

PED21137 Item 10.2

Comments on the Proposed Provincial Land Use Compatibility Guideline

July 6, 2021 (PED21137)

> PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT PLANNING DIVISION

ERO Posting – Land Use Compatibility Guideline

On May 4, 2021, the Ministry of the Environment, Conservation and Parks (MOECP) released the proposed **Land Use Compatibility Guideline** on the <u>Environmental</u> <u>Registry of Ontario (ERO)</u> for review and comment.

The original deadline for comments was **July 3**, **2021**. Staff submitted comments to the Province by the deadline. The deadline was recently extended to **August 6**, **2021**. Any revisions or modifications by Council will be forwarded to the Province as the City's formal comments on the ERO postings.



Proposed Land Use Compatibility Guideline

The proposed Guideline is to be applied to achieve land use compatibility between major facilities and sensitive land uses when a planning approval is required for:

- a new or expanding sensitive land use proposed near an existing or planned major facility; or,
- a new or expanding major facility proposed near an existing or planned sensitive land use.

The proposed Land Use Compatibility Guideline would replace the 1990's provincial D-Series Guidelines.



Key Changes – Policy instead of Guideline

- New change from a 'guideline' to be used by municipalities in assessing land use compatibility to a direction that municipalities must follow in the assessment of compatibility and must implement in the Official Plan.
- Guideline directs that Official Plans shall identify Minimum Separation Distances (MSD) and Areas of Influence (AOI) within the policy framework, as well as identify the requirement for Demonstration of Need Studies, where required.



Key Changes – Policy instead of Guideline

Implementation requirements of the Guideline could have a direct impact and a potential to delay the City's submission of the draft Municipal Comprehensive Review Official Plan Amendment by the end of 2021 / early 2022 due to need to address:

- Revisions to Employment Area and other policies in the UHOP;
- Potential revisions to the City's Employment Land Conversion review,
- Review of residential intensification opportunities which may warrant the redesignation of lands to remove existing sensitive land use planning permissions.



Key Changes – AOI & MSD Increase

Significant increase in the Area of Influence (AOI) and Minimum Separation Distance (MSD)

- Area of Influence (AOI) an area surrounding the property boundary of an existing or planned major facility where adverse effects on surrounding sensitive land uses have a moderate likelihood of occurring.
- Minimum Separation Distance (MSD) an area that is smaller than the AOI and is the distance within which adverse effects and compatibility issues are highly likely to occur.



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Key Changes – AOI & MSD Increase





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Key Changes – AOI & MSD Increase

Class	MSD (depends on specific use)	AOI (depends on specific use)
Class 1 (e.g. food manufacturing, paint coating, plastics manufacturing, sewage lagoons, small municipal wastewater facilities)	100-200 m (previously 20 m)	300-500 m (previously 70 m)
Class 2 (e.g. industrial food mills, metal and glass manufacturing)	300 m (previously 70 m)	600-750 m (previously 300 m)
Class 3 (recycling facilities, anaerobic digesters, asphalt manufacturing)	200-500 m (previously 300m)	1000 m (previously 1000m)
(New) Class 4 (large municipal wastewater facilities, scrap yards, composting facilities)	300-500 m	1,250-1500 m
(New) Class 5 (e.g. cannabis production and processing facilities – urban area only, chemical product manufacturing, cement manufacturing, steel mills)	500 m	2,000 m



Key Changes – AOI & MSD Increase

The Guideline allows municipalities to establish **a site specific AOI** for an individual major facility. Municipalities may determine an alternate AOI (smaller or larger) if supporting studies are completed to justify the alternative. For example, an AOI may be smaller in locations with a planning objective of increasing intensification as well as avoiding conflicts.

The development of an alternate AOI, with supporting justification studies, is a voluntary activity undertaken by the municipality.



A Land Use Compatibility Study is a study that assesses potential *adverse effects* and recommends *separation distances* between land uses and mitigation measures, if needed, to prevent impacts to surrounding *sensitive land uses*.

It will be required for all:

- New or expanding major facilities where a sensitive land use exists or is permitted and is within the AOI; and,
- New or expanding sensitive land uses proposed within the AOI of an existing or planned major facility.











A **Demonstration of Need Study** determines whether there is an identified need for a proposed use in a proposed location and evaluates alternative locations for the proposed use if avoidance is not possible.

This Study is only required for new sensitive land uses when:

- It is proposed within a major facility's AOI and mitigation measures would be needed to ensure no adverse effects or potential impacts; or
- It is proposed within a major facility's MSD (regardless of whether mitigation measures are assessed to be needed).



The **Demonstration of Need** study must:

- identify if there is a need for the use (including assessment of Official Plan policies, demographics, land supply, and growth targets).
- investigate at least two alternative locations for the use, regardless of ownership, and discuss whether they would be appropriate for the proposed use as compared to the preferred location.
- identify other potential uses for the site that would be compatible and explain why they have not been chosen for the proposed location.



- These studies could have significant impacts on the timing and potential for additional residential development in strategic growth areas and may impact the potential for the City to meet intensification targets.
- Studies will be onerous and costly for proponents of development applications and will also impact staff time and the processing of development applications.
- It is not clear who will be qualified to review and sign off on the Demonstration of Need Study and what criteria will be used to determine if a demonstrated need has been met.



Key Changes – Cannabis processing facilities

- Cannabis production and processing facilities (urban) proposed as Class 5 uses.
- Cannabis processing facilities are not likely to have the same impacts as the growing of cannabis, therefore is seems unreasonable to establish the processing as a Class 5 use. Further, the City does not allow manufacturing of cannabis products in the rural area. The restrictions will further create pressure to allow cannabis products manufacturing in the rural area.



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(a) That the Province of Ontario be advised that the timing of the proposed Land Use Compatibility Guideline and associated implementation of the Guideline through the Official Plan will impact the City's Municipal Comprehensive Review process and potentially delay the City's submission of the Municipal Comprehensive Review draft Urban Hamilton Official Plan Amendment by the end of 2021 or early 2022.



- (b) That the City supports the proposed Land Use Compatibility Guideline subject to the following changes to the Guideline:
 - i) The Areas of Influence (AOI) and the Minimum Separation Distance (MSD) remain as guidelines and not be required to be included as part of the Official Plan;
 - ii) The requirement for the Demonstration of Need study be eliminated as the City has determined where sensitive land uses, in particular residential land uses, are appropriate and are permitted; and,





- iii) That dedicated cannabis manufacturing facilities be classed similarly to food manufacturing for the purpose of establishing recommended setbacks from sensitive land uses as cannabis products are similar to other processing products.
- (c) That the Province of Ontario provide Terms of Reference for the preparation of Land Use Compatibility Studies to assist proponents and municipalities in the preparation and review of these Study requirements.



d) That Report PED21137 be forwarded to the Ministry of Environment, Conservation and Parks (MOECP)) and the Ministry of Municipal Affairs and Housing (MMAH) to be considered the City of Hamilton's formal comments on Environmental Registry of Ontario (ERO) Posting #019-2785 respecting the proposed Land Use Compatibility Guideline.





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THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT