

Briefing Note to Clearview Council

from Local Residents Concerned About Cannabis in Clearview

Key Facts

1. **Municipalities have the Authority to Regulate Agricultural Land Uses**, including limiting the cultivation and production of cannabis to industrial zones (Ontario Superior Court, 2021). In particular, the Ontario Superior Court has found that legislation protecting “normal farm practices” does not impact a municipality’s ability to determine through zoning “what types of farming can go where (see *Leamington v. DeGoey*, 2021 CarswellOnt 1391).

2. **Provincial Policy Supports Regulation to Mitigate Impacts:** the draft *Ontario Land Use Compatibility Guideline* (for planning authorities) treats indoor cannabis cultivation and processing as an industrial use and advises that both indoor cannabis cultivation (such as in greenhouses) and cannabis processing facilities have a zone of negative impacts (Area of Influence or AOI) of up to 2km and recommends a 500m separation distance from sensitive land uses. ¹

3. **The Township’s Official Plan Demands Restricting Greenhouses to AGI Zones:** the Town’s own official plan restricts greenhouses to Agricultural Industrial zones (AGI). The Township’s zoning by-laws are legally required by the *Planning Act* to “form to” its official plan. In other words, the Township is required by law to restrict indoor cannabis cultivation in greenhouses to AGI zones (see 4.3.1.1 and 4.3.2.7)

4. **The Trend in Other Municipalities is to Greater Restrictions:** our research, combined with research by Township planning staff, found **many municipalities with strict controls** on cannabis cultivation and processing, including 29 municipalities (including the Town of Blue Mountains) which require cannabis facilities to be ENTIRELY INDOOR and generally limited to INDUSTRIAL ZONES. ²

What does this mean for Clearview?

We suggest the following changes to the draft By-Law (in accordance with draft provided by Konstantine Stavrakos):

- indoor growing of cannabis (including greenhouses) be located only on industrial or AG-Industrial zoned land (as required by the Township OP).
- outdoor growing be limited to micro-cultivation (200sq meters per lot) with setbacks from lot lines and sensitive uses of at least 300 meters.
- sensitive uses be defined to include places of worship (including cemeteries) and tourist/recreational sites.
- the Town extend the Interim Control by-law (set to expire October 4^h) to give it time to get it right.

¹ See Letter submitted to Council by Konstantine Stavrakos for August 23,2021 Public Meeting.

² See Warwick, Leamington, Lennox Addington, North Glengarry, Champlain (Russel and Prescott), Niagara, Port Colbourne, Wainfleet, West Lincoln, Markham, Richmond Hill, Vaughan, Tyendinga, Medoc, Center Hastings, City of Belleville, North Frontenac, Greater Madawaska, Bluewater, Havelock, Tay, Blue Mountain, Armprior, Aurora, Brant, Brantford, Caledon, Georgina, Pembroke,