packaging, storage and shipping of food and/or beverages for human consumption. This may include, but not be limited to breweries, wineries and distilleries, but shall not include non-human food production, edible cannabis production, or uses otherwise defined or prohibited in this By-law.
  - iv. 'Industrial Use, Accessory' means a building or structure or portion thereof wherein an Industrial Use is conducted that is subordinate and incidental to and functionally associated with the main use, building or structure located on the same lot therewith.
  - v. 'Sensitive Land Use' means a lot is that is zoned for uses within the Residential, Institutional, or Open Space categories. A sensitive land use receptor is a building or structure that is being used for a dwelling, school, long-term care facility, hospital, day nursery, crisis residence, group home or group residence.
- g. Amend 'Section 5.2 – Uses Prohibited in All Zones' by deleting subsection 5.2(c)(vii).
- h. Amend 'Section 5.7 – Open and Outdoor Display' by deleting subsection 5.7(6) under the Commercial and Industrial zone provisions and deleting subsection 5.7(4) under the Rural, Agricultural, Commercial and Industrial zone provisions.

- i. Amend 'Section 5.17 – Use Specific Regulations' by adding the following:

**5.17.11 Cannabis Production Facility**

Where permitted in this By-law, a Cannabis Production Facility shall be subject to the provisions of the applicable zone. The following separation distances and regulations shall also apply:

- a) A Cannabis Production Facility shall not be permitted as an Accessory Industrial Use.
- b) All components of a Cannabis Production Facility, including required loading spaces, shall be located in a wholly enclosed building. No open display or outdoor storage shall be permitted.
- c) A Cannabis Production Facility shall not be located within a greenhouse structure.
- d) No retail sales may be permitted in conjunction with a Cannabis Production Facility.
- e) A Cannabis Production Facility shall be equipped with air treatment control and shall meet the following separation distances:
  - i. The facility shall be setback from a sensitive land use zone boundary a minimum of 70 m.
  - ii. The facility shall be setback from a non-conforming sensitive land use receptor a minimum of 70 m.
- f) Notwithstanding the separation distance outlined in Sec. 5.17.11 (e), the following provisions shall apply:
  - i. Warehousing of packaged goods associated with a Cannabis Production Facility is not subject to a separation distance from sensitive land uses.
  - ii. The required separation distance shall not be deemed to apply to a dwelling unit where permitted in an Industrial Zone for a custodian or maintenance employee.

**5.17.12 Food/Beverage Production Facility**

Where permitted in this By-law, a Food/Beverage Production Facility shall be subject to the provisions of the applicable zone. The following setbacks and regulations shall also apply.

- a) No open display or outdoor storage shall be permitted in conjunction with a Food/Beverage Production Facility.
- b) A Food/Beverage Production Facility shall be equipped with air treatment control and shall meet the following separation distances:
  - i. The facility shall be setback from a sensitive land use zone boundary a minimum of 70 m.
  - ii. The facility shall be setback from a non-conforming sensitive land use receptor a minimum of 70 m.
- c) Notwithstanding the separation distance outlined in Sec. 5.17.12 (b), the following provisions shall apply:
  - i. Warehousing for packaged goods associated with a Food/Beverage Production Facility is not subject to a the separation distance from sensitive land uses.
  - ii. The required separation distance shall not be deemed to apply to a dwelling unit where permitted in an Industrial Zone for a custodian or maintenance employee.

**5.17.13 Accessory Industrial Uses**

Where permitted in this By-law, an Accessory Industrial Use shall be subject to the provisions of the applicable zone. The following regulations shall also apply.

- a) Accessory Industrial Uses shall be conducted directly in conjunction with a primary use permitted in the subject zone.
- b) Uses that may be considered as Accessory Industrial Uses are:
  - i. Industrial Uses, Light
  - ii. Food/Beverage Production Facilities
  - iii. Monument Sales
  - iv. Any other similar use that is approved by the Owen Sound Committee of Adjustment
- c) An Accessory Industrial Use shall encompass no more than 50 percent gross floor area to a maximum of 100 m<sup>2</sup> of the cumulative gross floor area dedicated to the primary permitted use and the Accessory Industrial Use.
- d) Where permitted as an Accessory Industrial Use and notwithstanding Sec. 5.17.12, an accessory Food/Beverage Production Facility:
  - i. Shall not be subject to any separation distances from a sensitive land use; and
  - ii. Shall be equipped with air treatment control.
- e) The Accessory Industrial Use shall not create or become a nuisance in regard to noise, odour, vibration, traffic generated or parking/loading.
- f) The Accessory Industrial Use shall not create or become a fire, health or building hazard.
- g) There shall be no outdoor storage of materials or goods associated with the Accessory Industrial Use.
- j. Amend 'Section 7.1 – Permitted Uses in Commercial & Mixed Use Zones' by deleting the term 'Uses, Industrial (Accessory)' and replacing it with the term 'Industrial Use, Accessory (see Sec. 5.7.13)'.
- k. Amend 'Section 8.1 – Permitted Uses in Industrial Zones' by deleting the following:

Uses	Uses Permitted In Zone		
	M1	M2	MU
Medical Marihuana Production Facility	●	●	

- l. Amend 'Section 8.1 – Permitted Uses in Industrial Zones' by adding the following:

Uses	Uses Permitted In Zone		
	M1	M2	MU
Cannabis Production Facility (See Sec. 5.17.11)	●	●	
Food/Beverage Production Facility (See Sec. 5.17.12)	●	●	●

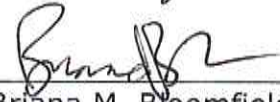
- m. Amend 'Section 8.2 – General Industrial (M1) Zone' by deleting: the column titled 'Medical Marihuana Production Facility'; rows 'i', 'm' and 'n'; and section 8.2(i).
- n. Amend 'Section 8.3 – Heavy Industrial (M2) Zone' by deleting: the column titled 'Medical Marijuana Production Facility'; rows 'i', 'n' and 'o' and section 8.3(i).

3. This by-law shall come into full force and effect upon the final passing thereof.

FINALLY PASSED AND ENACTED this 2<sup>nd</sup> day of December, 2019.



Mayor Ian C. Boddy



Briana M. Bloomfield, City Clerk