



Information Memo

To: Council-In-Committee Meeting
Date: February 11, 2025
Division: Office of the Chief Administrative Officer
Department: Clerks and Bylaw
Ward: All Wards
Subject: CAO25-013 Cannabis Enforcement – Final Report

Recommendation(s):

That the Information Memo regarding CAO25-013 Cannabis Enforcement Final Report be received as information.

Background

Since the enactment of the federal Cannabis Act in 2018 Bylaw officers have investigated many allegations of illegal cannabis production in Norfolk County. Both Council and the Police Services Board (PSB) were briefed on several occasions regarding Bylaw efforts to manage these investigations, alone and through a variety of partnerships. The last comprehensive cannabis report to Council was presented in February of 2023.

In the fall of 2024 Bylaw closed its last ongoing cannabis investigation and transitioned the full-time cannabis investigator back to regular Bylaw duties.

This Information report is intended to provide Council with a high-level overview of cannabis investigations and the results achieved over the previous 5-year period.

Discussion:

Background

On the 17th of October 2018 the Cannabis Act (Bill C-45) was enacted by the federal government, making Canada the second country in the world to legalize cannabis. The primary stated purposes of the legislation were to restrict youth access to cannabis, reduce the burden on the criminal justice system and to provide for the legal production of cannabis to those over 18 who wished to use the products recreationally or who needed them for medical purposes.

The new Cannabis Act provided four different legal paths for cannabis production and sales including:

- Sales through private retail outlets and the government “Cannabis Store”
- Personal production of up to 4 cannabis plants for recreational use only
- Authorizing “Licensed Producers” – those permitted to produce and distribute prescription-based medical cannabis (mostly large-scale publicly-owned companies)
- Authorizing “Designated Producers” – those permitted to produce cannabis for up to 4 Health Canada license holders with medical prescriptions.

In 2018 Norfolk became one of over 400 municipalities in Ontario to “opt-in”, permitting legal cannabis to be grown in our community. As part of that arrangement the county accepted funds from the government of Ontario to assist with cannabis management and enforcement needs under the Ontario Cannabis Legalization Implementation Fund, receiving a total of \$237,000.

Initial Management Efforts

Initial management efforts for cannabis production and processing here included the addition of comprehensive new zoning requirements under section 3.21 of the Zoning bylaw. This amendment included setback requirements from sensitive uses, with or without air treatment control. It also included specific permitted zones for cannabis production and processing as well as the requirement to submit a Planning Application. This last requirement was to ensure that any land used for cannabis production and processing was compliant with zoning setbacks, Building Code, Ontario Fire Code, wastewater treatment, lighting issues and other possible nuisance and safety related issues.

While 10 federally licensed and inspected Licensed Producers in Norfolk complied with these requirements, not one of the many other Designated Producers did so and instead chose to produce cannabis illegally and without consideration for neighbouring land uses. Many former vegetable and flower farms were quickly bought up by these new cannabis growers, the majority of whom were found to be absentee owners from the greater Toronto area. The established greenhouses were then converted to cannabis production, often on a very large scale. This soon led to Bylaw complaints of cannabis odour affecting nearby residential use, and in several early cases criminal activity involving weapons and violence which the police investigated. In some locations large-scale cannabis facilities with no filtration were set up just metres from neighbouring residential use. The annoyance and nuisance factors in the initial stages were very high and complaints about many suspected locations were reported to Bylaw for investigation.

To deal with these issues Norfolk re-assigned a member of the Bylaw team to full-time cannabis investigation duties however a health issue slowed initial investigative efforts, which did not effectively resume again until the summer of 2020. By that time all cannabis files were being overseen by a new Bylaw Manager and a database had been initiated to capture details of the growing list of reported illegal grow sites. Over the ensuing 5 years the number of suspected illegal cannabis operations in the County would total 130.

Investigations – scope & responsibility

It's important to differentiate between the individual responsibilities the police and municipal By-Law have in relation to cannabis investigation. The police investigate criminality including allegations of over-growing, moving cannabis through the illicit market and growing outdoor on an indoor license under the federal Cannabis Act. Police may also come across human trafficking and weapons offences, among other issues.

Conversely municipal cannabis investigations in Norfolk focus only on alleged Zoning bylaw violations, including failing to apply for Site Plan Control and/or the failure to abide by the required zoning setbacks.

Many early cannabis complaints to Bylaw came from a local group who provided a sustained, vocal and negative perception of community safety related to cannabis production. These concerns primarily involved the potential criminal side of cannabis production including alleged involvement in organized crime and not the Zoning, Building or Fire issues which Bylaw officers were tasked with municipally. These actions created some tension and media coverage when the group made a number of presentations to Council and the PSB over 2 years, indicating that the County was not doing enough in response to their concerns and to deal with cannabis. While Bylaw is not mandated or able to deal with criminal issues, we were able to contribute and have a positive effect in support of our policing partners and their own mandate. Our zoning investigations very often produced intelligence information which police were then able to leverage in identifying and responding to criminality, including significant cannabis seizures and criminal charges of their own.

In our experience, and in that of most other municipalities across the country, a significant number of cannabis producers grow more plants than permitted to by Health Canada, often a great deal more, with up to 1000 plants being prescribed for just one person and no regulation as to how often those plants could be grown. Not surprisingly, profits from the excess production are in many cases suspected to be funneled into the illegal cannabis market through organized crime. Not one of the Designated Producer locations in Norfolk County was ever inspected by Health Canada for compliance with Cannabis Act regulations, and Health Canada has admitted that they have no capacity to do so. This lack of oversight is a nation-wide issue and not centric to Norfolk County, leaving local Bylaw and police as the primary response to cannabis issues.

Having the OPP and Bylaw working together on information sharing and response to complaints has made a significant impact on both the quality and success of local cannabis investigations.

Investigative Results

Of the 130 cannabis complaints received from 2019 through 2024, 80 locations (61%) were determined not to be producing cannabis after investigations were concluded. Another 3 locations were reported to the OPP for minor Cannabis Act violations, and 3 others were determined to have Legal Non-Conforming status, permitting them to grow as they pre-dated the current zoning bylaw requirements.

Altogether non-zoning related investigations accounted for 66% of the total reported locations, however each investigation required significant time and effort by one officer to work through before a determination could be made as to whether there was a legitimate cannabis zoning violation or not.

Forty (40) properties were found to be producing cannabis in violation of zoning and were charged, with 82 property owners facing 166 charges. Of note, four (4) of those property owners were charged twice as they continued to grow cannabis after the first charges were laid and new search warrants executed. As a result court fines for the second offences were much higher than for their first convictions.

Each cannabis investigation can take a considerable amount of time and effort to complete and has many components. Typically these include initial and ongoing documentation, property ownership research, liaising with police and sharing intelligence, liaising with our Planning department and other internal partners, physical surveillance on multiple occasions, site measurements for proximity to residential use, mapping, heat signature scans, drone flights, photography, search warrant preparation and execution, database updating, drying/packaging and forwarding suspected cannabis samples for analysis, prosecution meetings, extensive Crown brief preparation and multiple court appearances. All of this work on so many files resulted in our cannabis investigator being deemed an “expert witness” for cannabis prosecutions and most defendants no longer requested trials but instead moved toward negotiated settlements, often with significant fines and Court Orders not to produce cannabis.

As more owners were charged and extensive plant seizures were made it became apparent within 2 years that no new cannabis operations were opening in Norfolk. While there may or may not be undetected illegal cannabis operations here at this time, Bylaw has received no credible information reporting any new cannabis production sites since 2022.

Court

As of October of 2024 all court matters related to cannabis charges have been concluded with no further locations left to investigate.

Of the 40 sites charged (four twice) just one site was found not guilty at trial after claiming they were growing hemp and not cannabis. This represents a 98% conviction rate on the 166 charges laid.

With regard to penalties, 33 Court Orders to cease production of cannabis were issued to property owners. A total of 38 owners received fines ranging from \$1000 to \$120,000. In total just over \$800,000 in fines were handed out by the courts.

Outcomes

The 5-year reassignment of one regular Bylaw officer to cannabis investigations has come at a cost to the municipality in terms of response times to regular bylaw complaints, added workload for other officers, and in our ability to provide a regular proactive stance with some issues like parking. Staff believe however that our early investment in a dedicated cannabis investigator to address a rapidly growing and contentious community issue has produced many positive outcomes.

Norfolk County has become well known within Ontario municipal and policing organizations for our proactive work in holding property owners accountable for producing illegal cannabis, many of whom were strongly believed to be financing organized crime efforts through the proceeds. Municipalities generally have a much better ability to detect suspected illegal cannabis operations than their policing partners do, and so when our surveillance information was shared with the OPP it often provided law enforcement with the ability to seize and eradicate the plants found, where Bylaw could not.

One mature cannabis plant with good bud production had a finished street value of about \$1000 in 2024. Norfolk County Bylaw initiated and executed 5 search warrants for evidence of cannabis production resulting in the location and destruction of 82,520 cannabis plants. In addition, growers charged at other locations ceased production of their plants and destroyed their inventory voluntarily, taking a further 270,920 cannabis plants out of production. If all these plants had matured and had been processed, the estimated street value of plants taken out of production by Bylaw alone over 5 years is over 350 million dollars.

Bylaw also provided critical information to the OPP and assisted at the execution of four police search warrants where a further 82,000 cannabis plants were located and destroyed and criminal charges filed. These additional plants had a street value of over 82 million dollars, making the total estimated financial impact through our Bylaw investigations in excess of 430 million dollars. Additional quantities of finished product with an undetermined value were located at several grow sites and destroyed by police.

It should be noted that modern indoor cannabis production practices enable growers to produce at least two and sometimes three crops per year depending on growing methods. The value of the plants and product destroyed in our investigations represent is a single snapshot in time and are therefore not indicative of the larger profits made by most illegal growers since the inception of the Cannabis Act if two to three crops per year are considered.

Given the level of enforcement with the resulting unwanted media coverage, staff are of the opinion that it has now become too inconvenient, too costly and has brought too much scrutiny for criminal organizations to set up and grow illegal cannabis in Norfolk County, hence its very significant decline here.

Some of the investigative successes can be attributed to the use of technology. In 2020 Norfolk invested in a drone and had an officer trained as a Transport Canada certified RPAS (drone) pilot. This has proven to be a valuable tool. As we move from a focus on cannabis our drone can be re-purposed to assist with needs in other departments as well including fire scenes, drainage documentation, communications and at special events.

We also invested in Forward Looking Infrared (FLIR) technology, drug sample analysis and other investigative processes and techniques to provide supporting evidence for investigations.

We proactively included Building, Fire and Wastewater staff on a number of cannabis site visits and search warrants in order to hold property owners accountable for potential building and fire safety issues, and to document possible high nitrate levels in nearby wastewater and fertilizer runoff into groundwater. Many of these joint investigations resulted in Building Code safety violations and Build Without Permit violations as well as some Fire department orders.

We became an active participant in Planning department Pre-Con meetings dealing with cannabis locations, actively liaised with other justice partners in the OPP and Joint Provincial Cannabis Enforcement Team, played a role in educating other municipalities in our cannabis work through the AMO Cannabis Working Group, built positive relationships with the neighbours of suspected grow sites, and developed a strong reputation for excellence with our prosecutors and the courts.

Perhaps most significantly for the long-term, Norfolk County Bylaw and Planning departments worked with Health Canada to develop an extensive list of recommendations in response to the mandated Cannabis Act review which came out in early 2024.

Norfolk submitted detailed responses to both AMO and Health Canada regarding suggested policy improvements in the Access to Cannabis for Medical Purposes Regulations, including the need for:

- Municipalities to have a sign off on any Health Canada application indicating full compliance with zoning before a license to grow was issued.
- Cannabis prescription amount verification
- Health Canada site inspections of Designated Producers
- All cannabis producers to have the same restrictive filtration systems
- Cannabis to be classified as a pharmaceutical rather than farm product
- Increased funding for local investigations
- Implementation of municipal and/or police site inspection authority
- The establishment of a cannabis facility registry, accessible to municipal investigators.

In September of 2022 the Federal Minister of Health appointed a 5-member Expert Panel to conduct a mandated review of the administration and operation of the Cannabis Act. Norfolk County was one of many stakeholders from across Canada who participated in both written submissions and in a live panel discussion with Health Canada.

Among the Expert Panel's 54 final report recommendations to the Federal government it concurred with many of our local submissions and advocated for:

- ✓ Limiting the number of registrations for designated production to just one (1) from the current four (4) per site, limiting the potential for criminal over-grows.
- ✓ Increasing funding to ensure public safety concerns were being addressed
- ✓ Permitting pharmacies to distribute cannabis products
- ✓ Developing a knowledge hub and clinical guidance for health care professionals regarding appropriate cannabis dosages and monitoring of efficacy.
- ✓ Requiring health care professionals to direct what form prescribed cannabis may be used, rather than simply prescribing plant numbers to be grown.
- ✓ Requiring physicians to provide justification for prescribing high amounts of cannabis.
- ✓ Health Canada should revoke applications that pose a potential risk to the public
- ✓ Regulators for health care professionals should investigate and sanction their members who demonstrate problematic authorization practices and should also require them to disclose any financial relationships with cannabis license holders.

Going Forward

Norfolk County staff have contributed to a significant decline in illegally grown cannabis here in the 6 years since the Cannabis Act regulations came into force. As such we have now transitioned to re-purpose a full-time cannabis enforcement position and are committing to ensuring that all Bylaw team members are trained in the investigative skills and case management required for cannabis files. This will provide a seamless transition of knowledge, skill and ability in support of any future cannabis investigations.

Bylaw will continue with an aggressive stance toward municipal cannabis zoning violations and to continued cooperation with our policing partners in the sharing of new cannabis intelligence to reduce the impact of the criminal side of the cannabis market.

A new drone pilot will be trained in 2025 to support any future cannabis work as well as other County needs as they present themselves.

The Provincial Offences Court Office will continue to monitor and respond to delinquent cannabis fine payments under a new Defaulted Fines Collection Policy.

Financial Services Comments:

As noted in the report, Norfolk County received \$237,000 from the Ontario Cannabis Legalization Implementation Fund. This funding was to be used for the purpose of paying for implementation costs directly related to the legalization of cannabis. Norfolk County allocated these funds to offset the increased costs associated with cannabis enforcement.

To date there have been approximately \$800,000 in cannabis related fines imposed through Provincial Offenses. A total of \$220,000 of these fines have been collected as of the end of January 2025 representing a collection rate of approximately 27%. Any fine payments received by POA for these charges are directed to the By-law Department to offset annual levy requirements.

Corporate Collection staff within the finance team implemented a number of collection techniques to facilitate collection efforts including civil litigation and the addition of defaulted fines to property tax accounts. To date, these enhanced collection techniques have facilitated approximately \$75,000 in added cannabis fine collections above what would have normally been received through traditional collection efforts. During Q4 2024, Council approved a POA Defaulted Fine Collection Policy which provided staff increased options for enhanced collection. As staff continue to implement these enhanced collection efforts, it is anticipated that additional fines will be collected upon over time.

Attachment(s):

Conclusion:

As long as cannabis is grown by Designated Producers with little to no oversight from Health Canada, and health professionals remain unchallenged as to the amount of cannabis plants needed to supply prescriptions to their patients, organized crime and others seeking to circumvent regulations under the Cannabis Act and profit financially will attempt to take advantage of municipalities who fail to challenge them.

Norfolk County has provided an effective and sustained response to these challenges, enjoying a reduction in cannabis related negative community issues and a reduced ability for organized crime to profit here.

Approval:

Approved By:
Al Meneses, CAO

Reviewed By:
William Tigert,

County Clerk

Prepared By:
Jim Millson
Manager – Bylaw Services