

PART 5 - LAND USE PLANNING

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LAND USE PLANNING

Land-use planning is a very important function in Ontario's municipalities. It is intended to guide land development in an orderly and cost-effective pattern, identify and protect other areas from development, and to help ensure that the multiplicity of competing interests are considered in the ongoing process of land-use change. Ideally, land-use planning involves the inventorying and evaluation of current conditions, establishment of needs (setting goals, or establishing a vision for the future), setting policies to achieve those goals and implementing those policies through a variety of regulatory and non-regulatory mechanisms.

Planning is an open process involving the public and its elected officials and results in decisions which can be appealed by affected parties.

There are many interrelated components to the land-use planning system and they can be complex, time consuming and sometimes costly. As the population grows and development pressure increases, it becomes more important for municipalities to plan how to adapt and change over time.

Ontario's land-use planning process significantly affects the activities of land trusts, both positively and negatively. Anyone involved in land trusts should develop a basic understanding of the planning process and its components for several reasons:

- Planning, at both the provincial and municipal levels, establishes the broad policy framework for natural heritage protection. Land trusts can help to influence that framework but care must be exercised. Becoming a "lobby group" can jeopardize a land trust's charitable status.
- Municipal planning documents, particularly Official Plans, can provide policy support for land trusts and their activities, encouraging creative approaches to conservation, partnerships, etc. They also provide information on the location of sensitive areas or lands a trust may want to target.
- Various regulatory tools influence land donations, property valuations, land conveyances and land use. It may become necessary to seek changes in support of a particular property acquisition. A general knowledge of the process will be helpful.

The following subsections provide an overview of the hierarchy of planning elements, working from the senior level of government to the local level and from the broad policy documents down to the specific regulatory mechanisms. There are many exceptions to the rules! Advice is readily available from municipalities, other agencies and interest groups.

5.1 Provincial Planning

5.1.1 Planning Act

The *Planning Act* provides the legislative basis for the exercise of various planning powers by the Province of Ontario and its municipalities. The most recent significant changes to the *Planning Act* occurred under Bill 20, which was given royal assent on April 3, 1996. The *Planning Act* is now intended to result in a more efficient planning system grounded in clearly stated provincial policy. It is largely implemented through the actions of municipalities.

5.1.2 Provincial Interests

Provincial policy is established through several mechanisms:

- listing provincial interests;
- the establishment of the Provincial Policy Statement; and
- by approval of municipal Official Plans.

Section 2 of the *Planning Act* states the provincial interests and indicates that the minister, the council of a municipality, a local board, a planning board and the Ontario Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest. Those matters are listed as subsections (a) to (q). Of particular interest to land trusts are the first four subsections which address:

- protection of ecological systems, natural areas, features and functions;
- agricultural resources;
- conservation and management of natural resources; and
- conservation of features of significant architectural, cultural, historical, archaeological or scientific interest.

The complete list is included in Appendix 5A. The other provincial interests are equally important (e.g., adequate provision of a range of housing) and may sometimes conflict with these protective interests. None of these “interests” take precedence over the others.

5.1.3 Provincial Policy Statement

The Provincial Policy Statement (PPS) takes the provincial interests a step further by listing those matters it expects municipalities and other agencies to have regard to in exercising any authority that affects a planning matter and by stating more clearly some of the expected planning results. Before issuing a Policy Statement or an amendment, the Minister must confer with those the minister considers may have an interest in the matter. These could include representatives of the development industry, environmental groups, professional associations, municipal organizations, etc. Once

issued, the Policy Statement is published in the *Ontario Gazette* and is required to be reviewed every five years.

The current Provincial Policy Statement (PPS) came into effect on May 22, 1996 and replaced the former Comprehensive Set of Policy Statements. It was revised February 1, 1997 to address airport noise issues. A copy is included in Appendix 5B.

No particular element of the PPS takes precedence over another. All must be given regard in undertaking a planning function.

Of particular interest to land trusts may be Section 2.3, Natural Heritage, which describes those features and areas where development and site alteration will or will not be permitted. These include wetlands, habitat of endangered and threatened species, areas of natural and scientific interest, fish habitat, woodlands, valley lands and wildlife habitat. These terms are all defined in a definition section (see Appendix 5B) to help provide clarity. Section 2.4, Water Resources, will also be of interest to many land trusts.

It is important to differentiate between provincial and municipal responsibilities when considering natural heritage issues. The province, through the Ministry of Natural Resources, typically identifies:

- provincially significant wetlands;
- habitats of endangered and threatened species;
- areas of natural and scientific interest.

Municipalities are responsible for identifying and developing policies to protect the other areas, usually through the Official Plan. The province has developed a *Natural Heritage Reference Manual*, a good source of additional information.

5.1.4 Two-Tier Planning

Planning occurs at two levels in many municipalities. The upper tier consists of counties, regional municipalities and district municipalities; the lower tier is local municipalities such as cities, towns, villages and townships. An Official Plan (see Section 5.2 of this manual) is mandatory in a regional or district municipality, in a prescribed (by regulation) county and in local municipalities that do not form part of the county for municipal purposes. These are referred to as separated municipalities (e.g., Town of Gananoque, City of Brockville). Although they are geographically within the county, they are not represented on county council. For other municipalities, an Official Plan is discretionary.

Where the local municipality also has an Official Plan, Section 27 of the *Planning Act* requires it to conform with the upper-tier Official Plan. If a new upper-tier Official Plan or amendment is approved, the local municipality is required to bring its Official Plan into conformity with the upper-tier municipality's Official Plan within one year, failing which

the upper-tier municipality can take action to bring it into conformity without the lower tier's permission. In practice, this seldom happens. However, where the two Plans do conflict, the upper-tier Official Plan takes precedence.

5.1.5 Regulations

The *Planning Act* provides for the issuance of regulations which set out detailed requirements for applications (such as giving notice by mail, newspaper notice, card posted on the site or combinations, for example), appeals and other procedural matters. The following specific regulations are in effect:

- O.Reg. 196/96 PLANS OF SUBDIVISION
- O.Reg. 197/96 CONSENT APPLICATIONS
- O.Reg. 198/96 OFFICIAL PLANS AND PLAN AMENDMENTS
- O.Reg. 199/96 ZONING BY-LAWS, HOLDING BY-LAWS AND INTERIM CONTROL BY-LAWS
- O.Reg. 200/96 MINOR VARIANCE APPLICATIONS

They are available in any municipal office and should be consulted if a specific application is contemplated. These regulations were put into effect to implement the changes to the *Planning Act* under Bill 20. Various amendments to the Regulations have subsequently occurred.

5.1.6 Ontario Municipal Board

Many planning and other decisions, actions or inactions by municipalities can be appealed to the Ontario Municipal Board (OMB), an administrative tribunal established by the Ontario government to hear these appeals. Its decisions are generally final. They can no longer be appealed to cabinet although points of law can be appealed through the courts.

OMB members are appointed by cabinet. They have varied backgrounds; many are lawyers. There are also some planners, accountants, architects, surveyors, etc. A hearing panel is usually made up of one OMB member, although larger, more complex cases may involve a two-member or, in very rare cases, a three-member panel.

The procedures are generally court-like, with parties frequently represented by lawyers. Evidence is given under oath or by affirmation. Witnesses are cross-examined and the process is handled in an orderly, respectful and controlled manner.

The parties do not have to be represented by lawyers and hearings can become less formal if the circumstances warrant. Hearing panels strive to give all parties a fair hearing at the OMB and it is expected that parties be reasonably well prepared and make their points in a concise manner. Those abusing the process, such as not preparing properly, misusing the process for the purpose of delaying a development, or coming to a hearing without any relevant evidence, run the risk of having some or all of

the other party's costs assessed against them. This has actually occurred on many occasions.

At the end of the hearing, the board may give an oral decision or reserve its decision and provide it in writing later. This frequently can mean a delay of several months.

In recent years the OMB has made use of pre-hearing conferences, mediation and other alternative dispute-resolution techniques to help reduce the number and length of hearings. A delay of eight to ten months was once common but hearings now often occur within two to three months.

5.2 Official Plans

5.2.1 Purpose

The purpose of an Official Plan is to establish the municipality's policies for the future use of land, often for periods up to twenty years. In describing the contents of an Official Plan, Section 16(1)(a) of the *Planning Act* states that an Official Plan:

“shall contain goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality...”

Official Plans can manage and direct physical change in several ways:

- designate where uses can occur and under what conditions. In some cases this can involve limiting potential uses to protect natural values (e.g., not allowing development in significant wetlands);
- outline general land development policies (such as tree-saving, stream setbacks, parkland dedication) designed to ensure that all development occurs in an environmentally responsible fashion;
- include broad policies providing general encouragement and support for activities such as private stewardship, watershed planning or environmental monitoring. The City of Ottawa Official Plan, for example, specifically mentions land trusts.

Official Plans of upper-tier municipalities are generally approved by the Minister of Municipal Affairs and Housing. Official Plans of lower-tier municipalities are generally approved by the upper-tier municipality.

5.2.2 Legal Effects

Section 24(1) of the *Planning Act* requires any by-law passed by a municipality to conform to the Official Plan. It also requires any public work performed by the

municipality to conform to the Plan. Public work is defined as “any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or a local board.” Examples include road construction or sewer line extension.

In addition to these very specific legal impacts, the Official Plan can give specific guidance to decisions made on other planning matters, such as minor variances, subdivisions, consents and site plans.

5.2.3 Importance to Land Trusts

Official Plans are important documents from the perspective of a land trust for various reasons:

- As broad statements of policy and land-use philosophy, they set the groundwork for specific decisions. These policies can include creative implementation measures, such as land exchanges, easements, private land stewardship, and the establishment of environmental advisory committees, for example. Land trusts may want to participate in the process of preparing or updating an Official Plan to help ensure that sufficient attention is paid to natural heritage issues generally.
- Designation of sensitive lands in an Official Plan can be important to the qualification of land under the ecological gifts provisions of the *Income Tax Act*. Appendix 1 (Ontario) lists the specific categories of qualifying lands. Item A14 lists an automatic qualification for “areas within a municipal official plan or zoning by-law designated as an Environmentally Sensitive Area, Environmentally Significant Area, Environmental Protection Area, Restoration Area, Natural Heritage System or other designation for similar purposes that is compatible with the conservation of the biodiversity, ecological features and functions of the site.”
- Designating lands in an appropriate conservation category may assist in future “down-zoning” of land-trust property which could reduce property taxes. Down-zoning means amending the zoning by-law to place land in a category that permits less development.
- Unlike agencies that are exempt from the *Planning Act’s* subdivision control provisions (Crown agencies, municipalities, etc.), a land trust or other applicant must obtain a consent (often referred to as a severance) from a land division committee or committee of adjustment (these committees are established by municipalities and can include elected and/or non-elected persons) in order to convey part of a land holding. Supportive Official Plan policies assist in achieving this goal. Elsewhere in this manual, it is suggested that a land trust could obtain part of a land holding by having an agency which is exempt from the subdivision control requirements acquire it on the land trust’s behalf. This may not be well

received by the municipality and could jeopardize the trust's relationship with it. Caution should be exercised when considering this approach.

5.2.4 Process

During the process of preparing an Official Plan, a municipality is required to hold a minimum of one public meeting and to give at least twenty days notice of that meeting. These minimum requirements are frequently exceeded. Adequate information and a copy of the proposed plan must be available to the public. Persons attending the formal public meeting must be given an opportunity to make representations. It is important to attend the meeting and have that attendance noted in the official record or, alternatively, submit written comments prior to the passing of the Official Plan in order to preserve the right of appeal, should it be required later. The Ontario Municipal Board can dismiss an appeal if the appellant did not previously participate in the process.

Once council has adopted an Official Plan, it must give notice of that adoption within fifteen days to anyone who filed a written request to be notified of the passing of the Official Plan. Anyone interested should, therefore, file such written requests with the municipal clerk.

Some Official Plans may be exempt from formal approval, in which case, there is a twenty-day appeal period after the written notice has been given (Section 17(24)). This exemption is at the discretion of the approval authority (minister or upper-tier municipality) and it might be given if the approval authority is convinced the municipality is handling its planning functions thoroughly and responsibly. If an approval is required, a proposed decision will be issued, followed by a twenty-day appeal period (Section 17(36)).

When an individual or an organization files an appeal, an OMB hearing is generally held. However, Section 17(45) of the *Planning Act* permits the OMB to dismiss an appeal if the board is of the opinion that the reasons given for the appeal do not disclose any apparent land-use planning ground, the appeal is not made in good faith, or is frivolous or vexatious or made for the purpose of delay. Other reasons for dismissing an appeal are the failure of the appellant to make oral submissions at a public meeting or written submissions before the plan was adopted (as noted above), failure to provide written reasons for the appeal, failure to pay the appeal fee prescribed by the *Ontario Municipal Board Act* or failure to respond to a request by the OMB for further information.

The foregoing procedures apply to council-initiated Official Plans and amendments. Section 22 of the *Planning Act* establishes the procedure for applicants requesting amendments to Official Plans. These can be requested at any time. Similar procedures apply, including procedures allowing the applicant to appeal the request to the OMB if the municipality refuses the request or does not give notice of the required public meeting within forty-five days or fails to adopt the requested amendment within ninety days.

Official Plans are not intended to be static documents; they should be reviewed regularly. Section 26(1) of the *Planning Act* requires council to hold a special meeting open to the public to determine the need for a revision of the Official Plan at least once every five years. Notices for this meeting must be published in two separate weeks at least thirty days before the meeting. Some municipalities neglect to hold this statutory meeting and there is little provincial enforcement. Local interest groups sometimes become the chief mechanism ensuring the municipality fulfils its obligations.

5.2.5 Secondary Plans

Many Official Plans provide for the preparation of secondary plans that offer a greater level of detail for a portion of the municipality. These are usually incorporated into the overall Official Plan by amendment, following the normal Official Plan amendment process. A typical example would be the preparation of more detailed land-use designations for a growing serviced hamlet in a predominantly rural township.

5.3 **Zoning By-laws**

5.3.1 Purpose

A zoning by-law regulates land use and the erection, location and use of buildings and structures. It must conform to the Official Plan (Section 24 (l) of the *Planning Act*) and is a primary mechanism used to implement the policies of the Official Plan. In contrast to a municipality's Official Plan, the zoning by-law is a rigid, inflexible document which should be as free from uncertainty as possible. For example, an Official Plan might establish a policy requiring “adequate setbacks” from water bodies in order to protect water quality and shorelines, whereas a zoning by-law would specify a particular distance, such as thirty metres. An Official Plan might establish a policy discouraging an overdeveloped appearance or encouraging a low-impact use of a property, whereas the relevant zoning by-law might implement this policy by establishing a maximum lot coverage of five per cent (buildings must not cover more than five per cent of the lot).

Section 34 of the *Planning Act* establishes the municipality's authority to pass zoning by-laws and, in addition to regulating buildings, structures and land use, permits such by-laws to prohibit development on lands subject to natural (floodplains, unstable slopes) or artificial (former mine shaft areas) perils, contaminated lands, groundwater recharge or headwater areas, significant wildlife habitat, wetlands, woodlands, ravines, valleys or areas of natural and scientific interest, shorelines, or significant natural corridors.

5.3.2 Legal Effects

A zoning by-law is regarded as “applicable law” under the *Building Code Act*. This means that a building permit cannot be issued for a use that conflicts with a zoning by-

law. In contrast, an Official Plan is not “applicable law” and requires a zoning by-law in order to give many of its policies legal effect.

A zoning by-law is not retroactive. Any use which legally existed on the date the zoning by-law was passed can continue. Rights to continue these “legal non-conforming uses” are firmly entrenched in Section 34 (9) of the *Planning Act* and in case law. An extension to the use, an enlargement of a structure, or any change in the use (unless it is being converted to a use that conforms to the zoning By-law) must first be approved through a committee of adjustment in a process similar to a minor variance, or by council, as an amendment to the zoning by-law.

5.3.3 Importance to Land Trusts

Zoning by-laws are important documents from the perspective of a land trust for various reasons:

- Zoning of sensitive lands in a zoning by-law can be important to the qualification of land under the ecological gifts provisions of the *Income Tax Act*. Appendix 1 (Ontario) lists the specific categories of qualified lands. Item A14 lists an automatic qualification for “areas within a Municipal official plan or zoning by-law designated as an Environmentally Sensitive Area, Environmentally Significant Area, Environmental Protection Area, Restoration Area, Natural Heritage System or other designation for similar purposes that is compatible with the conservation of the biodiversity, ecological features and functions of the site.”
- Restrictive zoning on sensitive lands can help a land trust target potential acquisition areas; conversely, or in addition, some trusts may prefer to target lands where significant development could occur. The permitted uses described in the relevant zone category will help to identify these areas.
- The zoning of a parcel of land donated to a land trust can influence its value and, therefore, the property taxes payable. In some cases, it is prudent for the trust to seek a rezoning of lands it acquires in order to remove development rights and result in a lower property assessment. The timing of any such rezoning should be carefully considered since it could affect the amount of the charitable receipt, negatively affecting the donor. If the Conservation Lands Tax Incentive Program (CLTIP) is revised to include conservation lands held by charitable organizations such as land trusts, rezoning may not be of any taxation benefit.
- The zoning by-law category in which the land is placed will provide an indication to the surrounding community of its intended use or ecological significance.
- Restrictive, conservation-oriented zoning may help the land trust with its fundraising activities since donors will be more comfortable in the knowledge that long-term preservation is intended.

5.3.4 Process

Similar to the process required for Official Plans, a municipal council must hold a public meeting prior to considering the passage of a zoning by-law or a zoning by-law amendment. A minimum notice period of twenty days is required before a public meeting (Section 34(12) and (13) of the *Planning Act*).

Notice of the passing of a by-law must be given within fifteen days of passage by council (Section 34(18)), followed by a twenty-day appeal period (Section 34(19)).

The OMB can dismiss an appeal without holding a hearing for similar reasons as those described with respect to the Official Plan (see Subsection 5.2.4. of this manual).

5.3.5 Related Matters

Some zoning by-laws include a holding provision where the symbol “H” or “h” is attached to a zone. This delays the land uses permitted by the given zone until certain conditions have been met (Section 36). These could include completion of specific studies, extension of sewer, water and other services, or entering into agreements. The general public cannot appeal the removal of a holding symbol, but can appeal the institution of the holding provision in the first place.

Council can also pass an interim control by-law where it identifies a problem, agrees to undertake a study of it, and to take action to institute permanent zoning within one year plus a possible one-year extension. This is a somewhat extraordinary power in that notice is not given before its passing. It therefore needs to be used with caution by municipalities (Section 38).

Temporary-use zoning can also be put in place (Section 39) for a period of up to three years, and can be extended for periods of up to three years. Normal zoning by-law procedures apply.

5.4 **Minor Variances**

5.4.1 Purpose

As the name implies, a minor variance is a type of relief given from the strict application of the provisions contained in a zoning by-law (Section 45 of the *Planning Act*). For example, a zoning by-law might require a ten-foot minimum side yard (i.e., ten feet between a building and the side property line), but a particular house design requires a reduction to eight feet. Neighbours are notified and a process of input and appeal is available.

5.4.2 Process

Case law has established a set of four tests flowing from Section 45(1) of the *Planning Act*. For a variance application to succeed, it must meet all four tests. To fail, it need only contravene one of them. The four tests are:

- that the application is “minor”;
- that it is desirable for the appropriate development or use of the land, building or structure;
- the general intent and purpose of the by-law are maintained;
- the general intent and purpose of the Official Plan are maintained.

The committee of adjustment gives at least ten days notice before a matter is heard. Notice of the committee’s decision is given not later than ten days after the decision and is provided to each person who appeared in person or through a lawyer or an agent at the hearing and who filed a written request for notice of the decision. A twenty-day appeal period follows. The OMB can dismiss the appeal without holding a hearing for similar reasons as noted in Section 5.2.4 concerning Official Plans.

5.5 **Lot Creation**

In Ontario, property cannot be divided (severed) or a portion of a property (legally conveyable lot) sold without specific approval. These include the conveyance of any “right in land” including a right-of-way or easement, such as a conservation easement. (Some lawyers argue that a conservation easement can be placed on the entire property without requiring a consent.) The following subsections outline the most common approval mechanisms and related issues.

5.5.1 Subdivision Control

Section 50(3) of the *Planning Act* prohibits the conveyance of land or a right in land for any period of twenty-one years or more unless:

- it is the entire holding;
- it is a lot in a registered plan;
- it is given consent by a committee of adjustment or land division committee; or
- one of the parties to the conveyance is the Crown.

Although the twenty-one-year period is arbitrary, it is intended to allow for temporary leasing or other short-term commitments without going through onerous procedures.

5.5.2 Subdivisions

Section 51 of the *Planning Act* sets out the process for subdivision approval, the process considered preferable to the consent process for the creation of multiple lots.

Land described as a “lot on a registered plan of subdivision” can be sold separately. Lands described as a “part on a reference plan” cannot be sold unless they are first given consent approval (see Subsection 5.5.3 below).

From time to time, land trusts may be offered parcels of land within a subdivision which may be described as either a lot or a block. In either case, if it is a full lot or block within a registered plan of subdivision, the property can be transferred; otherwise, it will have to be legally severed, generally through the consent process.

5.5.3 Consents

Consents (commonly called severances) are usually the responsibility of a municipality's land division committee or committee of adjustment. Under Section 53 of the *Planning Act*, this process is used for the creation of single lots or a very few lots in a process similar to that used for subdivision approval. This would be the usual process for a potential land donor who wants to separate the dwelling they may wish to retain (with a small amount of land around it) from the large “vacant” lands they propose to convey to a land trust. Some of the issues the committee will consider are provincial interests, the public interest, Official Plan conformity, suitability of the land for the intended purpose, restrictions on the land (zoning), and conservation of natural resources. This list of issues points to the need to have supporting policies in the Official Plan and the desirability of supporting provisions in the zoning by-law.

5.5.4 Rights-of-Way/Easements

Because a right-of-way or an easement, including a conservation easement, is one of the “rights in land” regulated under subdivision control, it is necessary to obtain consent approval from a municipality's land division committee or committee of adjustment in order to convey that interest to a land trust. An example of this is when an owner wishes to protect an area within 120 metres of a wetland and conveys a conservation easement for just the part of the lands abutting the water. Another example is when the donor wishes to convey land to a land trust but needs a right-of-way for legal access to his retained dwelling and adjacent lands.

5.5.5 Exemptions

An exemption from the subdivision control provisions of Section 50(3) of the *Planning Act* is extended to conservation authorities under very specific conditions:

“The land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under Section 24 of the *Conservation Authorities Act* and in respect of which an officer of the Conservation Authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such

purposes, which shall be conclusive evidence that it is being acquired for such purposes.”

This is a limited exception and is not intended to be used to avoid normal processes. In these circumstances, a consent is not required.

5.6 Site Plan Control

5.6.1 Purpose

Section 41 of the *Planning Act* establishes provisions for site plan control, the purpose of which is to control the arrangement of uses on a property, including buildings, structures, walkways, lighting, walls, fences, drainage works, easements, grading, vegetation, etc. An enabling policy in the Official Plan is a prerequisite to the municipal use of site plan control, as is the passage of a site plan control by-law.

Site plan control usually applies to more intensive commercial and industrial uses, but many municipalities use it in waterfront areas to help control impacts on water bodies by preventing erosion and requiring vegetation to be retained. The site plan and potential site plan control agreement between the landowner and the municipality runs with the land (continues to apply even if the land is sold to a new owner). The land trust acquiring a property that has an unacceptable site plan on it would have to seek municipal approval for a change. This usually involves an application fee, a review by the municipality, approval and registration on title.

5.6.2 Process

Besides the prerequisite Official Plan policy and site plan control by-law, the site plan approval process is a two-party process (applicant and municipality). Municipalities often seek community input but the municipal decision is final and not subject to appeal by a third party. An applicant can, however, appeal council's refusal of a site plan.

5.7 Other Land-Use Planning Considerations

5.7.1 Watershed/Sub-watershed Planning

Municipalities, sometimes through conservation authorities, are becoming increasingly involved in watershed-based planning, an integrated approach to land-use planning within an area drained by a major watercourse and its tributaries. Watershed planning focuses on the various goals and measures needed to support the health of a watershed. This involves examining the balance between development and environmental goals in the context of long-term ecological sustainability, and setting development strategies to manage change and address specific problems in a watershed. These can range from encouraging responsible private land-management

practices to the protection of specific natural areas. Subwatershed planning is a more detailed planning exercise that seeks to balance development and conservation goals for smaller sub-areas, preferably within the context of the watershed plan. Although there are no specific *Planning Act* provisions for watershed or subwatershed planning, it is implemented through the mechanisms (Official Plans, site plans, etc.) previously described in this chapter.

5.7.2 Environmental Assessment

Environmental Assessments (EAs) occur under either federal or provincial legislation and are sometimes integrated into planning processes. Specific linkage between the planning process and the environmental assessment process is provided in Section 16.1 of the *Planning Act* which permits (but does not require) a municipality to follow the prescribed processes of the provincial *Environmental Assessment Act* when preparing an Official Plan. As a result, the Official Plan becomes the basis for Phases 1 and 2 of the Class Environmental Assessment process in Ontario for a specific project meeting an identified need. Typical projects subject to EA approvals include roadways outside of subdivisions, bridges, and municipal water supply and sewage treatment systems.

5.7.3 Application Fees

In a time of increased downloading by the provincial government, more and more municipalities, conservation authorities and utilities are establishing application fees for any process an applicant may wish to initiate. Section 69 of the *Planning Act* establishes the authority for a municipality to pass a tariff or fees by-law “which tariff shall be designed to meet only the anticipated cost to the municipality in respect of the processing of each type of application.” These fees can be substantial, \$500 to \$5,000 or more. Section 69(2) permits the municipality to reduce or waive a fee, a response which may be appropriate for an application from a nonprofit organization like a land trust.

5.7.4 Northern Ontario

Some of the *Planning Act* functions are different in northern Ontario due to the absence of municipal organization (no elected municipal government) in many areas. Here, the Minister of Municipal Affairs and Housing is responsible for defining a planning Area and appointing members to a planning board. The planning board acts in lieu of a municipal council.

5.8 **List of Appendices**

5A Listing of Provincial Interests

5B Provincial Policy Statement
February 1, 1997