

**Cannabis Production Facilities in the AG - Agriculture General District****Report Purpose**

To provide information to Council on options and implications for removing cannabis production facilities from the AG - Agriculture: General zoning district.

**Recommendations**

1. THAT administration prepare a bylaw to remove the 'cannabis production facility' use from the AG - Agriculture: General district, the bylaw to include transitional provisions for approved cannabis production facilities.
2. THAT a public hearing for the proposed bylaw be held on March 23, 2021 at 7:00 p.m.

**Our Prioritized Strategic Goals**

Goal 3 - Cultivate economic diversification, within the petro-chemical industry and beyond, through a business-friendly environment

**Report**Background

On January 26, 2021, the Priorities Committee approved the motion:

THAT the January 26, 2021 report, Cannabis Production Facilities and Separation Distances to Existing Dwellings, be referred to administration for a report, by the February 23, 2021 Council meeting, on options and implications for removing cannabis production facilities from the AG-Agriculture: General zoning districts.

As a result of a Council decision on January 23, 2018, Bylaw 68-2017 was adopted, which amended the County's Land Use Bylaw (LUB) to create a definition for "cannabis production facility" and for it to be listed as a discretionary use in the IM - Medium Industrial Zoning District and the AG - Agriculture: General District. This was subsequent to the original Council motion approved December 12, 2017, which proposed adding the cannabis production facility use to the IM - Medium Industrial zoning district only. As a discretionary use, the development authority may issue a decision to refuse an application for a cannabis production facility or may issue an approval with or without conditions, with or without changes in the development, or with or without the imposition of regulations that are more restrictive than those in the Zoning District, the General Regulations or Specific Use Regulations found in the LUB.

In making a decision, the development authority can consider items such as its compatibility with statutory plans, policies, and the general purpose of the district. It can take into account the scale of development and compatibility with adjacent land uses, viability of servicing, request reports or studies to support a decision, and consider land-use concerns of affected landowners. Where appropriate, the development authority can impose conditions to mitigate adverse affects or nuisances. Notice of the decision of a discretionary use is sent to adjacent landowners as outlined in the MGA and provides the ability for an affected person(s) to appeal a decision.

Considerations for removal of cannabis production facilities from the AG District

Strathcona County has received four applications for cannabis facilities in the AG District. One was refused by the development authority with no appeal. Three have been approved by the development authority with extensive conditions. The review process, in all but one of these instances, resulted in significant concern being raised by residents in the vicinity of the proposed facilities. Concerns raised included potential odor, noise, lighting, traffic and security.

Of the three that were approved by the development authority, one was overturned by the Subdivision and Development Appeal Board (SDAB) (the portion of the application relating to hemp/intensive horticulture was upheld), one was approved by the development authority and there was no appeal, and the third was approved by the development authority and subsequently amended by the SDAB from a permanent approval to a temporary approval requiring a resubmission in three years. Of those approved in the AG District, none are constructed.

Significant costs have been incurred by the applicant(s) in both providing the information to support a decision and subsequent legal costs, when the decisions were appealed. Concerned residents have also spent considerable time and effort and incurred significant legal costs.

Should Council wish to move forward with a LUB amendment to remove the cannabis production facility use from the AG District, there would be several potential implications for already approved facilities, or on persons who may be in the process of applying for a development permit. These include:

- Subsequent to the date of an amending bylaw coming into effect, a new application in the AG District for a cannabis production facility, regardless of the scale of the facility or size of the parcel, could not be accepted as the use would no longer be listed in the district. New facilities in the County would be limited to IM – Medium Industrial and IHT – Industrial Heartland Transition zoned properties. The proposed IHT - Industrial Heartland Transition District, if approved, would also include cannabis production facility as a discretionary use.
- If an application was submitted and deemed complete prior to the use potentially being removed from the district, would Council's desire be for the regulations that were in place at the time the application was deemed complete to apply, or the regulations at the time the decision is made to apply?
- If an approved permanent facility is constructed, would Council want the facility to be able to expand in the future or would it prefer it is a non-conforming use with no ability to expand?
- If an existing temporary facility is constructed, would Council want the owner to be able to apply for a permanent facility in the future and, if so, to also be able to expand in the future?
- If the approved permanent facility is not constructed (either within an original or extended timeline) and the permit subsequently expires, would Council want it to be able to apply again for that permanent use, and if so, would it matter whether the applicant is using the same plans or has modified their application?

If Council's desire is to remove the use, direction on the above items would be needed.

Consideration for keeping in AG with a Separation Distance to Dwellings

If Council desires to keep the use in the district, but still has concerns about the potential impact on adjacent residences, specific-use regulations such as a maximum facility size and/or a minimum distance separation to existing residences could be considered.

Imposing a setback of 500m from the property boundary of a cannabis production facility to a residence essentially makes it unfeasible on AG lands. A 500m setback from the exterior wall of a building where cannabis is grown or processed to the exterior wall of an existing residence would allow for some limited opportunity for cannabis production facilities to locate on large agricultural properties.

**Council and Committee History**

January 26, 2021	The Priorities Committee approved the motion: "THAT the January 26, 2021 report, Cannabis Production Facilities and Separation Distances to Existing Dwellings, be referred to Administration for a report, by the February 23, 2021 Council meeting, on options and implications for removing cannabis production facilities from the AG-Agriculture: General zoning districts.
June 23, 2020	Council approved extending the deadline for the June 5, 2018 report on cannabis setbacks.
February 26, 2019	Council approved extending the deadline for the June 5, 2018 report cannabis setbacks.
June 5, 2018	Council made the following motion: THAT Council direct administration to prepare a report on the advisability of an amendment to the Strathcona County LUB in AG-Agriculture: General district by the fourth quarter of 2018 that: <ol style="list-style-type: none"><li>1. A cannabis production facility with a total area greater than 1000 m<sup>2</sup> shall meet the minimum separation distance of 500 meters between an existing dwelling and the cannabis production facility site.</li><li>2. The minimum separation distance between the existing dwelling and a cannabis production facility site shall be established by measuring the shortest distance between the external wall of the nearest dwelling and the boundary of the cannabis production facility site.</li></ol>
January 23, 2018	Council adopted Bylaw 68-2017 creating a definition in the LUB for "cannabis production facility" and for it to be listed as a discretionary use in the IM – Medium Industrial Zoning District and the AG – Agriculture: General District.
December 12, 2017	Council approved the motion "THAT administration prepare a bylaw to amend the LUB to: <ul style="list-style-type: none"><li>• define cannabis production facilities;</li><li>• add cannabis production facilities to the list of discretionary uses in the IM: Medium Industrial Zoning District; and</li><li>• exclude cannabis production facilities from the definitions for "agriculture, general", "agriculture, intensive horticulture",</li></ul>

“agriculture, product processing” and “greenhouse” and

THAT the bylaw be advertised for a public hearing to be held on January 23, 2018”

- November 7, 2017 Council adopted Bylaw 63-2017 which amended the LUB to add agriculture, intensive horticulture and agriculture, product processing as discretionary uses in the IM – Medium Industrial zoning district.
- September 12, 2017 Council adopted Bylaw 55-2017 which amended LUB to move agriculture, intensive horticulture to a discretionary use in those districts where it was listed as a permitted use.
- August 14, 2017 Council approved the motion “THAT administration bring forward recommendations to change the LUB in order to address and place land use regulations on licensed cannabis growing, production, distribution and processing facilities, including consumption, to reflect current and proposed changes in federal regulations by the end of second quarter of 2018.”

**Other Impacts**

**Policy:** n/a

**Legislative/Legal:** Any amendments to the LUB related to cannabis would require legal review and consultation.

**Interdepartmental:** n/a

**Master Plan/Framework:** n/a

**Communication Plan**

If amendments to the LUB are proposed, a Public Hearing would have to be held in accordance with the *Municipal Government Act*.