

SECTION 14 - FLOOD AND FILL CONSTRAINT AREA

14.1 **INTRODUCTION**

In addition to the areas that have been designated as "Flood Plain" in this Plan and which are subject to the policies of Section 13 of this Plan, there are lands throughout the County which may be subject to natural hazards (e.g. fill lines, steep slopes, unstable soils (muck) and wetlands (for their flood control function)). The exact location of such lands have not been identified through detailed study and therefore their exact boundaries are open to some interpretation.

Although these additional natural hazard lands have not been identified the potential hazards associated with them are very real and should be recognized by the County, local municipalities, and the affected property owners. Accordingly, it is the intent of this Section of the County Plan to identify these additional lands as a "Flood and Fill Constraint Area" and to set forth suitable policies for the use of these lands.

14.2 **GOALS**

The following goals are established for the "Flood and Fill Constraint Area" designation:

- (a) To identify those lands in the County that are subject to flooding or erosion and which have not been identified as being within the "Flood Plain" designation established by Section 13 of this Plan;
- (b) To prevent the needless destruction of property from flooding by prohibiting/restricting new development and the redevelopment and expansion of existing development;
- (c) To assist in the development of a flood plain management program which will ensure proper land use and prevent or minimize the risk of property damage, loss of life, and disruption from flooding;
- (d) To develop a set of policies which can be applied in concert with the policies for other land use designations established by this Plan;
- (e) To encourage and promote co-operation between the Ministry of Natural Resources, the Conservation Authorities, the County, local municipalities, and individual property owners in dealing with issues and concerns related to flooding within the identified "Flood and Fill Constraint Area"; and
- (f) To preserve, conserve, and enhance the natural environment associated with watercourses in the County.

AMENDED BY OPA No. 142

14.3 **LAND USE DESIGNATION AND MAPPING**

Policies for the "Flood and Fill Constraint Area" designation shall apply to the areas shown as "Flood and Fill Constraint Area" on Schedule "C" (Land Use Constraints) to this Official Plan.

The area shown as "Flood and Fill Constraint Area" on Schedule "C" are based on designations/areas as identified by the Conservation Authorities, specifically through the new generic regulatory lines under Ontario Regulation 97/04, specifically Ontario Regulations 147/06 (Ausable Bayfield Conservation Authority), 150/06 (Grand River Conservation Authority), 157/06 (Upper Thames River Conservation Authority), and 164/06 (Maitland Valley Conservation Authority). In accordance with the policies of Section 14.4 below, the "Flood and Fill Constraint Area" designation is to be applied as an overlay or constraint designation.

14.4 **DEFINITION/PERMITTED USES**

The "Flood and Fill Constraint Area" designation as established by this Plan shall apply to those lands and watercourses which have been flooded, are susceptible to flooding under severe conditions, or are subject to erosion and which have not been designated as "Flood Plain" under Section 13 of this Plan.

The "Flood and Fill Constraint Area" designation is not intended to be a freestanding or separate land use designation, but rather is intended to be an "overlay" or "constraint area" over and above other land use designations established by this Plan. The policies for the "Flood and Fill Constraint Area" shall apply in addition to all applicable policies for the underlying land use designation. For the purpose of this Plan, the definitions of one zone concept, two zone concept, floodway, and flood fringe as set out in Section 13.4 of this Plan shall apply.

The permitted uses in areas designated "Flood and Fill Constraint Area" shall be in accordance with the applicable land use policies for the underlying land use designation as identified on Schedule "A" to this Plan. The "Definition/Permitted Uses" Section for each of the land use designations sets out the permitted land uses for that designation. The uses permitted by the underlying designation shall be permitted only to the extent that they do not conflict with the policies established for the "Flood and Fill Constraint Area" designation.

14.5 **POLICIES**

14.5.1 **Boundaries**

In the absence of more detailed mapping, the boundaries for the "Flood and Fill Constraint Area" designation as shown on the attached Schedule "C" are to be considered as general and not absolute. These boundaries are based on the approved fill line mapping criteria of the various Conservation Authorities and aerial photograph interpretation.

When more detailed mapping becomes available, it is intended that the County/local municipality will consult with the applicable Conservation Authority for the purpose of determining whether an amendment to this Plan will be required in order to reflect the new mapping.

14.5.2 **Study Requirements**

Where detailed floodline information or hazard related information is required to assess the development proposal, the development proponent/landowner shall be responsible for preparing the study and for providing the required information to the Conservation Authority and the County/local municipality. The purpose of these studies is to locate the hazardous area and avoid it for new development. These studies must be approved by the Conservation Authority and the land owner/proponent should first consult with the Conservation Authority to determine the extent of information that is required.

14.5.3 **Buildings and Structures**

In accordance with Provincial policy, buildings and structure shall not be constructed or erected in floodway areas with the exception of those buildings and structures that are necessary for flood and erosion control. Where flood or erosion control buildings and/or structures are proposed, they must be approved in writing by the appropriate Conservation Authority prior to being approved/permitted by the local municipality.

With the two zone concept, new buildings and structures and/or expanded buildings or structures may be permitted in accordance with Section 13.4 in the flood fringe areas provided that any flood hazard constraints can be overcome to the satisfaction of the appropriate Conservation Authority. Written confirmation from the appropriate Conservation Authority and a permit, if required, stating that the Conservation Authority approves of the development and that it is satisfied with the floodproofing measures proposed must be provided to the local municipality before being approved/permitted or issuance of building permit by the local municipality.

14.5.4 **Fill**

The placing or removal of fill of any kind, whether originating on the site or elsewhere, shall not be permitted in the "Flood and Fill Constraint Area" designation unless it is first approved by the appropriate Conservation Authority in accordance with the applicable fill, construction, and alteration to waterway regulations. This policy shall apply to all proposals for the establishment of mineral aggregate extraction operations in areas designated as "Flood and Fill Constraint Area".

14.5.5 **Flood and Erosion Control Works**

Wherever any flood and/or erosion control works are undertaken which result in changes to the boundaries of the areas designated "Flood and Fill Constraint Area", such changes will be incorporated into this Plan through the Official Plan Amendment process with the exception of any "minor adjustments" permitted under Section 19.2 of this Plan.

14.5.6 **Setbacks**

Where the nature of a hazard and the physical characteristics of a site warrant it, setbacks for buildings and structures from areas designated "Flood and Fill Constraint Area" shall be imposed. The extent of such setbacks shall be determined in consultation with the appropriate Conservation Authority and will be implemented through the local municipality's implementing Zoning By-law, where appropriate.

14.5.7 **Land Dedication for Park or Other Public Recreation Purposes**

Where new development is proposed on a site, part or all of which is designated "Flood and Fill Constraint Area" by this Plan, and the owner/proponent is required to convey land for park or other public recreation purposes to the local municipality as a part of the development approval process, it is a policy of this Plan that lands which are designated as "Flood and Fill Constraint Area" shall not necessarily be acceptable as part of the land dedication requirement.

14.5.8 **Woodlots and Forest Areas**

ADDED BY The clearing of woodlots and forest areas in areas designated "Flood and Fill
OPA # 47 Constraint Area" shall not be permitted with the exception of any clearing that may be permitted in accordance with the County of Perth Forest Conservation By-law.

14.5.9 **Re-establishment of Vegetation Cover**

It is a policy of this Plan that the County encourages the re-establishment of vegetation cover and buffer areas along the watercourses that are in areas designated "Flood and Fill Constraint Area". The advice and assistance of the Ministry of Natural Resources and the appropriate Conservation Authority may be sought in regard to such matters.

14.5.10 **Zoning By-law**

The areas which are designated "Flood and Fill Constraint Area" on Schedule "C" shall also be identified as "Flood and Fill Constraint Areas" in the implementing Zoning By-laws of the local municipalities. These Zoning By-laws will contain provisions consistent with the policies for the "Flood and Fill Constraint Area" designation as set forth in this Plan.

14.5.11 **New Site Specific Amendments**

ADDED BY (1) Lot 14, Plan 280 in the Elma Ward of the Municipality of North Perth
OPA # 171 (Schedule "A-171"):

Notwithstanding the applicable policies of Section 14.5.3, a use described as a single-detached dwelling shall be permitted on Lot 14, Plan 280 in the Elma Ward, Municipality of North Perth, subject to the following criteria:

- (a) The use must be such that it can be adequately served by a private on-site sewage system and a private on-site water supply system;
- (b) All access and development shall meet the applicable requirements of the appropriate approval authority; and
- (c) An amendment to the local municipality's implementing Zoning By-law may be required to permit the residential use and to regulate its location.

14.6 **CONSENT/SEVERANCE POLICIES**

The consent/severance policies for the applicable underlying land use designation shall apply in respect to the severance of any land that is within a "Flood and Fill Constraint Area".

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