



CLEARVIEW

Article- Medical Marijuana Operations in Clearview

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Clearview Township has been recognized for its emphasis on agricultural innovation and its efforts to provide for and encourage value added enterprises on the farm.

Agriculture is a significant component of Clearview's economy and is one of the fastest growing sectors, with expectations that it will continue to provide an increasing number of jobs in the community:

[OVERALL EMPLOYMENT TRENDS IN CLEARVIEW – A Report by the Community Planning and Development Department 2014](#)

Innovation has taken on such forms as the Miller's Dairy, one of the few on-farm dairies permitted by the Province, to new crops such as the production of specialized water spinach and other Asian vegetables. Innovation has also occurred in related businesses such as local restaurants and retail operations, as well as a renewed emphasis on local foods in farmers markets. Innovation in agriculture was profiled in the Townships digital magazine published in the summer of 2014:

[AGRICULTURAL INNOVATION IN CLEARVIEW](#)

One of the other notable new agricultural businesses in Clearview is the production of medicinal marijuana, or cannabis. The Peace Natural's Project Inc. was the first medicinal marijuana producer licenced under the new federal Marihuana for Medicinal Purposes Regulations (MMPR). Peace Naturals is a fully licenced facility which can produce marijuana, as well as provide it to the public, in accordance with the regulatory requirements. The Agriparm Corp. was also recently licenced as a producer, making Clearview the home of a second licenced operation.

Given the relatively small number of licences granted across the Country, the issuance of two licences to operations in Clearview has predictably

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garnered the municipality some attention. Since the approval of the first facility, the Township's Planning department has received regular calls from across the country asking about the Township's position on and approach to these operations.

In Clearview, the production of legal medicinal marijuana is considered an agricultural use. While the crop is novel (*cannabis hemp was farmed in Canada in the 17th and 18th centuries but was made illegal in the 1920's), it is never-the-less considered to be the growing of agricultural produce. Unlike some municipalities which either consider production to be an industrial use, or to be such a new novel use that it requires an entirely new zoning categorization, Clearview took the position that the production of marijuana fell under the acceptable range of uses permitted in its agricultural zoning categories.

Following the approval of the first production facility, Clearview's position as considering marijuana operations an agricultural use attracted increasing attention and Township staff found themselves regularly explaining this interpretation and its implications.



Essentially, Clearview views the production of marijuana, as a legally permitted use, to be similar to the production of any other agricultural crop, and so, took the position that any proposal for a production facility could be permitted without the need for a zoning amendment where the proposal could comply with all of the provisions applicable to an agricultural use. In establishing its position, Clearview accepted the fact that the decision regarding legality of the use and production of marijuana was a matter dealt with by the federal government and the courts and that production of marijuana in a licenced facility was a legally accepted use.

The Township's position that production was an agricultural use was based on an analysis of what constitutes a legal operation. A fully licenced producer



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may cultivate the plants; may harvest, dry and package the buds; and may sell to the public through a regulated process. Other than drying and packaging the plant buds, no additional processing is permitted. Each of these components of the use is permitted by the Township's zoning by-laws. In fact, in Clearview, agricultural operations may also carry out more on-farm processing than medicinal marijuana operations are permitted under the current regulations. Medicinal marijuana operations therefore comply with the permitted uses, the applicable definitions, and the provisions of the agricultural zone. In fact, Township staff were of the opinion that, if challenged on the interpretation, there was no reasonable argument to present that the use was not an agricultural use.



In order to fully explore this interpretation, staff carefully considered various aspects of the use that might potentially distinguish it from other agricultural operations.

Medicinal marijuana operations must be conducted in fully enclosed structures with rigorous climate controls. However, this does not make them unique. Hothouse production of tomatoes and other crops is an equivalent agricultural operation. Similarly, mushroom production and certain livestock production facilities are also highly controlled indoor environments utilized for agricultural production.

Rather than being used for food for people or animals, marijuana is grown to produce medicine. Interestingly, while the government licenses these facilities, its official position is that dried marijuana is not an approved drug or medicine and the government does not endorse its use. Facilities are licensed on the basis that the courts have required that the public have legal access to marijuana where a prescription is issued by a physician. The status of marijuana as a medicine is however irrelevant to the issue of zoning. Numerous agricultural products have an end use that is not directly related to food production. Corn is used for a variety of non-food purposes including the production of ethanol. Other crops are farmed to produce a variety of

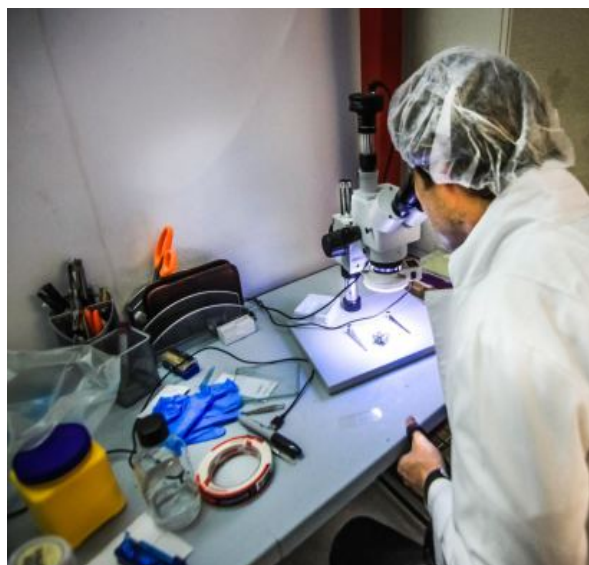


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non-food products including ingredients on prescription and non-prescription medications. The end use of the production of medicinal marijuana does not disqualify its production as an agricultural use.

Marijuana's is a regulated product. Again, this does not negate it as an agricultural use. While tobacco production no longer takes place in Clearview, tobacco was clearly recognized as an agricultural activity and remains so in other parts of Ontario. Tobacco is also a tightly regulated agricultural product.

Medicinal marijuana operations have very stringent security requirements. Again, this does not provide a basis for suggesting that the use does not comply with agricultural zoning. Security requirements associated with banks, pharmacies and many industrial buildings do not result in specialized zoning categories being established specifically for these uses on the basis of those security requirements. Security is, increasingly, a major component of many modern farm operations. Bio-security measures are common place in intensive livestock operations. The harvesting and shipment of high value crops, such as ginseng, can also require special security measures.



Medicinal marijuana operations often incorporate laboratories or research facilities. Again, many modern farming operations have on-site laboratories for testing agricultural inputs or products or in association with plant and animal science research and so the potential inclusion of laboratory facilities does not eliminate the operation as an agricultural use.

The federal government issues two types of licences; one for full producers who can both produce the medicinal marijuana and provide it to customers, and the other for producers only. Full producers may therefore have an associated administrative and sales component to the business. The

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potential inclusion of this use on a farm is entirely consistent with agricultural zoning permissions in Clearview. Many large farm operations have farm offices and carry out sales from those offices. In fact, Clearview allows for on-farm sales of produce to encourage value-added activity on the farm.

In municipalities where medicinal marijuana is considered an industrial use, common issues that arise included compatibility with other neighborhood uses. In Clearview this has not been an issue. As an agricultural use, operations are well separated from other uses and particularly more intensive residential and institutional uses that occur with settlement areas.

Clearview's experiences have been very positive. The operations have brought in new investment and jobs. Clearview Council has been supportive and there have been no issues raised by residents. Clearview's medicinal marijuana producers have also been very cooperative and helpful in dealing with our building department and emergency services staff. They have worked with us to ensure that their facilities are built and managed to ensure the safety of surrounding properties and residents, their own staff, and emergency services personnel.

While the debate about the use of medicinal marijuana and its status continues, and the merits and issues regarding its use will continue to be explored at the federal level, Clearview has taken the position that as long as the production is legal, the growing of marijuana plants in licenced facilities is an agricultural use that most appropriately belongs in an agricultural setting.