

## CHAPTER F – IMPLEMENTATION

The success of the Official Plan can only be achieved through effective implementation. The Planning Act, Municipal Act and other provincial regulations provide a series of tools to fulfill the City's goals and objectives of this Plan. In addition, there are other mechanisms such as Council adopted strategic plans, most notably Vision 2020, and guidelines. Supporting plans such as Master Plans for infrastructure (approved pursuant to the Environmental Assessment Act), culture, recreation and social development are key in Hamilton's function as a sustainable City.

Although not expressly directed by this Plan, residents and businesses, community and special interest groups, non-governmental organizations and other levels of government also contribute to the successful outcome of this Plan through their own initiatives.

This Section of the Plan describes the Planning Act tools, supporting policies, Council adopted guidelines, as well as monitoring procedures which shall be used to measure the success of specific policies in this Plan.

## F.1.0 PLANNING ACT IMPLEMENTATION TOOLS

### 1.1 Official Plan

The Official Plan provides the direction for managing growth and change in the City for lands within *Rural Hamilton* over a 30 year time frame. Any municipal by-law or public work must conform to the policies of this Plan. (OPA 26)

**1.1.1** All municipal by-laws, including Zoning By-laws, public works and public undertakings shall conform to this Plan.

**1.1.2** This Plan shall be reviewed at regular intervals in accordance with the Planning Act requirements.

**1.1.3** Amendments to this Plan shall be required:

- a) To create, modify or expand land use designations and policies which do not conform with the intent of this Plan;
- b) To update this Plan to reflect new provincial or municipal planning policies; or
- c) To update and streamline administration of municipal planning policies, as required from time to time.

**1.1.4** When considering amendments to this Plan, the City shall have regard to, among other things, the following criteria:

- a) The impact of the proposed change on the City's vision for a sustainable community, as it relates to the objectives, policies and targets which have been established in this Plan; and
- b) The impact of the proposed change on the City's communities, environment and economy and the effective administration of the public service.

**1.1.5** When considering amendments that affect the use of a specific site(s), the City may also consider whether there is a need to add the site or remove sites or lands already designated for that use.

**1.1.6** An amendment to this Plan shall not be required when additional lands are added to the John C. Munro International Airport identified on the Schedules to this Plan.

**1.1.7** The new Zoning By-law shall be in conformity with the provisions of this Plan. It is intended that not all lands be pre-zoned in order that amenity and design, population density, public works requirements, environmental concerns and all other related policies of this Plan may be reviewed prior to *development* going ahead and appropriate zoning regulations applied. Accordingly, *development* proposals shall be required to conform to this Plan or any affected Secondary Plan or Rural Settlement Area Plan; and, where necessary, shall require an amendment to the Zoning By-law to ensure conformity.

**1.1.8** If there is direction from Planning Committee to make changes to an Official Plan Amendment before it goes to Council, or if staff identify minor

typographical, clerical or formatting changes required to an Official Plan Amendment following Planning Committee but prior to Council approval of the implementing By-law, Staff are authorized to make the required changes, provided the changes do not affect the implementation of the amendment, unless that is the intent of any changes directed by Planning Committee and present the revised Official Plan Amendment to Council for adoption. (OPA 41)

### 1.2 Rural Settlement Area Plans

Secondary Plans and Rural Settlement Area Plans are used to provide detailed and community specific guidance to growth and change in smaller geographic areas of the City. They identify more detailed land uses densities, design requirements, infrastructure requirements and other implementing actions appropriate for the community. These Plans are not intended to repeat the policies in Volume 1 of this Plan, but to supplement Volume 1 policy directions and land use designations. Once Secondary Plans are completed, they are adopted as amendments to this Plan.

Volume 2 of this Plan contains the Secondary Plans and Rural Settlement Area Plans. Rural Settlement Area Plans have been completed for communities outside the Urban Area. Rural Settlement Area Plans have the same function as Secondary Plans in the Urban Area.

#### 1.2.1 Secondary Plans and Rural Settlement Area Plans may be prepared as needed for planning districts, neighbourhoods, nodes, corridors or any other area of the City, and in particular:

- a) Large tracts of vacant or underutilized land to ensure the appropriate and orderly use of land, co-ordinate local *development* with City-wide planning infrastructure strategies and ensure the efficient provision of infrastructure; and
- b) Areas undergoing change where general Volume 1 policies of this Plan are insufficient to guide redevelopment or warrant localized reconsideration, and in particular:
  - i) Obsolete industrial areas;
  - ii) Areas with desirable characteristics or functions such as main streets, heritage areas, the waterfront, etc; and
  - iii) Areas in need of stability and strengthening such as older residential neighbourhoods, commercial areas and heritage areas.

#### 1.2.2 The individual Secondary Plan and Rural Settlement Area Plan policies and designations are contained in Volume 2 of this Plan. Secondary Plan designations shall be identified on the maps appended to the specific Secondary Plan areas. It is intended the Secondary Plan policies are to be read in conjunction with the policies and designations contained in Volume 1. However, should there be a discrepancy between the policies and/or designations, the policies and designations of the Secondary Plan shall prevail.

- 1.2.3** Prior to commencing the preparation of a Secondary Plan, the City shall prepare a Terms of Reference which shall set out the need for the Secondary Plan, the intended scope, the process of plan preparation and the opportunities for public participation and involvement. Any privately initiated Secondary Plans shall require a Terms of Reference that is approved by the City prior to the commencement of the Plan.
- 1.2.4** Rural settlement area plans shall generally include the following:
- a) A statement of the basis or rationale for the preparation of the Secondary Plan and rationale for varying or supplementing the Volume 1 Plan policies and designations;
  - b) A description of the Secondary Plan area, including a reference map, the role and relationship of the planning district and/or area under study to the City as a whole;
  - c) A statement of the desired land use of the area along with relevant and related environmental, social and economic goals;
  - d) The goals and objectives appropriate for the area including a statement demonstrating how they are in keeping with the strategic directions and general goals of this Plan and provincial legislation, policies and appropriate guidelines; and
  - e) New designations and policies for the Secondary Plan area that amend or detail those policies and designations found in Volume 1 of this Plan.
  - f) *cultural heritage resources* shall be identified, evaluated and conserved. This identification and protection of *cultural heritage resources* may be accomplished through the preparation and inclusion of a *cultural heritage conservation plan statement* within the Rural Settlement Area planning process. (OPA 5)
- 1.2.5** Where appropriate, the Secondary Plan shall follow a joint Secondary Planning process under the Planning Act and the Municipal Engineering Association's Class Environmental Assessment process.
- 1.2.6** Rural Settlement Area plans may be undertaken and coordinated where and when appropriate in conjunction with community strategies to address a wider range of issues which cannot be addressed through land use planning alone. (OPA 5)

### **1.3 Special Policy and Site Specific Areas**

Special Policy Areas are geographic areas where either additional studies are required to determine ultimate land uses or where more detailed and specific policies are required and these lands are not contained within a Secondary Plan. Site Specific Areas shall be used to apply site specific planning policies to defined properties. These policies provide detailed direction for individual properties or geographic areas of the City where more detailed direction for land use, infrastructure, transportation, environment, urban design or similar

issues are required beyond the general framework provided by this Plan due to unique local circumstances not capable of being addressed by Volume 1 of this Plan or Secondary Plans. All Special Policy and Site Specific Areas are identified in Volume 3 of this Plan, with the exception of those Site Specific Areas which are located within a Secondary Plan or Rural Settlement Area. Those Site Specific Areas are contained within the specific Secondary Plans or Rural Settlement Area Plans of Volume 2 of this Plan.

- 1.3.1** Special Policy and Site Specific Areas may be created as needed for areas of the City where more detailed direction is required beyond the policies of Volumes 1 and 2 of this Plan.
- 1.3.2** Special Policy and Site Specific Areas shall be prepared to implement this Plan and may amend it as necessary. In the event of a conflict between a Special Policy Area provision and Volume 1 of this Plan, the Special Policy Area shall prevail and take precedence provided the general goals and objectives of Volume 1 are maintained.
- 1.3.3** Special Policy and Site Specific Areas shall be adopted as amendments to this Plan. The provisions of this Plan and the Planning Act regarding adoption, notification and appeal of amendments shall apply.

### **1.4 Interpretation of the Official Plan**

The following policies provide guidance to understand and interpret the schedules, maps, text, tables, and figures of this Plan.

- 1.4.1** This Plan shall be read as a whole document to understand its comprehensive and integrative intent as a policy framework for priority setting and decision making.
- 1.4.2** Chapter A – Introduction in Volume 1 of this Plan provides the background to this Plan and is not considered as policies. Illustrations, pictures and sidebars are for illustrative purposes only.
- 1.4.3** The preamble, goals and objectives, at the beginning of each policy section are part of this Plan and assist in understanding the intent of the policies. Tables are considered to be policies. In the event of ambiguity or conflict in the policies of this Plan for specific circumstances the preamble shall provide interpretative guidance.
- 1.4.4** Chapter G – Glossary explains the terms and concepts contained in this Plan.
- 1.4.5** Schedules and maps in this document are part of this Plan. Appendices shall be considered as information only.
- 1.4.6** The *urban boundary* is delineated in the Urban Hamilton Official Plan. The *urban boundary* shown in the schedules and appendices of this Plan shall be considered approximate and is not intended to define the exact limits of the *urban boundary*. (OPA 5)

- 1.4.7** The implementation of this Plan shall take place over the long term and the use of the words “shall”, “will” and “must” are not to be interpreted as Council's requirement to undertake the action immediately. Council shall determine appropriate phasing, fiscal capacity and priorities for implementation based on the municipal budget and program availability for any action or undertaking that implements the policies of this Plan.
- 1.4.8** The identification and proposed location of municipal infrastructure, such as but not limited, to parks, roads, water and wastewater facilities or services as identified on Schedules or in text in this Plan, including Secondary Plans, shall not be interpreted as the City's commitment to providing these municipal public facilities within a specific time frame. Minor adjustments to the location of such facilities can take place without an amendment to this Plan provided the intent of the Plan is maintained.
- 1.4.9** The identification and the proposed location of municipal infrastructure such as but not limited to parks, roads, water and wastewater facilities or services as identified on Schedules or in text in this Plan, including Secondary Plans, shall not be interpreted as necessarily being specifically or solely the responsibility of the City to provide, finance or otherwise implement.
- 1.4.10** Where a policy relating to the Rural Area is not included in this Plan, the policies of the former municipalities remain in effect until such time as new policies have been added to the Official Plan for the Urban Area and have been adopted and approved.

## **1.5 Zoning By-law**

The Zoning By-law is one of the key implementation tools to ensure the City's goals, objectives and policies of this Plan are realized. The Zoning By-law regulates permitted uses and associated performance standards, setbacks, lot areas, height, landscaping and parking requirements.

- 1.5.1** The City shall prepare a Zoning By-law that implements this Plan except for the lands that are within the Development Control of the Niagara Escarpment Plan.
- 1.5.2** The Zoning By-laws of the former municipalities shall remain in effect until the new Zoning By-law takes effect. However, any amendments shall be in conformity with this Plan.
- 1.5.3** *Developments* which fail to commence or be completed within a reasonable period of time after approval has been given for a site specific rezoning may, through Council's initiative, be rezoned.
- 1.5.4** The City may develop criteria for the establishment and use of conditional zoning upon approval by the Province. (OPA 5)
- 1.5.5** A Minor Zoning By-law Amendment includes any or all of the following circumstances:
- a) To prohibit development of a single detached dwelling and a residential care facility on a retained agricultural parcel of land as a result of a surplus farm dwelling identified through a condition of Consent;

- b) To recognize a reduced lot area as part of a surplus farm dwelling approved through a Consent application;
- c) To amend an existing Holding Provision;
- d) To establish a new Holding Provision;
- e) To add a use permitted by the Official Plans; and,
- f) To remove an existing Site Specific Zoning By-law where the effect would be to revert to the parent zoning in force and effect.  
(OPA 36)

**1.5.6** Council may, by By-law, delegate to the Chief Planner or other designated staff the authorization to pass a Minor Zoning By-law Amendment in accordance with policy F.1.5.5. (OPA 36)

### **1.6 Development Permit System (OPA 5)**

The Development Permit System is an additional implementation tool that may be used to ensure the City's goals, objectives and policies of this Plan are realized. The Development Permit system is intended to be a flexible planning tool which combines zoning and site plan control and minor variance into one process.

**1.6.1** The City may investigate the development of a development permit system for use in specific geographic areas of the City.

### **1.7 Site Plan Control**

Site Plan Control is an important means of encouraging well-designed, functional and universally accessible development in Hamilton. The City shall review and approve plans that show the location, design and massing of buildings, the relationship to adjacent streets and buildings, public access areas, the layout of parking and service areas, site landscaping and other aspects of development.

**1.7.1** Site Plan Control shall be used to achieve the following planning objectives:

- a) Promote pedestrian scale *development* and land use compatibility;
- b) Enhance the public realm and create a functional and distinctive streetscape through high quality building design;
- c) Preserve and enhance community character by integrating heritage features and important views in site designs;
- d) Integrate ecologically important features into site designs to protect and enhance their functions; and

- e) Ensure accessibility for people with a range of abilities through safe and efficient pedestrian and vehicular circulation.
- f) minimize the impact of *development* on adjacent properties; (OPA 5)
- g) obtain land for future road widenings where appropriate; (OPA 5)

**1.7.2** Council shall use the powers of Site Plan Control, pursuant to the Planning Act, to implement certain aspects of this Plan. Accordingly the entire area within the City of Hamilton Planning Area shall be established as a proposed Site Plan Control Area.

**1.7.3** Council may establish the classes of *development* that are subject to Site Plan Control, and those which are exempt, in a By-law passed pursuant to the Planning Act.

**1.7.4** Council may require, as a condition of Site Plan approval, the deeding of land for road widening purposes in accordance with the provisions of the former Official Plans for the Towns of Ancaster, Dundas and Flamborough, Township of Glanbrook and the Cities of Hamilton and Stoney Creek.

## **1.8 Holding By-laws**

There are instances where the intended use and zoning is known for lands but *development* should not take place until the planned details and phasing of *development* is determined, and/or facilities are in place or conditions for *development* are met. Under the Planning Act, Council may pass a "Holding" By-law that places an "H" symbol over the zoning of land and specifies the conditions that shall be met before the "H" symbol is removed and the lands can be developed.

**1.8.1** Council may use the Holding "H" symbol in conjunction with the Zoning By-law pursuant to the provisions of the Planning Act to identify the ultimate use of land but to limit or to prevent the ultimate use in order to achieve orderly, phased *development* and to ensure that servicing and design criteria established in this Plan have been met prior to the removal of the "H" symbol.

**1.8.2** A Holding symbol may be applied under any or all of the following circumstances:

- a) Where *development* is contingent upon other related matters occurring first, such as (but not limited to):
  - i) Completion of required site or area specific studies;
  - ii) Consolidation of land ownership of abutting properties to ensure orderly *development* and phasing of *development*;
  - iii) Fulfillment of financial obligations;
  - iv) Securement of funding agreements on necessary infrastructure or services; and



- v) Fulfillment of conditions imposed by the City through other Planning Act tools;
  - b) Where phasing is necessary in order to ensure orderly *development* and/or achieve one or more objectives of this Plan;
  - c) Where municipal infrastructure is not adequate or yet installed to support the ultimate use; and
  - d) Where environmental constraints currently preclude *development* or redevelopment without planned mitigative or remediated measures.
- 1.8.3** Until such time as the Holding “H” symbol is removed, the By-law may permit interim land uses which may include an *existing* use or another use that is permitted by the Zoning By-law and does not jeopardize the land for the intended land uses.
- 1.8.4** Council shall pass a By-law to remove the Holding “H” symbol for all or part of the property only when the City is satisfied all the conditions of:
- a) The “H” zone have been fulfilled; and
  - b) The provisions of this Plan are met.
- 1.8.5** Council may, by By-law, delegate to the Chief Planner or other designated staff, the authorization to pass a by-law, in accordance with policy F.1.8.4, provided:
- a) the Holding Provision was applied by the City as part of an applicant-initiated site specific Zoning By-law Amendment; or,
  - b) the Holding Provision applies to lands within a Rural Settlement Area, in accordance with Section D.5.0 – Rural Settlement Areas.  
(OPA 36)
- 1.9 Complete Application Requirements and Formal Consultation (OPA 5)**
- 1.9.1** *Formal consultation* with the City shall be encouraged prior to the submission of a Planning Act application(s) for an official plan amendment, zoning by-law amendment, draft plan of subdivision, or site plan. (OPA 42)
- 1.9.2** The purpose of such *formal consultation* shall be to review a draft *development* proposal for the lands affected by the proposed application(s) and identify the need for, and the scope, of *other information and materials*, considered necessary by the City and other affected agencies to allow comprehensive assessment of the *development* application(s). (OPA 42)
- 1.9.3** A waiver for formal consultation shall only be considered where a formal consultation process had been completed for the same proposal. If the formal consultation is waived by the City, the City shall provide the applicant with a waiver letter from the formal consultation process that identifies any necessary

*other information and materials* to be submitted with the application(s) to deem it complete. (OPA 36)(OPA 42)

- 1.9.4** The City shall only accept and process complete Planning Act application(s) for official plan amendment, zoning by-law amendment, draft plan of subdivision and site plan.
- 1.9.5** A Planning Act application(s) shall be deemed complete provided:
- a) it satisfies all applicable provincial requirements;
  - b) it satisfies all requirements set out in this Plan; and,
  - c) it shall be accompanied by all the relevant *other information and materials* listed in Schedule H, or as determined by the procedures in Policies F.1.9.1, F.1.9.2, and F.1.9.3. (OPA 42)
- 1.9.6** Notwithstanding Policy F.1.9.5 c), the City shall provide the applicant with a written list of *information and materials* required to be submitted with consent applications. Alternatively, applicants may request a *formal consultation* in which case F.1.9.2 shall apply. (OPA 41)(OPA 42)
- 1.9.7** Schedule H identifies the *other information and materials* which are required, to deem Planning Act applications for official plan amendment, zoning by-law amendment, draft plan of subdivision, and site plan complete, unless otherwise determined through a formal consultation. (OPA 42)

**Table F.1.9.1 Other Information and Materials (OPA 36) (Deleted by OPA 42)**

- 1.9.8** *Other information and materials* submitted in accordance with Policy F.1.9.5 shall be subject to the following requirements to be deemed complete:
- a) The *other information and materials* submitted shall be prepared by a qualified professional, in accordance with applicable legislation, in accordance with Council endorsed Terms of Reference or Guideline material as amended, and/or to the satisfaction of the City, retained by and at the expense of the applicant. (OPA 36)
  - b) The City may request or conduct a peer review of any *other information and materials* submitted where the City lacks the appropriate expertise to review such *other information and materials*. Such peer review shall be completed by an appropriate agency or professional consultant retained by the City, at the applicant's expense.
  - c) The City may refuse any *other information and materials* submitted as part of a complete application(s) if it considers the quality of the submission unsatisfactory and is not considered to be in accordance with the applicable Terms of Reference or Guideline. (OPA 36)
  - d) The City shall require electronic versions of all *other information and materials* submitted as part of a complete application and stipulate the format of the digital submission. (OPA 42)

- e) In addition to the *other information and materials* listed in Schedule H, the applicant may be required to submit any other supporting information and materials identified by the City during the *formal consultation* process with the applicant as being necessary for an application to be deemed complete. (OPA 42)
- 1.9.9** The requirement for *other information and materials* submitted in accordance with Policies F.1.9.1 through F.1.9.8 inclusive, or Schedule H is not intended to preclude Council and its delegated authorities from requiring additional reports, studies, maps, plans, calculations, information or materials, which are identified during the review process as necessary for Council and its delegated authorities to make informed decisions. (OPA 42)
- 1.9.10** The City shall establish guidelines for the *other information and materials* identified in Schedule H, to provide direction regarding the intended content and scope of such *other information and materials*. (OPA 42)
- 1.9.11** Any *development* or *redevelopment* within 200 metres of any gas pipeline easement or facility shall require consultation with the applicable utility company. The City or utility company shall require a Land Use in the Vicinity of Existing Pipelines Study or *other information and materials* identified in Schedule H as part of a complete application, unless otherwise determined through the formal consultation process. (OPA 42)
- 1.9.12** Prior to the submission of a complete Planning Act application, where complete application requirements have been determined through formal consultation or a formal consultation waiver letter prior to January 1, 2023, the City may:
  - a) amend the formal consultation or waiver letter; or
  - b) require the complete application requirements to be determined through a new formal consultation or in accordance with Schedule H. (OPA 36)(OPA 42)
- 1.9.13** Schedule H identifies four categories under which *other information and materials* shall be required for each Planning Act application. These categories are: (OPA 42)
  - a) minimum requirements for the submission of a complete application regardless of the context of the application;
  - b) locational requirements for the submission of a complete application for all applications located within a specified area, as determined by the applicable policies of this Plan;
  - c) proposal based requirements for the submission of a complete application for all applications of a specified use, form, character or scale, as determined by the applicable policies of this Plan; and,

- d) discretionary requirements being all *other information and materials* that may be requested by the City through the formal consultation process and/or the processing of a Planning Act application.

**1.19.14** *Other information and materials* identified as locational, or proposal based requirements in Schedule H shall also be considered discretionary requirements that may be requested by the City through the formal consultation process and/or the processing of a Planning Act application. (OPA 42)

**F.1.9.15** The City may establish application guidelines to provide guidance on the applicable policies of this Plan which apply to the locational and proposal based requirements as identified in Schedule H. (OPA 42)

**F.1.9.16** Where any policy of this Plan identifies a submission requirement the City may require as part of a complete application and where it is identified as a locational or proposal based requirement in Schedule H, it shall be deemed to be a submission requirement for a complete application unless otherwise determined through a formal consultation process. (OPA 42)

**F.1.9.17** For any *development* on lands identified on Schedule A – Provincial Plans as Niagara Escarpment Plan Natural Area; or regulated by a Conservation Authority; or located within 120 metres of *Hazardous Lands, Key Hydrologic Features, or Earth Science Area of Natural and Scientific Interest (ANSI)*, the City shall require the following *other information and materials* to be submitted as part of a complete application unless otherwise determined through the formal consultation process: (OPA 42)

- a) Channel Design and Geofluvial Assessment;
- b) Erosion Hazard Assessment;
- c) Floodline Delineation Study/ Hydraulic Analysis;
- d) Karst Assessment / Karst Contingency Plan;
- e) Limit of Core Areas or Limit of Conservation Authority Regulated Area;
- f) Meander Belt Assessment;
- g) Shoreline Assessment Study/ Coastal Engineers Study; and,
- h) Slope Stability Study and Report.

**F.1.9.18** Where there is a discrepancy between submission requirements identified on Schedule H and the policies of Volume 2 and 3, the requirements identified in Volume 2 and 3 shall also apply. (OPA 42)

**F.1.9.19** A Complete Application Compliance Summary shall be required where no formal consultation has been completed which shall identify how each requirement on Schedule H has been addressed. (OPA 42)

## **1.10 Interim Control By-laws**

Interim Control By-laws are intended to be used in areas where the City wishes to undertake a comprehensive study in an area that is experiencing *development* and/or redevelopment pressures prior to the approval of any Planning Act applications. Matters related to land use, transportation, infrastructure, environment and other aspects of *development* may be addressed during the study period. Once the studies are complete, this Plan

and the Zoning By-law shall be amended to reflect the recommendations determined by the study.

- 1.10.1** Council may enact an Interim Control By-law to allow the City to limit the use of land and buildings where Council has directed study(ies) be undertaken for land use planning purposes in a defined area of the City. The provisions of the Planning Act regarding timing, notice and appeals of these By-laws shall apply.

### **1.11 Temporary Use By-laws**

At times it is in the public interest to permit lands to be used for a particular use on a temporary basis even though it may not comply with the Zoning By-law. The Planning Act authorizes a municipality to pass a Temporary Use By-law, which defines the area and duration of the use.

- 1.11.1** Council may adopt Temporary Use By-laws provided the use complies with the permitted uses in Chapter D – Rural Systems and Designations, to permit the temporary use of land, buildings or structures for a purpose that is prohibited by the Zoning By-law. Council may, by By-law, delegate to the Chief Planner or other designated staff, the authorization to adopt Temporary Use By-laws. (OPA 36)
- 1.11.2** A Temporary Use By-law may allow a use that is clearly of a temporary nature and the proposed use shall contain buildings or *structures* that can be easily removed after the expiry date of the Temporary Use By-law.
- 1.11.3** The proposed temporary use shall:
- a) Be compatible with uses on adjacent and nearby properties;
  - b) Not have adverse impact on the traffic, transportation or parking facilities in the area;
  - c) Comply with the *Minimum Distance Separation* requirements established by the Province; and
  - d) Have sufficient services such as roads, storm water drainage, water supply and sanitary sewage systems to accommodate the proposed temporary use.
- 1.11.4** A Temporary Use By-law may be permitted for a period of time which shall not exceed three years. However, Council may, by By-law, delegate to the Chief Planner or other designated staff, the authorization to adopt a By-law to extend such period of time for further periods of time not exceeding three years each during which the temporary use is authorized, in accordance with policy F.1.11.3. (OPA 36)
- 1.11.5** Upon expiration of the Temporary Use By-law, uses which may have been permitted by that Temporary Use By-law shall cease to exist and shall not be considered as legal non-conforming uses and therefore shall be removed.

- 1.11.6** The Chief Planner or other designated staff may, by By-law, adopt a Temporary Use By-law or grant an extension to a Temporary Use By-law in accordance with policies F.1.11.2, F.1.11.3 and F.1.11.4. (OPA 36)

## **1.12 Non-Conforming and Non-Complying Uses**

It is recognized there are some previously *existing* land uses that do not presently conform to the goals and objectives set out in this Plan. Many of these uses have been established for a considerable number of years. While a sound planning program would not deliberately seek to foster a mix of land uses detrimental to each other, it shall be recognized that situations exist that can be continued in the interim.

This Plan, while endeavouring to achieve a high degree of land use compatibility for new *development*, recognizes there is a degree of diversity in land use for *existing* areas where time and custom have achieved an acceptable level of tolerance. Nevertheless, there are still some *existing* uses that not only do not comply or conform, but are also incompatible, and for which specific policy remedies are required.

- 1.12.1** An *existing* use, located outside the Protected Countryside area as identified on Schedule A - Provincial Plans, that does not comply to or conform with the land use designations and policies of this Plan and/or the Zoning By-law, that existed prior to December 16, 2004 or any amendments may continue provided that:

- a) The non-complying use did not conflict with the Official Plan and Zoning By-law in effect at the time the use was established; and
- b) The non-complying use has not been interrupted subsequent to the approval of this Plan.

- 1.12.2** An *existing* use, identified as Protected Countryside area on Schedule A – Provincial Plans, that does not comply to or conform with the land use designations and policies of this Plan and/or the Zoning By-law may continue provided that:

- a) The non-complying use did not conflict with the Official Plan and Zoning By-law in effect at the time the use was established;
- b) The non-complying use has not been interrupted subsequent to the approval of this Plan; and,
- c) The non-complying use was lawfully *existing* on or before December 15, 2004. (OPA 26)

- 1.12.3** Where appropriate, the City may amend the Zoning By-law to recognize the non-complying use as an *existing* use provided that all the following criteria shall be met:

- a) The Zoning By-law shall permit only the *existing* use and the associated performance standards;
- b) The use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and

c) The use does not pollute the air or water and is in compliance with appropriate provincial and municipal regulations.

**1.12.4** The expansion or enlargement or change in non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan, in particular Sections C.5.1, Sustainable Private Water and Wastewater Services and C.2.0, Natural Heritage System and any other requirements of the Planning Act.

**1.12.5** Where an *existing* use does not comply with the criteria in Section F.1.12.2 and is incompatible with surrounding land uses or other policies in this Plan, it shall not be zoned and shall be deemed to be a non-conforming use for the purposes of the Zoning By-law.

**1.12.6** A single detached dwelling may be permitted on an existing vacant legal lot of record subject to the following conditions:

a) The proposed dwelling complies with Section C.2.0, Natural Heritage System and Section C.5.1, Sustainable Private Water and Wastewater Services;

b) The existing vacant legal lot of record must have frontage on an open public street; and

c) The lot is zoned to permit a single detached dwelling as of December 16, 2004, or where an application for an amendment to a zoning by-law is required as a condition of consent granted prior to December 14, 2003 but which application did not proceed. (OPA 41)

**1.12.7** Where the Province has passed a Minister's Zoning Order under the Planning Act, R.S.O., 1990 c. P.13, the use of the property shall be deemed to comply to the policies and land use designations of this Plan. (OPA 30)

### **1.13 Minor Variance**

The Planning Act allows the City to appoint a Committee of Adjustment to deal with specific planning matters.

**1.13.1** Council may appoint a Committee of Adjustment to authorize consents, variances to the Zoning By-law, an Interim Control By-law, extensions or enlargement of non-conforming uses provided they maintain the intent and purpose of this Plan and any other requirements of the Planning Act.

### **1.14 Division of Land**

*Development* of lands may require further subdivision of *existing* lots or tracts of land.

#### **1.14.1 Plan of Subdivision**

**1.14.1.1** The division of land shall occur by registered Plan of Subdivisions where:

- a) A new road or an extension to an existing road is required;
- b) More than four lots are to be developed and/or the owner is retaining sufficient land for the *development* of additional lots; or
- c) Deemed in the public interest for the proper *development* of lands.

**1.14.1.2** Council shall recommend for approval only those Plans of Subdivision that conform to the following criteria:

- a) The Plan of Subdivision conforms to the policies and land use designations of this Plan;
- b) The Plan of Subdivision can be supplied with adequate services and community facilities;
- c) The Plan of Subdivision shall not adversely impact upon the transportation system and the natural environment;
- d) The Plan of Subdivision can be integrated with adjacent lands and roadways; and
- e) The Plan of Subdivision shall not adversely impact municipal finances.

**1.14.1.3** The City may, as a condition of approval pursuant to the Planning Act, require the owner of lands subject to a Plan of Subdivision to enter into one or more agreements which may be registered against the title of the subject lands.

**1.14.1.4** Council may pass By-laws to exempt properties from Part-Lot Control, subject to the provisions of the Planning Act.

**1.14.1.5** Council may, by By-law, deem any Plan of Subdivision, or part thereof, not to be a registered Plan of Subdivision, subject to the provisions of the Planning Act.

## **1.14.2 Lot Creation (OPA 5)**

### **General Policies**

**1.14.2.1** The following policies shall apply to all consents for severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (OPA 18)(OPA 41)

- a) Severances that create a new lot for the following purposes shall be prohibited:
  - i) Residential uses except in accordance with:
    - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a *farm consolidation*, provided the dwelling is not a *farm labor residence*; and, (OPA 39)



- 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
- ii) On-farm *secondary* uses in accordance with Policy D.2.1.3;
- iii) Severance of a lot for a *farm labour residence* or an *existing* dwelling that was permitted in a previous official plan and zoning by-law as a *farm labour residence*, farm help house, or help house;
- iv) Severance of any *existing* second dwelling on a lot, irrespective of the origin of the second dwelling, except in accordance with Section F.1.14.2.8 b), where a dwelling may be severed as a result of a *farm consolidation*. (OPA 26)
- b) Severances that create a new lot(s) may be permitted for only the following purposes:
  - i) *Agricultural uses* in accordance with Policies F.1.14.2.1, F.1.14.2.2, and F.1.14.2.3;
  - ii) *Agricultural-related uses* in accordance with Policies F.1.14.2.1, F.1.14.2.2, and F.1.14.2.3;
  - iii) Severance of a surplus farm dwelling made surplus as a result of a *farm consolidation* in accordance with Policies F.1.14.2.1 and F.1.14.2.8;
  - iv) Severances within designated Rural Settlement Areas in accordance with Policy F.1.14.2.1 c), Policy F.1.14.2.4, and Section C.5.1, Private Water and Wastewater Services;
  - v) Acquiring land for infrastructure, petroleum resource extraction, and *mineral aggregate resource* extraction purposes in accordance with Policy F.1.14.2.1 g);
  - vi) Facilitating conveyances of land to a public body or approved private *land trust* in accordance with Policy F.1.14.2.1 h);
  - vii) In the Rural designation only, non-agricultural uses which may only be permitted in accordance with Sections D.4.1, F.1.14.2.1, and F.1.14.2.3;
- c) All proposed severances that create a new lot shall:
  - i) comply with the policies of this Plan including a rural settlement area plan where one exists;
  - ii) be compatible with and not hinder surrounding agricultural operations;
  - iii) conform to the Zoning By-law;
  - iv) only be permitted when both severed and retained lots have frontage on a public road; and,

- v) meet the requirements of Section C.5.1, Private Water and Wastewater Services.
- d) All proposed lot additions shall:
  - i) comply with the policies of this Plan including rural settlement area plans where one exists;
  - ii) be compatible with and not hinder surrounding agricultural operations;
  - iii) conform to the Zoning By-law;
  - iv) only be permitted when both lots will retain frontage on a public road;
  - v) meet the requirements of Section C.5.1, Private Water and Wastewater Services, including the requirement for submission of a hydrogeological study regarding existing or proposed private water and wastewater services prior to or at the time of application, except as permitted in F.1.14.2.7 d).
- e) All proposed consents for severance and lot additions shall meet all Minimum Distance Separation requirements in accordance with Section F.1.16, Minimum Distance Separation I and II and the Zoning By-law. Where the required Minimum Distance Separation distance, according to MDS I, is not met for a severance and lot addition, a decision regarding variation of the Minimum Distance Separation shall be made prior to a decision on the severance. (OPA 41)
- f) The maximum lot size for all proposed consents for severances and lot additions outside of designated Rural Settlement Areas, except severances or lot additions for agricultural purposes where both the severed and retained lots are proposed to contain *agricultural uses*, shall be restricted to the minimum size required for the use and to meet the land area requirements of Section C.5.1, with as little acreage as possible taken out of *agricultural use*. (OPA 41)
- g) Consents may be granted for the purposes of long-term lease agreements for petroleum resource works, *mineral aggregate resource* extraction, and infrastructure works provided a separate lot is not created for a dwelling or any non-farm use other than petroleum resource works, *mineral aggregate resource* extraction, and infrastructure works. (OPA 41)
- h) Consents that facilitate the conveyance of lands to a public authority or a private *land trust* approved by the City for the purposes of natural heritage conservation shall be permitted provided: (OPA 41)
  - i) a separate lot is not created for an additional dwelling or any other non-farm use;
  - ii) there is no increased fragmentation of a *key natural heritage feature* or *key hydrologic feature*; and,

- iii) a restrictive covenant or conservation easement is placed on title prohibiting *development* of the land for non-conservation or non-agricultural uses in perpetuity.
- i) Severances shall not be granted for dwellings created as *additional dwelling units – detached*. (OPA 30)(OPA 41)

### **Agriculture, and Specialty Crop Designations**

**1.14.2.2** Severances that create a new lot in the Agriculture and Specialty Crop designations, except surplus farm dwelling severances, shall be permitted providing the following conditions are met:

- a) The permitted *agricultural use* or *agricultural-related use* shall comply with the policies of Sections D.2, Agriculture and D.3, Specialty Crop of this Plan;
- b) The minimum lot size for newly created agricultural lots and retained agricultural lots within the:
  - i) Agriculture designation shall be 40.4 hectares (100 acres), except as provided in Section D.2.1.
  - ii) Specialty Crop designation shall be 16.2 hectares (40 acres), except as provided in Section D.2.1.
- c) The calculations of the minimum lot size requirements for the Agriculture designation and Specialty Crop designation may also include lands designated as Open Space on Schedule D – Rural Land Use Designations, or identified within the Natural Heritage System on Schedule B – Natural Heritage System.
- d) New lots shall be considered for *agricultural uses* and *agricultural-related uses* only and shall demonstrate to the satisfaction of the City, by a report prepared by an accredited professional knowledgeable in farm economics, such as an agrologist or agronomist, that the proposed *agricultural uses* on the severed and retained lots are of sufficient size and nature to be reasonably expected to:
  - i) Sustain a commercially viable farm operation;
  - ii) Allow farm operators the flexibility to change the existing and proposed *farm operation* in the event of business failure; and
  - iii) Allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture.
- e) The City may request comments on the report required in F.1.14.2.2 d) from the Province or other independent peer reviewer, at the expense of the applicant, prior to consideration of the new lot for severance approval.

### Rural Designation

**1.14.2.3** In the Rural designation, severances that create a new lot, except surplus farm dwelling severances, may be considered only for *agricultural uses, agriculture-related uses, existing rural resource-based commercial uses, existing rural resource-based industrial uses, and existing rural institutional uses*, provided all of the relevant conditions of Section D.4.1 and the following conditions are met:

- a) New lots for *agricultural uses* and *agriculture-related uses* shall demonstrate by a report prepared by an accredited professional knowledgeable in farm economics, such as an agrologist or agronomist, that the proposed agricultural lot(s) is(are) of sufficient size and nature to be reasonably expected to:
  - i) Sustain a commercially viable farm operation;
  - ii) Allow farm operators the flexibility to change the existing and proposed farm operation in the event of business failure;
  - iii) Allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture; and,
- b) The City may request comments on the report required in F.1.14.2.3 a) from the Province or an independent peer reviewer, at the expense of the applicant, prior to consideration of the new lot for severance approval.

### Lot Creation within Designated Rural Settlement Areas

**1.14.2.4** Within designated Rural Settlement Areas all proposed severances that create a new lot and proposed lot additions shall:

- a) comply with the policies of this Plan including a rural settlement area plan where one exists;
- b) be compatible with and not hinder surrounding agricultural operations;
- c) conform to the Zoning By-law;
- d) be permitted only when both severed and retained lots have frontage on a public road;
- e) meet Minimum Distance Separation requirements; and,
- f) meet the requirements of Section C.5.1, Private Water and Wastewater Services, except as permitted in F.1.14.2.7 d). (OPA 18)

### Lot Additions in All Designations (Amended by OPA 18)

**1.14.2.5** Lot additions, except within designated Rural Settlement Areas, may be considered for permitted uses provided the following conditions are met:

- a) No new lots shall be created;

- b) All resulting lots shall be:
  - i) a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan, except as permitted in F.1.14.2.7 d); and,
  - ii) be compatible with and not hinder surrounding agricultural operations.
- c) For lands within the Agriculture designation where the lot addition is for *agricultural uses* the minimum lot size of all resulting lots shall be 40.4 hectares (100 acres).
- d) For lands within the Specialty Crop designation where the lot addition is for *agricultural uses* the minimum lot size of all resulting lots shall be 16.2 hectares (40 acres).
- e) For lands within the Rural designation where a lot addition will result in the creation of a non-agricultural lot, any existing building or structure for an established residential, commercial or industrial use shall be located on the proposed non-agricultural lot;
- f) The minimum lot size requirements in F.1.14.2.5 b), c), and d) may also include lands designated as Open Space on Schedule D – Rural Land Use Designations, or identified as within the Natural Heritage System on Schedule B – Natural Heritage System.
- g) The maximum lot size for lot additions outside of designated Rural Settlement Areas, except lot additions for agricultural purposes where both the severed and retained lots are proposed to contain *agricultural uses*, shall be restricted to the minimum size required for the use and to meet the land area requirements of Section C.5.1, with as little acreage as possible taken out of *agricultural use*.
- h) The lands to be severed and conveyed are added to and merged on title with an abutting property or properties.

**Minor Lot Line Adjustments/Minor Boundary Adjustments in All Designations**  
(Amended by OPA 18)

**1.14.2.6** Minor lot line adjustments and minor boundary adjustments may be considered for *legal or technical reasons* only provided:

- a) a separate lot is not created for a dwelling or any other non-farm use except in designated Rural Settlement Areas;
- b) there is no increased fragmentation of a key *natural heritage feature* or key *hydrologic feature*;
- c) the land area of the lot adjustment does not exceed the land area required to address the legal or technical issue, meet the requirements of Section C.5.1, Private Water and Wastewater Services, and meet F.1.14.2.6 b) above with as little acreage as possible taken out of *agricultural use*; and,

- d) the adjustments do not conflict with intent of the policies of this Plan.

**1.14.2.7** In addition to Policy F.1.14.2.6, minor lot additions may be permitted where additional land is required for *existing* undersized lots to meet the applicable requirements of Section C.5.1, Private Water and Wastewater Services, as determined by the City, for *existing* uses only, provided all of the following are met:

- a) no new lots are created;
- b) the resulting lots are both of a shape and dimension to not impair existing or potential agricultural operations;
- c) there is no increased fragmentation of a key *natural heritage feature* or key *hydrologic feature*;
- d) the lot being enlarged is not required to demonstrate conformity with Policy C.5.1.1 c), but should generally be a minimum of one acre in size following the lot addition; and,
- e) the land area of the minor lot addition does not exceed the land area needed to meet the requirements of Section C.5.1, Private Water and Wastewater Services, and F.1.14.2.7 b) and c) above with as little acreage as possible taken out of agricultural use.

#### **Surplus Farm Dwelling Severances**

**1.14.2.8** An *existing* farm dwelling that is a *residence surplus to a farming operation* as a result of a *farm consolidation* may be severed provided all of the following conditions are met:

#### **All Lands**

- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
  - i) The *farm consolidation* shall have been completed prior to the time of application.
  - ii) The farm dwelling shall be determined to be surplus to the *farm operation* for no reason other than the farm dwelling is surplus to the needs of the *farm consolidation*. Farm dwellings that have been determined to be surplus to a *farm operation* prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.
  - iii) The proposed surplus farm dwelling:
    - 1) shall have been built on or before December 16, 2004; and,
    - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for

occupancy without requiring substantial demolition and new construction.

- iv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
- v) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
- vi) The shape and dimensions of the surplus farm dwelling lot shall:
  - 1. not impair agricultural operations on the retained land; and
  - 2. generally not exceed a depth of 122 metres (400 feet);
- vii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.
- viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

### **Lands Merged in Title**

- b) In cases of a farm dwelling made surplus as a result of merging in title of abutting parcels of land into one ownership on which farm operations are conducted, applications for severance shall comply with the following conditions:
  - i) The owner and operator of the farm maintains another *existing* dwelling on land that has been merged in title;
  - ii) In cases where one of the farm parcels does not contain an *existing* farm dwelling, Policy F.1.14.2.8 b) i) shall not apply.
  - iii) The area of the merged farm parcel after the surplus farm dwelling lot is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D - Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D - Rural Land Use Designations; and
  - iv) The lot to be created for the surplus farm dwelling shall comply with the provisions of Section F.1.14.2.8 a) of this Plan.

### **Lands Not Merged in Title**

- c) In cases of a farm dwelling made surplus as a result of acquisition as part of a *farm operation* that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:
  - i) The owner and operator of the farm maintains an *existing* dwelling on land that is also part of the consolidated *farm operation*;
  - ii) The parcels of land comprising the consolidated *farm operation* shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture and Rural designations and 14.2 hectares (35 acres) in the Specialty Crop designation; (OPA 30)
  - iii) The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D – Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations;
  - iv) Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
    - 1. The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or
    - 2. The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit.

If the land owner grants a restrictive covenant in favour of the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

**1.14.2.9** Deleted by OPA 18

**1.15 Community Improvement**

It is the intent of Council through Community Improvement to promote and maintain a high quality living and working environment throughout the City. Community Improvement shall be accomplished through (1) the upgrading and ongoing maintenance of communities or areas characterized by obsolete buildings, and/or conflicting land uses and or/inadequate physical infrastructure and community services, and, (2) the establishment of policies and programs to address identified economic, land *development* and housing supply issues or needs throughout the Urban Area.

- 1.15.1** Community Improvement shall be carried out through the designation, by Council, of Community Improvement Project Areas and through the preparation and implementation of Community Improvement Plans pursuant to the Planning Act. It is the intent of Council that the entire Rural Area or any part of the Rural Area as defined in this Plan, and as subsequently amended, may by By-law be designated as a Community Improvement Project Area. (OPA 5)



**1.15.2** When designating Community Improvement Project Areas, one or more of the following characteristics may be present:

- a) Building stock or property in need of rehabilitation;
- b) Buildings and *structures* of heritage or architectural significance;
- c) Encroachment of incompatible land uses or activities;
- d) Deteriorated or insufficient physical infrastructure such as, but not limited to, sanitary and storm sewers and water mains, public transit, roads/streets, curbs, sidewalks, street lighting and utilities;
- e) Deteriorated or insufficient community services such as, but not limited to, public indoor/outdoor recreational facilities, public open space and public social facilities; (OPA 5)
- f) Known or perceived environmental contamination;
- g) Deteriorated or insufficient parking facilities;
- h) Poor overall visual amenity of the area; (OPA 5)
- i) Existing Business Improvement Areas or potential for inclusion in a Business Improvement Area designation;
- j) Inappropriate road access and traffic circulation;
- k) Shortage of land to accommodate building expansion and/or parking and loading facilities;
- l) Other barriers to the improvement or redevelopment of under utilized land or buildings; or
- m) Any other environmental, social or community economic development reasons for designation.

**1.15.3** Community Improvement Plans shall provide direction regarding the application of one or more of the following:

- a) Allocation of public funds such as grants, loans or other financial instruments for the physical rehabilitation, redevelopment or improvement of land and/buildings;
- b) Municipal acquisition of land or buildings and subsequent clearance, rehabilitation, redevelopment or resale of these properties or other preparation of land or buildings for community improvement;
- c) Encouragement of infill and rehabilitation where feasible;
- d) Promotion of historic preservation through the appropriate local, provincial and federal legislation;

- e) Promotion of the viability of Commercial areas through the establishment and support of Business Improvement Areas; and
- f) Other municipal actions, programs or investments for the purpose of strengthening and enhancing neighbourhood stability, stimulating production of a variety of housing types, facilitating local economic growth, improving social or environmental conditions, or promoting cultural development.

**1.15.4** All *developments* participating in programs and initiatives contained within Community Improvement Plans shall conform to the policies contained in this Plan and shall comply with all municipal codes and regulations of the City.

**1.15.5** Council shall determine the priorities and sequences in which designated Community Improvement Project Areas shall have individual Community Improvement Plans prepared.

**1.15.6** Any Community Improvement Plan shall endeavour to co-ordinate individual initiatives to improve properties with municipal actions to upgrade physical infrastructure and community services (OPA 5).

**1.15.7** Council shall be satisfied that community improvements are within the financial capability of the City.

## **1.16 Minimum Distance Separation I and II**

The *Minimum Distance Separation Formulae* are a tool to establish distances between a livestock facility and another lands use. The objective is to prevent land use conflicts as well as to minimize nuisance complaints.

**1.16.1** New land uses, including the creation of lots, and new or expanding livestock facilities and expansion to existing uses permitted by the policies of this Plan shall comply with the Minimum Distance Separation (MDS) Formulae. The formulae for calculating required *minimum distance separation* between land uses shall be implemented in the Zoning By-law.

**1.16.2** Minimum Distance Separation (MDS) distances shall be calculated in accordance with all provincial Minimum Distance Separation guidelines and regulations as amended from time to time. (OPA 5)

**1.16.3** Where the required Minimum Distance Separation distance, according to MDS I, is not met for a severance and lot addition, a decision regarding variation of the Minimum Distance Separation shall be made prior to a decision on the severance. (OPA 5)

## **1.17 Public Participation and Notification Policies**

One of the principles of sustainability is open and participatory government. In recognition of this principle, the City shall involve the various people and organizations throughout the City, including residents, business, special interest groups, non-governmental organizations and other levels of government.

- 1.17.1** The City may use a variety of communication methods to seek input on planning matters or to provide information to the general public. Depending on the issues and in accordance with the Planning Act, the City shall choose the most appropriate method of communication. Communication may be in the form of:
- a) Direct mail outs;
  - b) Public notice signs;
  - c) Surveys, electronic or mail out;
  - d) Public information open houses held virtually or in person;
  - e) Public meetings held virtually or in person;
  - f) City web site; or
  - g) Workshops. (OPA 30)
- 1.17.2** Notification of public meeting(s) for the adoption of the Official Plan and amendments, changes to the Zoning By-law, Plans of Subdivision, draft plan of condominium as required by the Planning Act, and Community Improvement Plans shall be given to the public at least 7 days prior to the date of the meeting(s) and the notice shall be given in accordance with the applicable requirements of the Planning Act regulations. (OPA 30) (OPA 36)
- 1.17.3** Council decisions shall take place a minimum of 7 days from the time the first notification is given, for Planning Act applications/procedures identified in Section F.1.17.2. (OPA 36)
- 1.17.4** Where a notice of public meeting or written notice of an application is required for Planning Act application, other than those identified in Section F.1.17.2, notice shall be given in accordance with the applicable requirements of the Planning Act.
- 1.17.5** Notice of the intention of the passing of an amending By-law to remove a Holding “H” symbol shall be given in accordance with the applicable requirements of the Planning Act.
- 1.17.6** Notice of the passing of an Interim Control By-law shall be given in accordance with the applicable requirements of the Planning Act.
- 1.17.7** Public meetings under the Planning Act shall not be required for minor amendments to this Plan or the Zoning By-law, such as format changes, typographical errors, grammatical errors, mapping errors and policy or regulation number changes. (OPA 26) (OPA 36)
- 1.18 Parkland Dedication Policies**
- 1.18.1** In accordance with the Planning Act, and in considering any *development/redevelopment* proposal, plan of subdivision or consent, Council

shall determine whether to require the dedication of parkland or require cash-in-lieu of such dedication. (OPA 41)

- a) Council shall require a parkland dedication in an amount not exceeding 5% for residential proposals, or alternatively, shall not exceed a rate of 1.0 hectare for each 600 dwelling units proposed where land is dedicated or 1.0 hectare for each 1,000 net dwelling units where cash-in-lieu of payments is provided.

The rate to be applied will be that which yields the greater amount of either land or cash-in-lieu), or a combination thereof for *developments* or *redevelopment* that contain a mix of residential densities. The maximum parkland dedication shall also include any reductions required by the Planning Act for *affordable* or attainable residential units or non-profit housing development.

For the purposes of calculating parkland dedication on the basis of the number of units, the following rates shall apply to any dedication of parkland or cash-in-lieu as a condition of residential *development* or *redevelopment*: (OPA 40)

- i) In the case of lands to be developed for an individual single detached dwelling in a rural area, the parkland dedication shall be based on an amount not to exceed 2.5% of a 0.4 hectare lot. This policy is not applicable to designated Rural Settlement Areas.
- ii) Notwithstanding Policy F.1.18.1 a) i), Council may consider reducing the residential parkland dedication rate for: dwellings within specific geographic areas of the City; specific dwelling unit types; and, certain types of charitable, non-profit or social/*affordable* housing, as provided for in the Parkland Dedication By-law. (OPA 13)
- b) Council shall require a parkland dedication in the amount not exceeding 2% for commercial purposes except as exempted in the Parkland Dedication By-law.
- c) Council shall require a parkland dedication in an amount not exceeding 5% for institutional proposals, and all other land use proposals other than residential and commercial uses, subject to any exemption as set out in the Parkland Dedication By-law. (OPA 13)
- d) Council shall require a combination of dedication rates as defined in Policy F.1.18.1 applicable to specific use and/or density for any *development* including a subdivision containing lands proposed for a variety of land uses.
- e) Notwithstanding Policy F.1.18.1 a) and Policy F.1.18.1 a) i), the maximum alternative parkland dedication shall also be limited by any maximum required by the *Planning Act*. (OPA 40)

- 1.18.2** Notwithstanding Policy F.1.18.1 c), Council shall not require the 2% parkland dedication or cash-in-lieu as a condition of the approval of industrial *development/redevelopment* proposals.

- 1.18.3** Storm water management facilities, *valley lands*, *hazard lands*, woodlots and *Environmentally Significant Areas*, and major utility corridors and easements shall not be considered acceptable lands eligible to satisfy parkland dedication.
- 1.18.4** For the purpose of calculating the land area subject to the parkland dedication, storm water management facilities, *valley lands*, *hazard lands*, woodlots, *Environmentally Significant Areas* and major utility corridors and easements shall be excluded except where the lands listed above contain water services, wastewater services, private roads, public roads, or parking lots.

## **F.2.0 OTHER PROVINCIAL STATUTES AND REGULATIONS**

In addition to Section C.1.0, the following provincial implementation tools are in effect in the City relating specially to land use planning.

### **2.1 Niagara Escarpment Development Control**

Within the Niagara Escarpment Development Control area, all *development* unless specifically exempted by regulation under the Niagara Escarpment Planning and Development Act, shall require a development permit from the Niagara Escarpment Commission. No other permits, including building permits, may be issued unless a development permit has been issued from the Niagara Escarpment Commission.

### **2.2 Nutrient Management Plans**

Nutrient Management Plans shall be required for certain agricultural activities that generate and/or receive nutrients and/or involve the application of commercial fertilizers, in accordance with the requirements of the Nutrient Management Act.

### **2.3 Conservation Authority Regulations**

The Conservation Authority Regulation Development, Interference with Wetlands and Alterations to Shorelines and Watercourses affects the Natural Heritage System and natural hazards within the City and the Regulation shall be implemented by the City, where appropriate.

### F.3.0 OTHER IMPLEMENTATION MECHANISMS

In certain circumstances, more detailed plans, strategies and programs are required to guide decision making as the City implements the goals and objectives of this Plan. Given the long term vision of the Plan, supporting plans such as GRIDS, the Economic Development Strategy, Master Plans (culture and recreation, infrastructure) and Council adopted guidelines (Environmental Impact Statements, Urban Design) provide a greater level of procedural and explanatory detail than what is required for inclusion in this Plan. Similarly, these strategies and guidelines can be updated and amended to reflect changing circumstances in a more timely manner. These actions plans, strategies, and guidelines are not adopted as amendments to this Plan but implement the Plan itself.

#### 3.1 Supporting Plans

The City recognizes the importance of undertaking and implementing the recommendations of supporting plans in the fulfillment of the vision, goals and objectives of this Plan. They shall be used:

- a) To establish municipal priorities;
- b) To provide technical and procedural direction for studies required to review *development* applications;
- c) To set municipal implementation targets; and
- d) To identify other actions to implement this Plan.

##### 3.1.1 Source Protection Plan

**3.1.1.1** The City shall work, in conjunction with other partners, to implement Source Protection Plans.

**3.1.1.2** The Official Plan shall be amended, from time to time, to implement the recommendations of the Source Protection Plans.

##### 3.1.2 Transportation Master Plans

The continued implementation and expansion of the integrated transportation network shall be accomplished with the implementation of Section C.4.0 – Integrated Transportation Network as well as the Transportation Master Plans.

**3.1.2.1** The Transportation Master Plans shall layout the City's approach to managing and meeting the demand for transportation facilities, including walking, cycling, transit and roads and guide future transportation investment in the City of Hamilton.

**3.1.2.2** The City's Transportation Master Plans shall be maintained and updated as necessary through a comprehensive review process.

**3.1.2.3** Future amendments to this Official Plan shall be considered as required to adopt appropriate policies resulting from an update to the Transportation Master Plans or a new Transportation Master Plan.

**3.1.2.4** Decisions affecting Hamilton's transportation network shall have regard to the objectives and guiding principles laid out in the Transportation Master Plans.

### Function of the Transportation Master Plan

3.1.2.5 The Transportation Master Plans shall be the primary tools to implement operational based transportation policies including:

- a) creating awareness and promoting the benefits of walking and cycling through:
  - i) the provision of user-oriented information for all pedestrians, cyclists and other road users to increase awareness of non-motorized networks, user guidelines and safety requirements;
  - ii) the participation with and engagement of community groups and advisory committees; and,
  - iii) the participation in programs and activities like Smart Commute, Car Free Day, Commuter Challenge etc.
- b) identifying further transportation demand management strategies in addition to provisions of Section C.4.2.4.1

3.1.2.6 Provisions for bicycle parking/storage facilities, carpooling parking spaces, and appropriate parking spaces shall be regulated through the Zoning By-Law.

### 3.1.3 Community Strategies

3.1.3.1 Community strategies address a range of issues that are not able to be addressed through traditional land use planning processes such as secondary planning. Examples of issues that may be addressed through community strategies include access and equity, access to housing and services, health inequalities, property maintenance, environmental issues, community appearance, economic stability, and crime. Such issues are often complex and require a multi-agency and community-based approach for their resolution. Community strategies may identify other initiatives or studies that need to be undertaken to solve identified problems, or may make direct recommendations to address the issues identified.

3.1.3.2 Community Strategies shall include identification and analysis of needs, issues, and opportunities for a defined geographical area in the broader city context. Community Strategies should be undertaken in collaboration between the City and community partners, or, by the City with active participation from local community groups, agencies, not-for-profit or other organizations.

## 3.2 Council Adopted Guidelines and Technical Studies

Prior to the adoption of, or major amendment to, Council adopted Guidelines identified in Sections F.3.2.1, Environmental Impact Statements and F.3.2.2, Hydrogeological Studies, the City shall conduct a public participation process in accordance with Section F.1.17.1 of this Plan.

### 3.2.1 Environmental Impact Statements (EIS)

3.2.1.1 Council shall adopt Environmental Impact Statement Guidelines which shall be used by proponents and professionals when preparing an EIS.



- 3.2.1.2 When a *development* proposal has the potential to negatively impact a Core Area or its function, the proponent shall be required to prepare an EIS to the satisfaction of the City in consultation with the relevant Conservation Authority. An EIS inventories and describes the existing Core Areas and ecological functions of the site in the context of the surrounding landscape. An EIS also assesses the potential *negative impacts* that proposed *development* may have on Core Areas and provide recommendations on natural area boundaries, mitigation measures, and design measures to accommodate or enhance existing natural features and functions.
- 3.2.1.3 For proposals within the Greenbelt Plan area, an EIS shall be required for *development* and *site alteration* adjacent to (within 120 metres) of a *key natural heritage feature* within the Natural Heritage System or *key hydrologic feature* anywhere within the Protected Countryside to identify a *vegetation protection zone* in accordance with Section C.2.4, Core Areas – Within the Greenbelt Plan Area of this Plan. *Adjacent lands* for features outside of the Greenbelt Plan area are defined in Table F.1 below.

**Table F.1. Adjacent Land Distances to Trigger an Environmental Impact Statement**

Natural Heritage Feature	Boundary Definition	Extent of Adjacent Lands (outside of Greenbelt)
<i>Fish Habitat</i>	Streams, rivers, <i>lakes</i> , ponds, and wetlands.	30 metres from stable top of bank
Provincially Significant Wetlands	Defined by the Province	120 metres
<i>Significant Habitat of Threatened and Endangered Species</i>	Defined by the Province and City of Hamilton.	50 metres
Local Wetlands and unevaluated wetlands	Defined by the Province (Class 4-7) and City of Hamilton	50 metres
<i>Significant Woodlands</i>	Defined by City of Hamilton	50 metres, measured from the dripline
Streams and River Valleys	Conservation Authority regulatory lines, flood plain mapping.	30 metres from stable top of bank
<i>Areas of Natural and Scientific Interest (ANSIs)</i>	As defined by the Province	50 metres
<i>Significant Valley lands</i>	As defined by the Province and City of Hamilton.	50 metres
<i>Significant Wildlife Habitat</i>	As defined by the Province and City of Hamilton.	50 metres
<i>Environmentally Significant Areas (ESAs)</i>	As defined by the City of Hamilton	50 metres

- 3.2.1.4 The EIS may be scoped to reflect the type of *development* being proposed and the sensitivity and special characteristics of the natural area. Scoping shall be

done by City, the relevant Conservation Authority, and other relevant agencies in consultation with the applicant.

- 3.2.1.5 The EIS must be submitted with the *development* application to ensure that environmental impacts are considered early in the process when there is the greatest opportunity to design in harmony with the natural environment. In no case shall an EIS be a condition of approval granted under the Planning Act and the completion of an EIS shall not guarantee approval of the development application.
- 3.2.1.6 The EIS must be prepared by professionals qualified in the field of environmental sciences, following the requirements of the City's Environmental Impact Statement Guidelines. An EIS may include plans, studies, environmental analyses, cumulative impact assessments, buffer requirements, or other associated documentation and data considered necessary by Environmentally Significant Areas Impact Evaluation Group (ESAIEG) and City staff, as outlined in the City of Hamilton's Environmental Impact Statement Guidelines.
- 3.2.1.7 Where an Environmental Assessment is being carried out under Federal or Provincial Environmental Assessment processes, the assessment shall be considered as fulfilling the EIS requirements of this Plan.
- 3.2.1.8 Where environmental studies, such as a sub-watershed study have been carried out as part of a comprehensive planning process, the study may be submitted in place of the EIS, provided it fulfills the requirements of an EIS and is carried out to the satisfaction of the City in consultation with the relevant Conservation Authority.
- 3.2.1.9 Where an EIS demonstrates that a *development* application shall have *negative impacts* on the significant natural feature and functions of a site, the following options shall apply:
  - a) The application shall be refused; or
  - b) The City shall consult with the applicant to redesign the proposal to reduce the impacts to the satisfaction of the City in consultation with the relevant Conservation Authority; or
  - c) The City shall negotiate an agreement with the landowner requiring conditions of approval, or requiring dedication of land/conservation easement to protect the significant natural feature or function, to the extent possible.
- 3.2.1.10 The recommendations from an approved EIS shall be implemented by future amendments to this Plan, including Secondary Plans and/or conditions or criteria identified through the review of *development* applications.

### **3.2.2 Linkage Assessments**

- 3.2.2.1 *Linkage* assessments shall consider both the *linkage* within the site and connections with other sites and shall evaluate the following:
  - a) identify and assess the linkage including its vegetative, wildlife, and/or landscape features or functions, including:

- i) the natural areas and habitats/functions linked (number of sites linked and habitat sizes and condition);
- ii) linkage type (e.g. anthropogenic railway or utility corridor, hedgerow, plantation, or natural community);
- iii) vegetation cover type quality (health, condition, maturity, species, and aesthetic value);
- iv) width;
- v) length; and,
- vi) continuity of vegetation (long gaps greater than 100 metres, gaps containing roads or other barriers, or gaps less than 30 metres wide with no barriers);
- b) assess the potential impacts on the viability and integrity of the *linkage* as a result of the development proposal; and,
- c) make recommendations on how to protect, enhance or mitigate impacts on the *linkage(s)* and its functions through planning, design and construction practices.

### 3.2.3 Storm Water Management Plans

In cases where a storm water management plan is being prepared for lands designated as Agriculture, Specialty Crop, Rural, Open Space (outside the Urban Area boundary and Rural Settlement Area boundaries) and Utilities outside the Urban Area boundary and Rural Settlement Area boundaries), the following matters shall be addressed to avoid, minimize and/or mitigate storm water volumes, contaminant loads and impacts to receiving water courses:

- a) Maintenance of groundwater quality and flow and stream base flow;
- b) Protecting water quality and aquatic species and their habitats;
- c) Minimizing the disruption of pre-existing natural drainage patterns, wherever possible; and
- d) Prevention of increases in stream channel erosion and flood risk.

### 3.2.4 Watershed Plans and Sub-watershed Plans

3.2.4.1 A generic Terms of Reference for sub-watershed studies will be developed in consultation with the Conservation Authority, the City, stakeholders, and relevant agencies. Until these generic terms of reference are completed, the following information must be included in the specific Terms of Reference for sub-watershed studies:

- a) Sub-watershed Characterization:

- i) Hydrology – hydrologic model for sub-watershed's *existing* and future *development*; description of physical features; stream geomorphology; identify *hazard lands*, low flow analysis, assess erosion and flooding;
  - ii) Hydrogeology – characteristics of bedrock and overburden and their relationship with the groundwater system;
  - iii) Aquatic Environment – assess fisheries and benthic communities, classify streams according to *fish habitat*;
  - iv) Terrestrial Environment – assess plants, vegetation communities and wildlife, rare species, disturbance history, habitat fragmentation, develop a natural heritage system; and
  - v) Water Quality and Quantity.
- b) Sub-watershed Management – identify areas of constraint, land and water management strategies, land use impacts, mitigation measures, buffers, and restoration;
  - c) Implementation and Monitoring Plan – identifies who is responsible for different implementation actions, recommendations for future studies, construction phasing, and monitoring plan; and
  - d) Any additional requirements as determined to be necessary for the unique characteristics of the *watershed* and/or the proposed *development*.
- 3.2.4.2 Once a *watershed* or sub-watershed *plan* is endorsed by City Council, the City shall implement its recommendations wherever possible through:
- a) Amendments to the Official Plan, as appropriate;
  - b) Secondary Plans;
  - c) Zoning By-law amendments;
  - d) Conditions of approval for new *developments*;
  - e) Environmental Assessments of servicing and infrastructure plans and projects; and
  - f) Habitat restoration and landowner stewardship programs delivered by the City or other agencies.
  - g) Recommendations from approved watershed plans and sub-watershed plans shall be implemented by future amendments to this Plan, including Secondary Plans and/or conditions or criteria identified through the review of *development* applications.

### 3.2.5 Hydrogeological Studies

- 3.2.5.1 The City shall prepare and adopt Guidelines for Hydrogeological Studies and Technical Standards for Private Services to provide direction regarding the technical assumptions and methodologies to be followed in the preparation of hydrogeological study reports. These guidelines shall be used by proponents and professionals when preparing hydrogeological studies. Until such time as

Guidelines for Hydrogeological Studies are adopted by Council, hydrogeological studies shall be completed according to accepted best practices, to the satisfaction of the City.

- 3.2.5.2 Any required hydrogeological study shall be conducted by a professional engineer, hydrogeologist or similar professional, qualified to the satisfaction of the City.
- 3.2.5.3 Hydrogeological Studies required by Policy C.5.1.1 of this Plan shall determine the feasibility of sustainably servicing a proposed use on a proposed site with private water and wastewater systems, in accordance with the policies of this Plan.
- 3.2.5.4 Provided a proposed use on a proposed site can be sustainably serviced in accordance with F.3.2.5.3, the required Hydrogeological Study shall, in the case of a permitted severance in the *rural area*, or of the lots within a multi unit site plan development in a Rural Settlement Area: (OPA 23)
  - a) Determine the appropriate lot size that:
    - i) meets lot boundary conditions, as defined in provincial guidelines; and,
    - ii) includes sufficient land for a reserve discharge site, leaching bed, and/or other sewage disposal treatment system(s) as referenced in the Building Code as amended from time to time;
  - b) Determine the availability of sufficient and suitable water supply;
  - c) Demonstrate that water taking for the proposed use on the proposed lot will not impact neighbouring wells;
  - d) Assess the potential on-site and off-site groundwater and surface water resource impacts of sewage disposal system effluent from the proposed use on the proposed site; and,
  - e) Recommend conditions of approval which may be required to be met by the proponent prior to final approval of the application, which-ensure the long term sustainability of private water and sewage disposal services on the site.
- 3.2.5.5 The City shall require a Hydrogeological Study and Soils/Geotechnical Study as part of a complete application for any *site alteration* activities below grade, unless otherwise determined through the formal consultation process. (OPA 42)
- 3.2.5.6 Where a Hydrogeological Study is required as part of a complete application, a Water Well Survey and Contingency Plan shall also be required, unless otherwise determined through the formal consultation process. (OPA 42)

### **3.2.6 Cultural Heritage Impact Assessments**

- 3.2.6.1 Where the City requires a proponent to prepare a *cultural heritage impact assessment* it shall be undertaken by a qualified professional with demonstrated expertise in cultural heritage assessment, mitigation and management,

according to the requirements of the City's Cultural Heritage Impact Assessment Guidelines, and shall contain the following:

- a) identification and evaluation of all potentially affected *cultural heritage resource(s)*, including detailed site(s) history and a *cultural heritage resource* inventory containing textual and graphic documentation;
- b) a description of the proposed *development or site alteration* and alternative forms of the *development or site alteration*;
- c) a description of all *cultural heritage resource(s)* to be affected by the *development* and its alternative forms;
- d) a description of the effects on the *cultural heritage resource(s)* by the proposed *development or site alteration* and its alternative forms; and,
- e) a description of the measures necessary to mitigate the adverse effects of the *development or site alteration* and its alternatives upon the *cultural heritage resource(s)*.

### 3.2.7 Archaeological Assessments

3.2.7.1 Any required archaeological assessment shall be conducted by an archaeologist licensed under the Ontario Heritage Act and shall be submitted to the City for final approval and to the Province for review and compliance to licensing provisions and archaeological assessment standards and guidelines. The archaeological assessment:

- a) shall be prepared following the terms and conditions set out in the provincial guidelines; and,
- b) shall provide conservation-related recommendations, including, but not restricted to subsequent processes and procedures for the *conservation* and management of archaeological resources prior to, during and post development and/or *site alteration*-related activities. This may address further archaeological test-excavation and evaluation prior to the determination of a final resource management strategy and the submission of any further reports required by the Province or City. Such recommended processes and procedures for archaeological management shall be implemented through a variety of measures including but not limited to the mitigation, preservation, and/or resource excavation, removal and documentation, of all *archaeological resources*, to the satisfaction of the City and approval by the Province.

### 3.2.8 Design and Architectural Guidelines and Architectural Control

3.2.8.1 The City may develop design guidelines to address contextual or use-specific design issues, or other matters where the City identifies a need for specific design guidance in order to implement the policies of this Plan.

### 3.2.9 Site Plan Guidelines

3.2.9.1 Council has adopted Site Plan Guidelines to encourage a high quality of building and site design. These Guidelines shall be used by proponents and professionals when preparing site plans. The Site Plan Guidelines indicate the

City's design preferences and expectation for site development. The City shall revise the Site Plan Guidelines from time to time.

### **3.2.10 Energy and Environmental Assessment Report**

- 3.2.10.1 Proponents of *development* applications may be required to prepare an Energy and Environmental Assessment Report to indicate how the proposal incorporates environmental and sustainable design features and practices, such as *active transportation*, energy efficiency through building and site design, and water conservation and is consistent with the principles and policies identified in Section B.3.7 – Energy and Environmental Design and other applicable policies in Chapter D – Rural Systems and Designations.
- 3.2.10.2 The need and scope for the preparation of an Assessment Report shall be determined by the City in accordance with Schedule H at the formal consultation stage of the *development* review process and submitted as part of the associated application. The specific requirements of the Assessment Report shall be reflective of individual applications and determined on a case by case basis. (OPA 42)
- 3.2.10.3 The City shall develop Terms of Reference for the preparation of Energy and Environmental Assessment Report.

### **3.2.11 Public Consultation (OPA 12) (OPA 36)**

- 3.2.11.1 Council has adopted Public Consultation Guidelines which shall be used by proponents when conducting public consultation and producing a summary and response to comments received, as may be required as part of a complete application. The City shall require the applicant to submit all materials identified in the Public Consultation Guidelines, where applicable, as part of a complete application for an Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision, or Site Plan. The City may revise the Public Consultation Guidelines from time to time. (OPA 36)

### **3.2.12 Right of Way Impact Assessment (OPA 12)**

- 3.2.12.1 Where a request is made by a proponent of a *development* application to reduce or waive requirements for conveyance of lands for road widenings or daylight triangles as set out in Section C.4.5.2, Section C.4.5.6, Schedule C-1 – Future Right-of-Way Dedications (Rural), or Section C.4.5.7, proponents shall be required to prepare a Right of Way Impact Assessment to review potential impacts and provide a rationale for the alternative requirement, in accordance with the criteria outlined in Policy C.4.5.6.5 a). (OPA 26) (OPA 42)
- 3.2.12.2 The City may develop guidelines for a Right of Way Impact Assessment which may be revised from time to time.

### **3.2.13 Neighbourhood Traffic Calming Report (OPA 42)**

The City shall require proponents of *development* or *redevelopment* applications to prepare a Neighbourhood Traffic Calming Report for lands located within 500 metres to an educational establishment (i.e., elementary school), unless otherwise determined through the formal consultation process. (OPA 42)

**3.2.14 Vibration Study** (OPA 42)

The City shall require a Vibration Study to be submitted as part of a Construction Management Plan prior to or at the time of application submission, unless otherwise determined through the formal consultation process. (OPA 42)

**3.2.15 Zoning Compliance Reviews** (OPA 42)

3.2.15.1 A Zoning Compliance Review shall be submitted as part a complete application for Site Plan and Draft Plan of Subdivision which contains no non-compliances with respect to the use of the lands, unless otherwise determined through the formal consultation process. (OPA 42)

3.2.15.2 A Zoning Compliance Review submitted as part of Site Plan shall be reviewed by City staff to confirm that the development conforms to the applicable height and density policies of Volume 1, Volume 2 and Volume 3 of the Official Plan prior to the application being deemed complete. (OPA 42)

**3.2.16** For any *development* or *redevelopment* that is transformational for the surrounding area or any other *development* at the discretion of the Chief Planner, the City shall require the following studies as part of a complete application unless otherwise determined through the formal consultation process: (OPA 42)

- a) Design Review Panel Summary of Advice Response;
- b) Urban Design Report / Brief;
- c) Pedestrian Level Wind Study; and,
- d) 3D Model.

**3.2.17** Where *non-agricultural uses* are proposed on lands designated Agriculture, Speciality Crop, Rural, Mineral Aggregate Resource Extraction Area, Open Space or Utility on Schedule D – Rural Land Use Designations, the City shall require an Agricultural Impact Assessment be submitted, unless otherwise determined through the formal consultation process, to evaluate potential impacts on existing agricultural operations and the agricultural system and recommend ways to avoid, or, if avoidance is not possible, minimize and mitigate adverse impacts. (OPA 42)

**3.2.18 Recreation Needs Assessment** (OPA 42)

The City shall require a Recreation Needs Assessment to be submitted as part of a complete application where parkland is proposed on site, unless otherwise determined through the formal consultation process. (OPA 42)

**3.2.19 Other Technical Studies**

3.2.19.1 In addition to the studies identified in Sections F.3.2.1 to F.3.2.5, the City may require technical studies to be submitted as part of the Planning Act process. Prior to submission of these technical studies, consultation with City staff and/or Conservation Authorities shall be encouraged to confirm the contents for and the criteria to be used in the technical studies. (OPA 42)



- 3.2.19.2 The recommendations from approved technical studies shall be implemented by future amendments to this Plan, including Secondary Plans and/or conditions or criteria identified through the review of development applications. (OPA 42)

### **3.3 Advisory Committees**

#### **3.3.1 Environmentally Significant Area Impact Evaluation Group (ESAIEG)**

- 3.3.1.1 The City of Hamilton shall maintain an Environmentally Significant Areas Impact Evaluation Group (ESAIEG) consisting of members of the public with technical expertise, experience, and academic qualifications related to environmental conservation. ESAIEG shall review all Environmental Impact Statement reports and provide objective, technical advice to City staff on the impacts of proposed land use changes within or adjacent to natural areas.
- 3.3.1.2 Where required, proposed land use changes shall be referred to the Environmentally Significant Areas Impact Evaluation Group for review.
- 3.3.1.3 Draft Environmental Assessments, including Class Environmental Assessments on planned public works proposed within or adjacent to natural heritage features may be referred to ESAIEG for technical comment.

#### **3.3.2 Municipal Heritage Committee**

The City of Hamilton shall establish a municipal heritage committee, under the Ontario Heritage Act, to advise Council on all matters related to cultural heritage and to undertake, subject to Council's approval, such other activities that will contribute to the cultural heritage goals and policies of this Plan.

### **3.4 Monitoring and Measuring Performance**

Monitoring and measuring performance of this Official Plan is critical to determine if:

- a) The assumptions of this Plan remain valid;
- b) The implementation of the policies fulfill the overall goals and objectives of this Plan; and
- c) The priorities identified in this Plan remain constant or require change.

Monitoring and measuring performance can be conducted through both qualitative and quantitative measures. Where appropriate, targets have been included in the Official Plan. It is not the intent to develop and include specific monitoring or performance measurement programs as part of this Plan. The City undertakes performance measurement in a variety of ways including the development of monitoring programs through supporting plans, completion of provincial performance indicators, and the preparation Vision 2020 performance indicators and report card.

However, in some key areas, such as the Natural Heritage System specific policies shall be included in the Plan to ensure the environmental policies are being met.

#### **3.4.1 Natural Heritage System Monitoring and Performance**

**Restoration Plantings**

- 3.4.1.1 The City encourages individuals and agencies to use native species appropriate to the local area when planting within or adjacent to natural areas. Wherever possible, the City shall use native species in plantings along roads and on the grounds of City-owned facilities.

**Data Management and Monitoring**

- 3.4.1.2 The City of shall continue to support field studies that shall assist in identifying natural habitat to be protected and enhanced. The City, in conjunction with its partners, shall maintain a Natural Heritage Database and shall set aside annual funding to continue the collection of field data within natural areas to ensure the existing database remains current.
- 3.4.1.3 The City shall develop a monitoring program in co-operation with the Conservation Authorities, other agencies, and the community to monitor changes to the Natural Heritage System and to support land use planning and resource management decision-making.

**Targets for Natural Cover**

- 3.4.1.4 The City's objective is to expand and reinforce the existing Natural Heritage System in the long term by encouraging and undertaking ecological restoration towards locally established targets.
- 3.4.1.5 The targets for Hamilton, shown in Table F.2, Habitat Restoration Targets, are based on Environment Canada's (2004) report, "A Framework for Guiding Habitat Restoration in Great Lakes Areas of Concern".
- 3.4.1.6 The City shall develop a Natural Heritage System Restoration Strategy to identify implementation activities intended to achieve the desired Natural Heritage System.
- 3.4.1.7 The City shall monitor the foregoing policies for progress in achieving the following targets for the purposes of reviewing the Official Plan pursuant to the Planning Act.

**Table F.2. Habitat Restoration Targets**

<b>Natural Cover Type</b>	<b>Existing Percentage Cover</b>	<b>Target Percentage</b>
Forest Cover	17.7 %	30 %
Interior Forest Cover (100 metres inside from edge)	4.2 %	10 %
Interior Forest Cover (200 metres inside from edge)	1.4 %	5 %
Riparian Vegetation greater than 30 metres wide	34.7 %	75 % of stream length should be naturally vegetated.
Wetland Cover	8.3 %	10 %

**Targets for Air Quality**

- 3.4.1.8 The City's objective is to increase the number of good air quality days, where the Province's Air Quality Index (AQI) is less than 30, over the lifetime of this Plan,

by encouraging and undertaking actions to reduce greenhouse gas emissions towards the locally established targets. (OPA 26)

**Table F.3.4.2: City Air Pollutants and Greenhouse Gas Emission Targets**

2012	2020
10% reduction of 2005 emission levels	20% reduction of 2005 emissions levels

**3.5 Left blank**

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**3.7 Public Undertakings**

**3.7.1** Prior to any municipal or provincial public works or other *development* or *site alteration* activities that are subject to the Environmental Assessment Act or other applicable legislation, the proponent shall identify and evaluate all *cultural heritage resources*, and where necessary ensure that suitable *conservation* or mitigation measures, as assessed by a qualified heritage professional, are undertaken.

**3.7.2** The City shall also enhance the environs of *cultural heritage resources* as part of capital works and maintenance projects through such means as tree planting, landscaping, street improvements, buried utilities, and the provision of street furniture, lighting, signage, and other streetscape components, that are consistent or *compatible* with the character of the heritage resources.

**3.8 Grants and Loans**

**3.8.1** The City may establish and maintain grant and loan programs which may include guidelines to determine eligibility for funding for owners or long-term lessees:

- a) of designated heritage properties or properties with registered heritage conservation easements;
- b) for renewal projects or building upgrades; and,
- c) any other initiative the City may identify.

**3.9 Property Maintenance and Occupancy By-laws (OPA 26)**

**3.9.1** The City may establish, update and enforce a Property Standards By-law, in accordance with the Building Code Act and the Municipal Act, regarding minimum standards for the maintenance and occupancy of properties, including but not limited to the following:

- a) the physical condition of buildings and structures;
- b) the physical condition of lands;
- c) the adequacy of heating, plumbing, electrical and lighting systems; and,
- d) the fitness of buildings for occupancy.

#### **F.4.0 MUNICIPAL LAND ACQUISITION**

Council may acquire or hold land for the purpose of developing any feature of this Plan, and dispose of the land when no longer required. In general, this shall be done pursuant to the provisions of the Planning Act which permits the acquisition of land for this purpose, except where more specific legislation may assist in this regard.

- 4.1** The City may hold or acquire land from time to time in order to develop any feature to implement particular policies of this Plan. Any land so acquired may be sold, leased or otherwise disposed of when no longer required.