

THE CORPORATION OF THE TOWN OF AMHERSTBURG
BY-LAW NO. 2017-08


By-law to adopt amendment No. 4 to the
Official Plan for the Town of Amherstburg

The Council of the Corporation of the Town of Amherstburg in accordance with the provisions of Sections 17 and 21 of The Planning Act, R.S.O., 1990, as amended, hereby enacts as follows:

1. THAT Amendment No. 4 to the Official Plan for the Town of Amherstburg consisting of the attached text is hereby adopted.

THIS By-Law shall come into full force and effect upon the final passage thereof.

Read a first, second and third time and finally passed this 10th day of April, 2017.



MAYOR – ALDO DICARLO



-CLERK – PAULA PARKER
DEPUTY CLERK – TAMILY FOWKES

AMENDMENT NO. 4
TO THE OFFICIAL PLAN
FOR THE
TOWN OF AMHERSTBURG

Prepared By:
Planning Services Division, Town of Amherstburg

DECISION

**With respect to Official Plan Amendment # 4
Official Plan of the Town of Amherstburg
Subsection 17(34) of the Planning Act**

I hereby approve Amendment # 4 to the Official Plan for the Town of Amherstburg,
as adopted by By-Law 2017-08.

Dated at Essex, Ontario this 15th of June, 2017



William J. King, MCIP, RPP
Manager, Planning Services
County of Essex

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AMENDMENT NO. 4 TO THE OFFICIAL PLAN OF THE TOWN OF AMHERSTBURG

TAMMY FOWKES DEPUTY

I, Paula Parker, Clerk of the Town of Amherstburg, certify that this is a/the original/duplicate original/certified copy of Amendment No. 4 to the Official Plan of the Town of Amherstburg.



CLERK - Paula Parker

DEPUTY CLERK - TAMMY FOWKES

Certified to be a true copy of the original document.



Deputy Clerk - Tammy Fowkes
Town of Amherstburg

THE CONSTITUTIONAL STATEMENT

PART "A" – THE PREAMBLE does not constitute part of this Amendment.

PART "B" – THE AMENDMENT, consisting of the following text, constitutes Amendment No. 4 to the Official Plan for the Town of Amherstburg.

AMENDMENT NO. 4
TO THE OFFICIAL PLAN
FOR THE TOWN OF AMHERSTBURG

PART "A" - THE PREAMBLE

1. PURPOSE

The purpose of this Amendment is to introduce language that would permit brewery, cidery and associated uses in combination with an agricultural operation to be specifically added into the winery policies on lands designated "Agricultural" in the Town of Amherstburg Official Plan.

2. BACKGROUND

The Town's Official Plan addresses agricultural policies within Section 3.2.2. The goals in the Official Plan for the agricultural areas are to preserve and enhance good agricultural land for farming purposes and to allow farm operators sufficient flexibility to engage in a wide range of agricultural activities. Secondary uses shall be permitted in the agricultural designation provided they are small-scale, compatible with, and do not hinder surrounding agricultural operations. Such uses shall be secondary to the principal use of the property, namely agriculture.

The proposed Official Plan Amendment is general in nature, and will add language into the winery section of the Agricultural Policies permitting breweries, cideries, and associated uses with an agricultural operation on lands designated "Agricultural" amending Policy 3.2.2(8) of the Town of Amherstburg Official Plan. The Amendment would apply to all areas designated "Agricultural" in the Town of Amherstburg. Breweries and cideries would be permitted in the "Agricultural" designation provided that any new development and any expansion meet all of the criteria listed in policy 3.2.2(8) of the Official Plan.

3. BASIS

The Town has received inquiries about the development of micro-breweries on lands designated and zoned for agricultural uses. The making of "craft" beers, specialty beers made on a limited production basis, is a recent trend. Areas suitable for the growing of grapes are also suitable for hops, barley, apples and other grains related to beer and cider production. The Town of Amherstburg Official Plan, Section 3.2.2 (8) states:

- (8) *Wineries are permitted in the Agriculture designation, provided that any proposed new development, and any expansion of an existing winery, shall meet all of the following conditions:*
- a) *Wineries shall only be permitted on lots 4 hectares (10 acres) or greater in area. This minimum lot size only applies to the consideration of a proposed winery or expansion to an existing winery and not the creation of new lots;*
 - b) *A winery shall not be severed from the winery farm parcel;*
 - c) *A minimum of 2 hectares (5 acres) of the winery farm parcel shall be capable of and committed to the production of grapes or other produce used in the winery;*
 - d) *A winery shall be located where access is provided by a road capable of accommodating the traffic generated, with arterial and collector roads being the preferred location for such uses. The location of access to the site shall not create a traffic hazard due to inadequate sight lines or any other traffic hazard. A traffic analysis may be required;*
 - e) *The requirements of the Province and the Town (or its designated agent) regarding water supply and sewage disposal must be met. Where private water and/or sewage disposal systems are proposed, the development must be of a size and scale that can be adequately serviced by such private systems;*
 - f) *The maximum size of a winery shall not exceed 1.5 percent coverage of the winery farm parcel, to a maximum of 2,323 square metres (25,000 square feet) of gross floor area aboveground, whichever is less;*
 - g) *The display, retail sale and/or tasting of wine produced on the winery farm parcel shall be permitted accessory to a permitted winery, provided the area dedicated to this purpose is limited to a maximum of 25 percent of the winery gross floor area aboveground which may be in addition to the total size of the winery. The retail sale of gifts, promotional and other non-local material shall also be permitted provided the area dedicated to this purpose is limited to a maximum of 20 percent of the total retail floor area;*
 - h) *Educational and/or historical displays directly related to the wine and grape producing industry shall be permitted accessory to a permitted winery provided the maximum floor area dedicated to such purpose is limited to 10 percent of the winery gross floor area aboveground;*
 - i) *A restaurant may be permitted accessory to a winery, subject to an amendment to the Zoning By-law; and,*
 - j) *Banquet halls and conference facilities shall not be permitted at wineries.*

The proposed Official Plan Amendment would be consistent with the policies in the neighbouring municipality of the Town of Essex relating to the addition of breweries to winery policies with an agricultural use as restricted by a number of specific criteria.

The amending language to the Official Plan would add “breweries” and “cideries” subject to the same criteria as wineries.

Section 1.0 of the PPS states that *“in respect of the exercise of any authority that affects a planning matter, section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.”*

The Ontario Ministry of Agriculture, Food and Rural Affairs released draft Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas for input and discussion in February 2015. A later version of Publication 851 was obtained by the Town in the fall of 2016 to assist with interpretation of the policies in the Provincial Policy Statement, 2014 (PPS) on the uses that are permitted in prime agricultural areas.

According to the OMAFRA Guidelines *“it is the intent of the PPS and these guidelines to allow uses in prime agricultural areas that ensure settlement areas remain the focus of growth and development and:*

- *agriculture remains the principal use in prime agricultural areas*
- *prime agricultural areas are protected for future generations*
- *land taken out of agricultural production, if any, is minimal*
- *regard is given to the long-term (multi-generational) impact on prime agricultural areas*
- *normal farm practices are able to continue unhindered*
- *agricultural and rural character and heritage are maintained as much as possible*
- *uses are compatible with agricultural uses*
- *they make a positive contribution to the agricultural industry, either directly or indirectly*
- *servicing requirements (e.g., water and wastewater, road access, fire services, policing) fit with agricultural context”*

The guideline states that *“given the wide differences in municipal approaches to permitted uses, these guidelines aim to increase the consistency across the province. While consistency with these guidelines is preferred, Policy 2.3.3.1 of the PPS allows municipalities to develop their own criteria for permitted uses in municipal planning documents as long as they achieve the same objectives as the provincial guidelines.”* The guidelines further differentiate between value-added facilities and value-retaining facilities. *“Value-added facilities transform raw commodities into new forms that enhance their value, such as pressing apples into bottling cider, making wine, milling*

grain, processing cherries and preserving and roasting grain for livestock feed.” “Value-retaining facilities located on farms serve to maintain the quality of raw commodities.”

Section 2.2 of the Guideline document provides that PPS criteria for agriculture related uses must be met to qualify as an agriculture-related use which may include farm related commercial, farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity. PPS definitions

The OMAFRA Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas states:

“Policy 2.3.3.2 of the PPS states that all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected. Value-retaining facilities on the farm must be recognized and permitted as agricultural uses in official plans and zoning by-laws. Zoning requirements such as location of buildings or structures may need to be met and where applicable, site plan control may be required to address matters such as site specific layout details (Section 2.5.3). Value-added facilities differ from value-retaining facilities. Value-added facilities process agricultural commodities into new forms or products that enhance their value. They may involve the addition of ingredients or processing of agricultural commodities (e.g., chopping and canning vegetables, pressing apples and bottling cider, making wine, milling grain, cherry pitting and preserving, and preserving and roasting grain for livestock feed).”

Section 3.3.3.3 of the County of Essex Official Plan identifies agriculture-related uses as *“Wineries, breweries and associated uses which are secondary and directly related to the principal agricultural use on the property.”*

The policy criteria in the Town of Amherstburg Official Plan will ensure that a brewery/cidery operation is secondary to the principal agricultural use of the property by restricting the size of the operation, requiring the amount of land for crop production, ensuring appropriate servicing can be accommodated, restricting any future severance from the agricultural parcel and limiting maximum floor area of the brewery use. The Town would also have the ability to ensure that the requirements of the Province and the Town are met on an application specific basis. It is the intention that breweries/cideries would also be subject to site plan control to ensure the development is built and maintained as approved by Council.

PART "B" - THE AMENDMENT

All of this part of the document, entitled, "Part 'B' - The Amendment" consisting of the following text constitutes Amendment No. 4 to the Official Plan for the Town of Amherstburg.

1. DETAILS OF THE AMENDMENT

The Official Plan of the Town of Amherstburg is amended as follows:

That Section 3.2.2 Agricultural policies, subsection (8), is amended by adding breweries/cideries after wineries as follows:

- (8) "Wineries, breweries and cideries are permitted in the Agriculture designation, provided that any proposed new development, and any expansion of an existing winery, brewery and cideries shall meet all of the following conditions:
- a) Wineries, breweries and cideries shall only be permitted on lots 4 hectares (10 acres) or greater in area. This minimum lot size only applies to the consideration of a proposed winery, brewery or cidery or expansion to an existing winery, brewery or cidery and not the creation of new lots;
 - b) A winery, brewery, cidery shall not be severed from the winery, brewery, cidery farm parcel;
 - c) A minimum of 2 hectares (5 acres) of the winery, brewery, cidery farm parcel shall be capable of and committed to the production of grapes, barley, hops or other produce used in the winery, brewery or cidery;
 - d) A winery, brewery or cidery shall be located where access is provided by a road capable of accommodating the traffic generated, with arterial and collector roads being the preferred location for such uses. The location of access to the site shall not create a traffic hazard due to inadequate sight lines or any other traffic hazard. A traffic analysis may be required;
 - e) The requirements of the Province and the Town (or its designated agent) regarding water supply and sewage disposal must be met. Where private water and/or sewage disposal systems are proposed, the development must be of a size and scale that can be adequately serviced by such private systems;
 - f) The maximum size of a winery, brewery or cidery shall not exceed 1.5 percent coverage of the winery, brewery or cidery farm parcel, to a maximum of 2,323 square metres (25,000 square feet) of gross floor area aboveground, whichever is less;"
 - g) The display, retail sale and/or tasting of wine, beer or cider produced on

the winery, brewery or cidery farm parcel shall be permitted accessory to a permitted winery, brewery, cidery provided the area dedicated to this purpose is limited to a maximum of 25 percent of the winery, brewery, cidery gross floor area aboveground which may be in addition to the total size of the winery, brewery, cidery. The retail sale of gifts, promotional and other non-local material shall also be permitted provided the area dedicated to this purpose is limited to a maximum of 20 percent of the total retail floor area;

- h) Educational and/or historical displays directly related to the wine, grape, barley and hops producing industry shall be permitted accessory to a permitted winery, brewery and cidery provided the maximum floor area dedicated to such purpose is limited to 10 percent of the winery, brewery, cidery gross floor area aboveground;
- i) A restaurant may be permitted accessory to a winery, brewery, cidery subject to an amendment to the Zoning By-law; and,
- j) Banquet halls and conference facilities shall not be permitted at wineries, breweries and cideries.

2. IMPLEMENTATION AND INTERPRETATION

This document will be implemented by the Town of Amherstburg by enacting an appropriate amendment to the Zoning By-law of the Town of Amherstburg and enacted through an Amendment to the Town's Site Plan By-law.