

## **APPENDIX IX - ENVIRONMENTAL PROTECTION AREA POLICIES FOR SPECIAL POLICY AREA "34"**

### **ENVIRONMENTAL PROTECTION AREAS**

#### **PREAMBLE**

This Plan endeavours to protect and preserve important ecological and environmental features within the City. Areas designated Environmental Protection are shown on Schedule "A". The policies of this Section shall serve to protect environmentally-sensitive areas and to prohibit development from occurring in areas susceptible to environmental hazards.

Environmental Protection Areas are characterized by distinctive topography, high quality plant and animal communities and unique fish, plant and wildlife habitats. Such areas provide opportunities for scientific research, conservation and education. The diversity and connectivity of these natural features contribute to the overall function and health of natural areas and should be maintained, restored, or where possible, improved.

Other Environmental Protection Areas may exhibit environmentally-hazardous conditions such as flood and erosion susceptibility, instability or any other physical condition which may pose a risk to occupants, loss of life, property damage and social disruption.

#### **POLICIES**

1. The predominant uses of land designated Environmental Protection Area will be for conservation, forestry, wildlife management and flood and erosion control. These lands include Environmentally Significant Areas, Class 1, 2 and 3 Wetlands excluding the Ramsay Woodlot and Areas of Natural and Scientific Interest. Environmental Protection Areas also include Hazard Lands, such as those lands susceptible to Regional Floods or 100 Year Floods, lands containing organic soils and areas of steep slopes.
2. Ancillary uses which will not adversely affect Environmental Protection Areas and which will not conflict with the policies of this Plan may also be permitted. Such uses may include parking areas, interpretive centres, conservation area shelters, essential utility structures and other related uses which are compatible with Environmental Protection Areas.
3. In addition to those lands designated as Environmental Protection Areas, the City shall encourage the preservation and protection of smaller watercourses and wetland areas. Particular regard shall be given to the Ministry of Natural Resources' guidelines requiring a minimum 15 metre setback from the edge of watercourses or adjacent wetlands.
4. Development and site alteration within or adjacent to significant wetlands or

significant habitats of threatened or endangered species will not be permitted. Development and site alteration within or adjacent to other natural resources designated Environmental Protection Area will not normally be permitted. However, where such development is proposed, an amendment to the Official Plan and Zoning By-law will be considered as per the policies of 3.3.4, Part 3. For the purposes of this policy “adjacent lands” shall be defined as lands contiguous to the identified natural heritage feature to the extent recommended by the Province or Region of Niagara, whichever is greater. Nothing in this policy is intended to limit the ability of existing agricultural uses to continue.

5. In considering development proposals Council will require the proponent to prepare and circulate to relevant public agencies for review and comment, certain studies if required to ascertain the effects which any development may have on any Environmental Protection Area or any natural features and their function and connectivity.
6. Any required studies shall be undertaken by a person or firm acceptable to the City and with special knowledge of the environmental field. Any reports documenting such studies, shall contain, but not be limited to, the following.
  - 6.1 A statement as to the environmental quality, uniqueness and character and potential habitat for fish and other wildlife of the Environmental Protection Area in which the proposal is to occur.
  - 6.2 A description of alternative methods of carrying out the proposal.
  - 6.3 An evaluation of the advantages and disadvantages to the environment of the proposal.
  - 6.4 The potential effects of the proposal on the Environmental Protection Area and adjacent lands.
  - 6.5 The proposed method by which any negative effect may be mitigated including appropriate engineering techniques or resource management practices.
7. Council will support and encourage the acquisition of Environmental Protection Areas, such as unique wetlands, lands along major watercourses such as the Welland River, Environmentally Significant Areas and natural areas, by Federal, Provincial and other public agencies, as well as private agencies.
8. The identification of lands designated Environmental Protection Areas in this Plan does not imply a commitment to purchase such areas, nor is it implied that such areas under private ownership are free and open to the public.
9. When new development or redevelopment is proposed on a site, of which a part lies

within Environmental Protection Areas, those lands will not be acceptable as conveyance of park land as may be required by the City.

10. The City shall encourage the preservation of existing vegetation within the defined floodways, as well as along watercourses for which there is no flood plain mapping at a minimum distance of 15 metres from the water's edge or as agreed to by the Ministry of Natural Resources.
11. Buildings or structures shall be prohibited within defined Regional Floodlines or 100-Year Floodlines, except such buildings or structures as may be approved by the Niagara Peninsula Conservation Authority under the Fill, Construction and Alteration to Waterways Regulations.
12. The City supports 100-Year Floodline mapping for the watercourse of Bayers Creek. The Regional Floodline has been generated for this watercourse and until 100-Year Floodline mapping is completed and approved by the Niagara Peninsula Conservation Authority, a landowner may generate the 100-Year Floodline for regulatory purposes without an amendment to this Plan provided the mapping meets with the approval of the Conservation Authority. Where such changes occur, the appropriate abutting land use designation shall apply and the Zoning By-law shall be amended accordingly. The Regional Floodline shall apply to Beaverdams Creek, Shriner's Creek, Ten Mile Creek and Tributary W-6-5. The Welland River, which passes through the City, is currently regulated under the 100-Year Floodline.
13. Lands abutting Environmental Protection Areas are to be developed in accordance with the requirements of that particular land use designation. However, development on such lands are not to create adverse effects on any abutting Environmental Protection Areas. For development of lands within 120 metres of a provincially significant wetland, an Environmental Impact Study, as defined in the Wetlands Provincial Policy Statement, will be prepared by a proponent which demonstrates that a development will not negatively impact the area or function(s) of the wetland.
14. The Niagara Peninsula Conservation Area regulates certain areas under their Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (Ontario Regulation 155/06). Any works proposed within a Regulated Area should be reviewed by the Niagara Peninsula Conservation Authority and are subject to the provisions of this regulation. The Niagara Peninsula Conservation Authority particularly will apply its review during the review of planning applications. Large construction projects may be required to submit a "Fill Disposal Plan" to the satisfaction of the Director of Municipal Works where development will require the disposal of excavation spoils or fill from construction sites.
15. Works along, or adjacent to, the Niagara River for such things as shoreline docks, shorewells, require approval from the Niagara Parks Commission Activities and are monitored in conjunction with the Niagara Peninsula Conservation Authority and/or

the Ministry of Natural Resources.

16. A natural area known as the 'Treed Moraine' forms a backdrop to the Horseshoe Falls and Queen Victoria Park between Clifton Hill and Burning Springs Hill. It is a complex landscape which needs to be protected, properly maintained and stabilized and is recognized as an important local, regional and international landscape. This forested slope separates the urban, commercial development at the top of the moraine and the natural area of the Niagara Parks. Development in close proximity to the moraine should have regard to the Moraine Management Plan (January 21, 2000) prepared by the Niagara Parks Commission.

## **NATURAL RESOURCES**

17. The City shall encourage and support the efforts of the Ministry of Natural Resources, the Niagara Peninsula Conservation Authority and the Region of Niagara to protect, maintain, rehabilitate or improve the quality of the natural resources within the municipality in accordance with environmental and natural resource management legislation. Natural resources include the categories of Forest Resources, Fisheries Resources, Wildlife Resources, Water Resources, Mineral Resources and Areas of Natural and Scientific Interest.
18. Land owners shall be encouraged to consult with the Ministry of Natural Resources, Niagara Peninsula Conservation Authority and the Region of Niagara prior to commencing work of any kind on or adjacent to an area containing natural resources in order to determine the means by which to minimize potential adverse impacts.
19. Council will support and encourage the use of conservation agreements to maintain, enhance or restore land or wildlife; to protect and manage water quality and quantity, including drinking water sources; and the protection and management of watersheds.
20. Prior to undertaking major public work projects on or adjacent to an area containing natural resources, the City shall consult the Ministry of Natural Resources in order to determine what design requirements or modifications may be necessary to eliminate or minimize any potential adverse impacts.
21. Development within areas containing significant habitat of endangered or threatened species and significant wetlands shall be prohibited. Development within areas containing other natural resources shall generally be prohibited. However, in considering development applications on or adjacent to such natural resources, or on lands adjacent to significant habitat of endangered or threatened species and significant wetlands, the City shall consult with the Ministry of Natural Resources, the Niagara Peninsula Conservation Authority and the Region of Niagara. These agencies shall be consulted in regard to the following matters.

- 21.1 The potential impact of the development proposal on the natural resources of the area.
  - 21.2 Proposed methods by which to eliminate, minimize and/or reduce possible adverse impacts.
  - 21.3 The feasibility of maximizing the benefits of the natural resource to the community, such as by providing or maintaining public access.
  - 21.4 Determining alternative locations for the proposal.
  - 21.5 The need for additional studies, including environmental special engineering designs and development controls, to ensure that the proposed development does not have a negative impact on the natural resources of the area or their ecological function. These studies shall be prepared by a qualified environmental specialist and should identify and assess all possible environmental impacts, detail proposed measures to protect the natural resources, and discuss the advantages and disadvantages of the development and its need in the natural resource location.
  - 21.6 Compliance with all other policies in this Plan.
22. The City supports the natural heritage system approach which recognizes the importance of individual areas and features as well as the ties between them to the overall health of the natural environment. Linkages and natural corridors that connect the individual features can include valleylands, creeks, hedgerows, and service corridors. New development should not interfere with the function of these linkages and corridors and all efforts should be made through design for the enhancement or rehabilitation of natural resource connections.
  23. The values and benefits of forest resources should be incorporated positively into the design of any development proposal occurring within the urban boundary. In such resource areas, development is to be designed in a sensitive manner and having regard to the following.
    - 23.1 The retention and protection, to the greatest extent possible, of the existing tree cover, recognizing its environmental and aesthetic importance. A tree study may be required as a condition of development approval.
    - 23.2 Ensuring efficient harvesting and use of trees that must be removed to accommodate the placement of buildings, structures and roads.
    - 23.3 The incorporation of land with existing tree cover into the urban area park system, if appropriate.
    - 23.4 The maintenance and possible enhancement of tree cover along watercourses and on steep slopes, in order to reduce soil erosion and

improve water quality.

- 23.5 Permitting the continued management and selective harvesting of forest resources, where appropriate.
24. The stewardship of urban woodlots and forested areas shall be promoted. Where such lands are under private ownership and are contemplated for development, the preservation and maintenance of natural environment conditions will be encouraged to the fullest extent possible. Where deemed appropriate, the City will consider such measures as bonusing, land purchase, transfer of development rights or land exchanges to safeguard important natural areas.
25. The City supports the protection of woodlands greater than 0.2 hectares in size and individual trees or small stands of trees on private lands that are deemed by Council to be of significance to the City because of species, quality, age or cultural association from injury and destruction through such means as the Region's Tree and Forest Conservation By-law or any similar municipal by-law.
26. Land owners in Good General Agricultural areas as well as Niagara Escarpment Area shall be encouraged to recognize the forest resource as both a source of income from various forest products and as an important element in providing essential soil and water conservation benefits. In this respect, land owners shall be encouraged to carry out the following.
  - 26.1 Employ proper forest management practices in consultation with the Ministry of Natural Resources and within the Niagara Escarpment Plan Area in accordance with Ontario Regulation 685/80 as amended.
  - 26.2 Retain existing tree cover wherever possible.
  - 26.3 Discourage the grazing of livestock within woodlots.
  - 26.4 Provide for the reforestation of non-productive or abandoned farmland.
  - 26.5 Apply for tax reduction programs and other benefits associated with the protection and management of woodlots.
  - 26.6 Maintain or establish tree and shrub cover on low agriculture capability soils and in hazardous areas such as steep slopes and flood prone areas, in order to reduce water runoff and minimize soil erosion.
27. The City recognizes the importance of ensuring the availability of an adequate supply of mineral aggregate for future use. Potential mineral resources, as identified in the Regional Niagara Policy Plan and the Ministry of Natural Resources Niagara District Land Use Guidelines, shall be protected by restricting land uses in these areas to those which do not preclude the option of future aggregate extraction.

28. The management of fisheries and wildlife resources shall be promoted in a manner that protects habitat and sustains species populations. In this regard, such resources shall be protected, maintained and improved by the appropriate agencies, groups and/or individuals and potential negative impacts from development and surrounding land uses shall be minimized. Any development affecting fisheries resources or site alteration affecting fisheries resource will not be permitted except in accordance with the Federal Fisheries Act as regulated by the Department of Fisheries and Oceans.
29. The City shall work with various provincial agencies and other groups in the protection of identified areas of natural and scientific interest. The educational, interpretive and recreational values of these resources shall be preserved by limiting development and surrounding land uses to those of a compatible nature.
30. The City shall prohibit the removal of topsoil as regulated by the City's Fill, Topsoil Removal or Site Alteration By-law and consider the approval of additional regulatory measures, as specified under the Topsoil Preservation Act.
31. The City shall promote the utilization of water conservation measures in an effort to reduce water consumption. The City will further investigate the use of water meters as a method of encouraging reduced water usage.
32. Any works adjacent to or within a waterway will require prior written authorization from the Niagara Peninsula Conservation Authority or the Ministry of Natural Resources.
33. A permit from the Niagara Peninsula Conservation Authority may be required for any works within areas regulated by the Conservation Authority's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (*Ontario Regulation 155/06*).
34. The City shall consult with the Ministry of Natural Resources, the Niagara Peninsula Conservation Authority, the Niagara Region and the Niagara Parks Commission for any development proposal along the Niagara River that may have an adverse impact on the watercourse.
35. The City shall promote the function of valleylands or stream corridors as natural resource linkages and encourages the protection, naturalization and, wherever possible, the rehabilitation of valleylands or stream corridors in accordance with the Niagara Peninsula Conservation Authority's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (*Ontario Regulation 155/06*).
36. Development along all valleylands and stream corridors, regardless of their designation in this plan, will be subject to a minimum setback of 7.5 metres from the top of slope or up to 30 metres for Type 1 fish habitat, whichever is greater, for all buildings or structures in accordance with the Niagara Peninsula Conservation Authority's Regulation of Development, Interference with Wetlands and Alterations

to Shorelines and Watercourses (Ontario Regulation 155/06).

37. Where, as a result of a planning application, new Floodline, valleyland, or stream corridor mapping has been generated to the approval of the Niagara Peninsula Conservation Authority, amendments to this Plan may not be required. However, where the planning application involves a site specific Zoning By-law amendment, the City's Zoning By-law will be amended accordingly.
38. Any development adjacent to natural valleys as identified on the Niagara Peninsula Conservation Authority's regulation mapping must obtain approval from the Niagara Peninsula Conservation Authority. This should occur during the review of planning applications. The City's Zoning By-law may recognize all valleylands and stream corridors through an appropriate zoning which incorporates minimum structural setbacks in accordance with the Niagara Peninsula Conservation Authority's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (Ontario Regulation 155/06).