

10.0 THE TOOLS OF IMPLEMENTATION

10.1 Introduction

There are many ‘tools’ at the disposal of a planning authority in implementing an Official Plan. This Section of the Plan lists those tools required to implement this Plan. Reference is made to a number of different provincial statutes and/or Ontario Regulations. The list does not include all of the enabling authority of all legislation, particularly, those Acts and Regulations which are administered by the federal or provincial government but the list is intended to be reasonably comprehensive.

Over time, amendments are made to legislation which may change the numbering of sections of various Acts or Regulations. These changes should not affect the integrity of the following list nor limit the authority of the municipality to exercise certain controls, unless the legislation is repealed. The Acts are listed alphabetically for convenience.

Procedures associated with the Tools of Implementation are included in **Appendix 2** for the information and assistance to the reader and do not form part of this Plan. These sections are cross referenced to assist the reader.

10.2 Building Code Act (See also Appendix 2)

10.2.1 Property Standards

Council may adopt a Property Standards By-law for all or part of the municipality as provided for under the *Building Code Act* with the objective of maintaining buildings, structures and properties in the municipality in a good state of repair.

The by-law may be reviewed from time-to-time with respect to the standards for maintenance of buildings and without limiting the foregoing, shall include consideration for:

- the maintenance of yards and accessory buildings
- the maintenance of residential and non-residential buildings and structures
- occupancy standards
- notices and orders
- administration and enforcement measures

10.3 Condominium Act (See Appendix 2)

(See also **Section 10.11.13 - Subdivisions**)

10.4 Development Charges Act, 1997 (See Appendix 2)

10.4.1 Statement of Intent

This Official Plan is to be considered as a statement of intent of Council to carry out or authorize to be carried out, various public works as described specifically or in general terms in this Plan and which may be the subject of a development charge.

10.5 Environmental Assessment Act (See Appendix 2)

10.6 Environmental Protection Act (See Appendix 2)

10.7 Gasoline Handling Act and Code (See Appendix 2)

10.8 Local Improvement Act (See also Appendix 2)

The intent of this Plan is to allow for such works in accordance with the procedures set out under this Act as a means to improving municipal infrastructure in Lanark Highlands.

10.9 Municipal Act (See Appendix 2)

10.10 Ontario Heritage Act (See Appendix 2)

10.10.1 Requirement for Archeological Assessment

To implement the requirements of **Section 5.0 - Cultural Heritage and Archeological Resources** of this Plan, the review of a planning application (e.g. zoning amendment, subdivision or consent) may require a review of the archeological potential of a site. Where Council determines the need for an archeological assessment, it is Council's policy that the following condition would apply:

“The proponent shall carry out an archeological assessment of the subject property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archeological resources found. No grading or other soil disturbances shall take place on the property prior to the approval authority and the Ministry of Citizenship, Culture and Recreation confirming that all archeological resources have met licensing and resource conservation requirements. The assessment shall be carried out by a licensed archeologist under the *Ontario Heritage Act*.”

10.11 Planning Act (See also Appendix 2)

The procedures for applications and other matters are dealt with in sequence by section.

10.11.1 Amendments to the Official Plan - Sections 17 and 22

This Plan provides a long range development framework to guide the future growth of Lanark Highlands. It is the policy of Council that amendments to the Plan shall only be required where major changes to the broad land use pattern and development policies become necessary as a result of changing circumstances. In determining whether or not an amendment to the Plan is required, special regard shall be had to the general development policies of Section 2, and the definitions and policies of each land use category set out in this Plan. While it is not the intent of Council to limit the rights of any person under the *Planning Act* to apply for an amendment, any proponent of development is encouraged to discuss the need for an amendment with the Municipality prior to making an application. The Municipality encourages a spirit of pre-consultation in making this determination as well as in the review of any application for an amendment filed with the Municipality prior to a public meeting or decision.

10.11.2 Public Works - Section 24

Council shall not undertake any public work and no by-law shall be passed that does not conform with the Official Plan. Council may pass a by-law which does not conform with the Official Plan where they have adopted an amendment to this Plan and where the public work will comply with the amendment, once the amendment is approved.

10.11.3 Acquisition of Land - Section 25

Council may acquire land for any purpose set out in this Plan and may lease or otherwise dispose of such lands where no longer required.

10.11.4 Meeting to Consider Revisions to the Plan - Section 26

Council shall, not less frequently than every five years, hold a special meeting, open to the public, to determine the need for a revision of the Plan and in determining the need for a revision, Council shall have regard to the Provincial Policy Statement.

10.11.5 Community Improvement - Section 28

Council may, subject to an amendment to this Plan, consider the use of this section of the *Planning Act* to carry out physical improvements within the community.

10.11.6 Zoning By-Laws - Section 34

The zoning by-law for Lanark Highlands shall reflect the principles, policies and land use descriptions in this Plan. The by-law shall zone land and establish regulations to control the use of land and the character, location and use of buildings and structures in accordance with this Plan.

Council may use the powers provided by Section 34 to regulate the use of all land, buildings and structures within the Township of Lanark Highlands as well as to govern other matters such as to prohibit land uses and development in sites containing a variety of natural heritage features, as well as sites containing an identified significant archeological feature. Council may establish any number of zones to classify and control land uses to implement this Plan.

10.11.7 Holding Zone - Section 36

In order to show a future zoning designation while retaining control of the timing of development, a “holding” designation may be used, in the form of a symbol “H” as a suffix to the zone designation. As long as the “H” is retained, the use of the land shall be limited to the existing uses.

1. Rationale for the Use of Holding By-Laws

Holding by-laws may be used where the principle of development has been established through scrutiny under the *Planning Act*. A Holding By-Law may be used under the following circumstances:

1. To hold land from development until water and sewage services are provided, or, studies have been undertaken to prove that servicing is possible on the site and the servicing has been included in the Municipal budget or provided for through a Subdivision Agreement or other acceptable means with a developer;
2. To hold land that is designated in the Official Plan, but, as yet is undeveloped until a proposal is submitted to develop the land for the use/uses intended in the Official Plan;
3. To hold land from development until other environmental or physical improvements to the site are made. For example, road improvements or infill on a site may be required prior to development of the site;
4. To prevent or limit the use of land in order to achieve orderly phased development;

5. To ensure that all conditions of development including financial requirements and agreements in accordance with the provisions of this Plan and/or the *Planning Act*, have been complied with;
6. Contaminated sites may be placed in a Holding Zone in the municipality's zoning by-law. Where a holding zone is used, the "H" symbol may be removed when the site has been acceptably decommissioned or cleaned up to the satisfaction of the municipality and in accordance with a site remediation plan and subject further, to the submission of a Ministry of the Environment acknowledged Record of Site Condition to Council.

B. Conditions to be Met for Removal of the Holding Symbol

The Holding "h" may be removed by by-law when the above circumstances have been satisfied and the following conditions met:

1. Approval of servicing the site /area is given or servicing of adequate standards is provided on the site;
2. A proposal is submitted for a site that conforms to the policies of the Official Plan;
3. A phasing plan is submitted;
4. Architectural or design drawings and studies, where applicable, are submitted showing the required features;
5. Financial securities have been submitted (e.g. bond or letter of credit);
6. With respect to contaminated sites, the "H" may be removed upon the receipt of a report approved by Council that the appropriate level of remediation, demonstrated by a Ministry of Environment acknowledged Record of Site Condition has been achieved.

10.11.8 Interim Control By-laws - Section 38

In utilizing this authority, it is Council's policy that an interim control by-law shall be preceded by a By-law or resolution, directing that a study be undertaken of planning policies in the affected area and setting out the terms of reference for the study.

When an Interim Control By-Law expires, the prior zoning shall automatically apply, unless a new zoning by-law is passed.

10.11.9 Temporary Use By-laws - Section 39

In certain circumstances, it may be desirable to pass a Temporary Use By-Law to implement the policies of this Plan or to implement measures for economic growth and prosperity (e.g. it may be desirable to locate certain uses in vacant commercial or institutional buildings or on lands zoned for institutional uses on a temporary basis despite the fact the uses are not permitted under the provisions of the Official Plan). It may also be beneficial to temporarily zone lands for industrial or commercial uses as an incubator or temporary location for a use which does not conform with the Plan. A temporary use may be permitted only if it is compatible with adjacent uses

A Temporary Use By-Law may also be passed to permit a garden suite. Council may, therefore, in a by-law passed under Section 39 of the *Planning Act*, authorize a temporary use of existing structures for any purpose set out therein. The period of time for a temporary use may be for a period of up to ten years for a garden suite and up to three years in all other cases, both of which are renewable. Notice of a Temporary Use By-Law shall be given in the same manner as that of a zoning by-law under Section 34 of the *Planning Act*.

As a condition of the passing of a Temporary Use By-Law for a garden suite, Council may require the owner of the suite or any other persons to enter into an agreement with the Municipality under the *Municipal Act*.

Any use introduced under such a Temporary Use By-Law does not acquire the status of a legal non-conforming use at the expiration of the by-law(s) and at that time must therefore cease.

It is not the intent of the Official Plan that Temporary Use By-laws be used to permit a new use while an amendment to the Official Plan and/or zoning by-law is being processed to permit the use on a permanent basis. However, once a temporary use is established and it becomes apparent to Council that the use should be permitted on a permanent basis, the use may continue under a Temporary Use By-Law while any required amendments are passed.

10.11.10 Site Plan Control - Section 41

A. Policies

Under the authority of Section 41 of the *Planning Act*, Council may by by-law designate specific areas or land uses within the municipality which shall be known as site plan control areas. For the purposes of this Plan, the following land use designations and land

uses shall be subject to Site Plan Control:

1. Any industrial, commercial or institutional use;
2. Any multiple residential use consisting of six (6) or more dwelling units;
3. Any lands abutting a lake, water body or natural heritage feature;
4. All land uses within the Environmental Protection Area Designation;
5. All conversions and redevelopment within any of the above categories.
6. A communications tower or public utility installation.

Council may by by-law designate one or more areas as Site Plan Control Areas. Council may require the submission of plans and drawings for all development proposals within the Site Plan Control area.

Council may, as a condition of site plan approval, require the dedication of land for the widening of any street to the width set out in **Section 4.5 - Transportation** policies of this Plan for roads as specified by the classification. The conveyance to the municipality shall not exceed more than one-half of the deficiency of the width or 5 m (16.4 ft.) whichever is the lesser (applies to a 25 m ROW). The conveyance shall apply to the full frontage of the property wherever the deficiency exists.

Council shall require each applicant submitting such a development proposal to enter into an agreement with the Municipality as a condition to the approval of the development proposal. Where a development proposal is of a minor nature, some or all of the points listed below may be waived in the agreement. The agreement may include conditions on the following facilities and matters.

1. The construction or reconstruction of the access or egress onto all major roads or highways and any upgrading of the roads, that will be necessary as a result of the increased traffic caused by the development;
2. The number and location of all off-street loading areas and parking areas to be provided within each development, and the surfacing of such areas and driveways;
3. The number, location and construction of all walkways and walkway ramps and pedestrian access points to be provided in the development and how these will eventually be connected to adjacent areas;
4. The location, number and power of any facilities for lighting, including floodlighting of the site or any buildings or structures (such as signs) thereon;
5. All grading required to be done on the property and how storm, surface and waste waters will be disposed of in order to prevent erosion including the period during construction of the project. Plans will show the location and connections for all

services to municipal services including elevations and inverts;

6. The techniques that are to be used on the site for landscaping of the property for the protection of adjoining lands, water bodies or natural heritage features, including the type of vegetation and techniques to be used, the existing (native) vegetation which is to be preserved, and any structures such as walls, fences or barriers that are to be used;
7. The location, height, number and size of all residential units to be erected on the site and the method by which the development will be staged;
8. The location, height, and type of all other buildings located in the proposal;
9. Illustration of the contours and final elevations of the site on a contour interval of 1 m (3.3 ft.) or less;
10. The location and type of any facilities and enclosures for the storage of garbage and other waste materials; and
11. The location and extent of any easements or other covenants on the land to be conveyed to the municipality or a local board for public utilities.

In the review of Site Plan Applications, Council may circulate to municipal departments and outside agencies who are considered to have a vested interest for their comments prior to the approval of any site plan or site plan agreement.

Agreements entered into under the authority of Section 41 of the *Planning Act* may be for the provision of any or all of the facilities, works or matters as provided for in the *Act* and the maintenance thereof and for the registration of such agreements against title to the land to which they apply.

10.11.11 Parkland Dedication or Cash-in-Lieu - Section 42

It is Council's policy to require the conveyance of parkland or the cash-in-lieu equivalent for residential and non-residential development as a means to implementing the policies for parks and open space areas of this Plan. The land or cash to be conveyed shall not exceed two per cent (2 %) of the value of the land to be developed for commercial or industrial uses or five per cent (5 %) for residential uses. Where Council requests cash-in-lieu, the value of the land shall be determined on the day before the day the building permit is issued. (Note: *this policy applies to new lot creation.*)

10.11.12 Committee of Adjustment - Sections 44 and 45

1. Status of Legal Non-conforming uses

It is the intention of this Plan, that non-conforming uses should eventually cease to exist.

The owner/applicant in submitting an application for an expansion, enlargement or change of a non-conforming use shall demonstrate that all three of the following conditions are met in qualifying a use as a non-conforming use:

- That the use was legally established prior to the passing of any of the zoning by-laws as set out in **Sections 10.11.6 - 10.11.7** of this Plan
- That the use has continued without interruption from the date of its establishment of the use, or in the case of an interruption, that there has been a reasonable attempt to continue the use during the period of discontinuance; and
- That the use is deemed to have existed and continued only if there was in fact, an actual user directly involved with the use.

2. Enlargement of Expansion or Change to a Non-Conforming Use

It may be desirable, however, to permit the extension, enlargement or change of a non-conforming use to a similar or more compatible use subject to the following criteria:

- The extension or enlargement does not aggravate the non-conforming situation for neighbouring uses;
- The extension or enlargement is in reasonable proportion to the existing use and to the land on which it is to be located;
- The proposed extension or enlargement will not create undue noise, vibration, fumes, smoke, dust, odours, glare from lights nor environmental hazards;
- Traffic and parking conditions in the vicinity will not be adversely affected and traffic impacts will be kept to a minimum by the appropriate design of ingress and egress points to and from the site and by improvement of site conditions especially in proximity to intersections;
- Adequate provisions have been or will be made for off-street parking and loading facilities where they apply;

- Infrastructure and public services where applicable, such as water and sewer, storm drainage, roads, school bussing etc. are adequate or can be made adequate. (Example: *upgrading, extending or widening a road to provide safe access or to carry increased volumes of traffic arising from an extension, expansion or change in a non-conforming use.*)

10.11.13 Subdivisions, Consents, Part-Lot Control and Deeming - Sections 50-53

A. Plans of Subdivision

Land development shall generally take place by plan of subdivision for waterfront residential development where three or more lots are proposed, for large lot residential development in the Rural Area and for multiple residential lot development in built-up areas i.e. village and hamlets. Consents shall otherwise be the method of land division.

An application for a plan of subdivision shall be in accordance with the requirements of *The Planning Act*. Additional information may be required in assessing the appropriateness and the location of the subdivision. Regard shall be given to the requirements for an impact assessment for subdivisions proposed within the **Lake Development District** designation or in the vicinity of identified natural heritage features (see **Schedules A1 -A5**), archeological or cultural heritage resources (see **Section 5.0**) or natural or human-made hazards (see **Section 8.0**), mine hazards [see **Section 7.3.2(2)**] organic soils and steep and unstable slopes (see **Section 8.2**), noise and vibration (see **Section 8.4**), or waste disposal facilities (see **Section 4.4**). Reference shall also be made to the servicing policies of this Plan (see **Section 4.2**) for the requirements for on-site or communal servicing for subdivisions located in the Rural Area. In developing a Plan of Subdivision, regard shall be given to the Provincial Policy Statement.

It shall be the policy of Council to consider for approval, only those plans of subdivision which comply with the policies of this Plan and which, to the satisfaction of the Council, can be supplied with adequate and cost effective public service facilities.

B. Consent Policies and Procedures

Provisions relating to the granting of consents are set out in Sections 51 and 53 of *The Planning Act*. Council shall have regard for the Provincial Policy Statement in addition to the following consent policy checklist which is intended to be used by Council in the review of consent applications.

1. The consent *application* shall be complete and shall include a sketch and the prescribed application fee and shall comply

with the requirements of *The Planning Act* and associated Ontario Regulation for the filing, review, notice and decision procedures;

2. The *sketch* shall show the lands to be severed and the lands to be retained, existing and proposed lot dimensions, lot areas and buildings, natural physical features (water bodies, slopes, tree cover) and sufficient information to be able to easily locate the land;

3. The proposed use of the severed lot shall be a use permitted in the underlying land use designation e.g. refer to the Official Plan Land Uses Plan Schedules to determine designation and then refer to corresponding list of permitted uses for that designation in the text of this Plan;

4. Up to *two consents* may be granted for a lot or land holding (40 ha (98.8 ac.) or less) existing as of the date of Ministry approval of this Plan (excluding the retained lot). Additional consents may be granted under limited circumstances where the landowner has owned a lot for a period of greater than 10 years;

5. The lot(s) to be *severed and to be retained* must meet the requirements of the zoning by-law e.g.:

- lot size for buildings, accessory uses, parking, snow storage
- lot frontage and depth
- setbacks from roads, water bodies
- sufficient land area to allow development where constraints exist such as topography, soils (organic), rock, slope, wetland;

6. The lot must meet the *influence area* or special setback requirements where the intended use of the lot is for a *sensitive land use* e.g. a dwelling, daycare facility, educational facility or health care facility, church, campground. Reference should be made to the following Sections of this Plan for further explanation:

- **3.5.3 (2), 3.10 (2) (B) - Industrial Land Uses**
- **4.4.1 (3) - Waste Disposal Sites**
- **7.1.2(2) - Agricultural Resource Lands (Minimum Distance Formulae I and II)**

- 7.2.4 - Mineral Aggregates (pits and quarries)
- 7.3.2 - Mine Hazards
- 7.3.8 - Mineral Resources
- 7.5.2 - Natural Heritage Features
- 8.1.2 - Flood Elevations
- 8.4 - Noise and Vibration

7. The application shall be supported by *studies* or other information which may be required to determine whether the application will comply with the policies of this Plan, or to permit the reduction of required setbacks;

Reference should be made to the above listing (subsection 6) for requirements e.g.:

- mitigation of industrial impacts
- mitigation of waste disposal impacts
- verification of non-impact for below ground water aggregate operations
- plan/measures for rehabilitation of mine hazards
- assessment of mineral potential
- Impact Assessment/mitigation measures for natural heritage features
- flood proofing measures
- noise or acoustical study
- Record of Site Condition (contaminated sites) (see **Section 8.3, Contaminated Sites**)

In the absence of appropriate mitigation, the application will be refused.

8. The application should be supported with information or evidence to verify suitability of the lot for *sewage disposal*. This may include approval for an individual on-site system or a communal system or a hydrogeological study (see **Section 4.2, Water Supply and Sewage Disposal**);
9. The application should be supported with information to verify suitability of the *water supply*;
10. The lot shall have *frontage on and direct access* to a

public road unless otherwise exempted. In the case of a private road, documentation shall be provided of the legal rights (i.e. registration on title) to gain access over an existing private road as well as the nature of the road (length, physical condition, suitability for use by emergency vehicles, arrangements for maintenance and snow removal and potential for assumption by Municipality as determined by Council;

11. Where the lot proposed fronts on a **provincial highway** or a **County Road**, prior approval must be obtained for access from the Ministry of Transportation or the County of Lanark respectively. Also, where the Ministry/County has identified the need for a road widening, the necessary land shall be dedicated as a condition of approval;

12. The access or entrance to any lot should not create a **traffic hazard** e.g. on a curve or a hill where a driver's sight line is blocked or impaired, or could be improved. The applicant must receive approval from the municipality for the location and installation requirements for an entrance and/or culvert;

13. Where the potential for a **cultural heritage site** or archeological site has been identified, an **archeological assessment** may be required. The applicant should consult with the municipality, or the Ministry of Citizenship, Culture and Recreation (see **Section 5.0, Cultural Heritage and Archeological Resources**);

14. Consents will not be granted which have the effect of limiting access to **back lands** for future development or which have the effect of creating land locked parcels for either the severed or retained lot;

15. Consents may not be granted in areas where the undue **extension of municipal services** would be required e.g. extension of a public road or school bus route;

16. Consents may not be granted for the creation of a new lot on a water body where the lake has reached its development capacity and no residual capacity exists for that water body;

17. Consents may be granted for **water access** only lots provided that arrangements have been made for a access point, for boat docking and for adequate parking through a lease agreement or other means acceptable to the planning authority;
18. Consents may be granted on Special Purpose Roads (see **Section 4.5.5**):
19. Consents will be granted which have the effect of enlarging existing undersized lots (e.g. through lot additions);
20. A proposed lot shall not be located in proximity to an **incompatible land use**:
21. Consents shall not be granted on **prime agricultural land** (as defined in the Provincial Policy Statement) unless the consent is for a farm-related, forestry or similar resource related use;
22. Despite the criteria outlined in ‘1’ to ‘21’ above, consents may be granted for the following purposes:
- to correct lot boundaries
 - to convey additional land to an adjacent lot provided the conveyance does not lead to the creation of an undersized or irregularly shaped lot for the purpose for which it is being or will be used;
 - to clarify title to the land;
 - where the effect of the consents does not create an additional building lot;
 - to permit an easement;
 - to permit a consents for municipal or other government purposes.
23. **Conditions** may be imposed by Council in the granting of consents which may include but not be limited to the following:
- a zoning amendment under the zoning by-law or a minor variance under Section 45 of *The Planning Act*
 - site plan control
 - the dedication of land or cash-in-lieu of parkland
 - the conveyance of land or conveyance for easements for utilities, access control or drainage
 - the construction or upgrading of roads or the installation of drainage facilities and culverts
 - improvements to sight lines for property access, where applicable

- the establishment of buffer strips and landscaping
- flood proofing structures
- the installation of water supply or sewage disposal systems
- the entering into of a consent agreement including provisions of financial guarantees
- demolition of buildings or structures and/or measures to remediate the property due to hazardous or contaminated conditions
- implementation of mitigation measures to ensure compatibility amongst land uses;

24. ***Procedures for processing*** consent applications may include but not be limited to:

- applicant files a complete application with the approval authority;
- notice of the application will be circulated to the land owner, surrounding residents and to other required agencies as prescribed;
- Council may also seek technical input from other selected agencies;
- the application will be reviewed for compliance to the policies of this Plan and the regulations of the implementing zoning by-law. Council may seek a Planning Report from a qualified Planner;
- the approval authority may have a public meeting to consider the application;
- the approval authority will issue a decision and may impose conditions of approval (provisional consent);
- Decision is advertized (circulated) as required by *The Planning Act*;
- applicant shall enter into a consent agreement where required as a means to implement the conditions;
- applicant has up to one year to fulfil provisions of conditional consent;
- consent is granted upon fulfilment of conditions and submission of deed or instrument for stamping (certificate);
- the conveyance must occur within two years from the date the certificate is given or consent will lapse.

25. Any other matters as deemed appropriate by the planning authority.

(Note: where decision of the planning authority is appealed, the matter is referred to the Ontario Municipal Board for consideration and the Board's decision is final.)

C. Part-Lot Control

Part-lot control may be used for existing plans of subdivision where it is necessary to re-align lot boundaries to clarify or grant title, exact specific servicing requirements as a condition of consent such as a road widening or to further control internal development on a lot.

10.11.14 Tariff of Fees - Section 69 (see Appendix 2)