



MINIMUM PLANNING REQUIREMENTS IN NOVA SCOTIA

Guidebook on Municipal Planning Strategy and Land-Use By-Law Preparation

Department Of Municipal Affairs & Housing

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1.0 OVERVIEW

This document is a “how to” guide that describes the basic components of a municipal planning strategy (MPS) and how it is linked to a land-use by-law (LUB). The contents are designed to assist municipalities in drafting an MPS and implementing an LUB, and to explain how to carry out amendments. The MPS and LUB preparation guidebook will specifically reference sections of the Municipal Government Act (MGA) and Halifax Regional Municipality Charter (Charter), as well as the Regulations Respecting Statements of Policy in Municipal Planning Strategies (Regulations). These documents provide the authority for the MPS and LUB and should be recognized as final authorities when considering what to include in municipal policy.

The approaches described and examples cited in this document are presented as illustrations of many potential approaches and should be tailored to the specific needs of the municipality where they are to be applied.

This guidebook updates section 5.2 of the Local Government Resource Handbook created in 2000. The current document evolved from comments and suggestions from municipal planners, from contents of MPS and LUB submitted to the Department of Municipal Affairs and Housing for review, and court decisions and planning appeal decisions rendered by the Nova Scotia Utility and Review Board. The department intends to continue to update this guidebook in the future, as new situations arise and municipalities propose new solutions to the issues they face.

This guidebook is part of a series of documents created by the Department of Municipal Affairs and Housing to assist municipalities as they carry out land-use planning in their jurisdiction to meet the minimum planning standards for Nova Scotia. The following resources are also available on the department’s [website](#):

1. *Guidebook for Municipal Councils in Rural Municipalities*
2. *Guidebook on Municipal Planning Strategy and Land-Use By-Law Preparation*
3. *Guidebook on Implementing the “Statements of Provincial Interest”*
4. *Guidebook on the Requirement to Engage with Abutting Municipalities*
5. *Model Land-Use By-Law*
6. *Locus User Guide: Municipal Online Mapping Application*
(step-by-step guide to using the Locus mapping web application)
7. *Brochure on Economic Development and Planning*

2.0 GENERAL

The purpose of an MPS is to provide statements of policy for the management of the municipality. Its usual focus is on policies to deal with opportunities and issues related to the development of land, although a wide variety of other issues may be addressed.

An MPS is a legal document and is adopted as a by-law of the municipality. Once approved (see MGA s.208 [Charter s.223]), it has status as a law of the municipality. An MPS should thus be comprehensible to a lay person but also legally interpretable.

It is important to emphasize that a municipality cannot act contrary to its MPS (MGA s.217 [Charter s.232])—for example, by allowing a type of development that the MPS states will be prohibited. Though the policies in an MPS do not commit a council to undertaking any specific project (e.g., sidewalk construction on certain streets), they would prevent a council from carrying out projects in an inconsistent manner or one at variance with the policies.

2.1 AUTHORITY

MGA section 190 [Charter s.208] states,

The purpose of this Part is to ... (b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the adoption of municipal planning strategies and land-use by-laws consistent with interests and regulations of the Province.

Amendments to legislation in the fall of 2018 added that the purpose was to

(ba) ensure that every municipality develops and adopts one or more municipal planning strategies to govern planning throughout the municipality and fulfill the minimum planning requirements (MGA s.190 [Charter s.208]).

The actual items that may be addressed in an MPS are listed in MGA s.214 [Charter s.229] and in the Regulations Respecting Statements of Policy in Municipal Planning Strategies. This section of the MGA [Charter] focuses on the statements of policy required in the MPS, including objectives for current and future land use, implementation of these objectives and engagement with abutting municipalities.

The regulations lay out additional mandatory content requirements for the MPS. These include background and context information, a generalized future land-use map, statements of policy regarding specific types of land use, and a policy on reviewing the MPS and LUB.

The regulations also list discretionary statements of policy that cover three broad categories:

1. In relation to the regulation of development: the use, content, development, and administration of planning tools
2. Specific land-use-related programs
3. General policy related to land use

Many of the discretionary statements of policy in the regulations are notably broad. They are meant to allow municipalities flexibility to create policy to meet unique local needs, while also highlighting areas of importance for short- and long-term planning horizons. An MPS may go beyond the land-use and physical planning elements and deal with social, cultural, and economic issues. However, the ability of a municipality to implement these policies through an LUB are limited, and other means of implementation may be necessary.

2.2 SUBJECT MATTER

The choice and relative importance placed on the subject matter addressed in an MPS is up to each individual municipality within the framework of the Municipal Government Act. It will vary from municipality to municipality, depending upon community goals, objectives, and planning issues. In addition, the degree of municipal control over certain subject matters varies. Some matters are entirely within a municipality's jurisdiction, while others are partially or completely the responsibility of federal or provincial levels of government. For example, authority for setting environmental protection standards on air quality rests with the provincial and federal governments. In this case, policy could state that "the municipality will liaise with the appropriate provincial or federal agency regarding airquality in the municipality."

2.3 BACKGROUND STUDIES

The process of drafting an MPS will usually result in the preparation of separate background studies. While the type and detail of studies will vary depending on development permit and building permit activities in the municipality, relevant studies generally include:

- a summary of historical, current, and future demographic trends
- a summary of existing and historical development patterns
- discussion concerning opportunities and issues in the municipality
- service capacities (e.g., water and sewer systems)
- an updated existing land-use inventory

Separate background studies should be clearly identified and referenced in the MPS and be available to the public. A summary of the major findings of background studies is often contained in the MPS. It is suggested that, at the very least, a list of the studies be included as an appendix to the MPS (see also Section 3.1.2 of this guidebook).

2.4 STATEMENTS OF PROVINCIAL INTEREST

MGA s.193 enables the province to adopt statements of provincial interest that are “necessary to protect the provincial interest in the use and development of land.” The five statements currently in effect can be found in MGA Schedule B. They deal with drinking water, flood risk areas, agricultural land, infrastructure, and housing.

MGA s.196 [Charter s.212] requires that provincial activities must be “reasonably consistent with a statement of provincial interest.” MGA s.198 [Charter s.214] requires that municipal planning documents be “reasonably consistent with the statements.” Municipal planning documents must specifically address these statements and their applicability with the municipality. For further information on applying the Statements of Provincial Interest see the *Guidebook on Implementing the “Statements of Provincial Interest.”*

2.5 PROVINCIAL SUBDIVISION REGULATIONS

A municipality can use the Provincial Subdivision Regulations, or it can adopt its own municipal subdivision by-law. The MGA requires the minister to prescribe Provincial Subdivision Regulations (MGA s.270). Subdivision regulations apply to every municipality (see Charter s.280) and set out the framework for subdividing land in the province. Most municipalities have adopted a subdivision by-law, consistent with the Provincial Subdivision Regulations. For those municipalities which have not, the Provincial Subdivision Regulations were deemed to be their subdivision by-law on April 1, 1999, the effective date of the MGA. A municipal subdivision by-law applies to the entire municipality, although there may be different requirements for different areas of the municipality.

A municipal subdivision by-law must be consistent with or more stringent than the Provincial Subdivision Regulations; however, a municipality may vary or waive requirements if:

- its subdivision by-law sets out requirements that are more stringent than those set out in the regulations
- the requirements being varied or waived are dealt with by policy in an MPS

Apart from waiving or varying requirements, there is an extensive list of items that the Provincial Subdivision Regulations do not address that may be included in a municipal subdivision by-law (MGA s.271 [Charter s.281]). Some of these items would require specific supporting policy in an MPS (MGA s.271(4) [Charter s.281(4)]). Examples include

- standards and requirements for the installation of sewer and water services
- shape, access, minimum frontage, and area of a lot the transfer of land for open space
- limiting the number of lots that may be created from an area of land in a calendar year
- requiring up to 10 per cent open-space dedication
- regulating the creation, location, and width of streets and private roads
- cost recovery through infrastructure charges and design, construction or processing fees

3.0 BACKGROUND

Land-use planning guides the orderly development of land, infrastructure, services, and the resources that characterize an area or community. The overall goal is to secure the social, environmental, economic, and cultural well-being of people and communities. All planning is driven by change, an inevitable consequence of the passage of time. The drift towards change is a concept that is not new to municipalities, and the ways communities address change can be seen in the outcomes of reports, plans, and strategies that already exist. For example, capital investment plans, demographic projections, economic development plans, and financial forecasts are among the many initiatives undertaken by council to identify and direct change.

There are often two levels of planning documents for municipalities in Nova Scotia. One or more municipal planning strategies (MPSs) cover the entirety of the municipality, and one or more secondary planning strategies focus on specific geographical areas. The MPSs, as required by legislation, cover the whole geographical area of the municipality and all major areas of concern (i.e., residential, commercial, industrial, and institutional areas, as well as recreational facilities, public open spaces, and resource uses where applicable).

However, there may be existing comprehensive planning strategies, for a limited area or a future need, that deal with parts of the municipality with more precision. In these cases, a secondary planning strategy may be appropriate. Regional, county, or district municipalities often adopt secondary planning strategies to deal with the comprehensive planning needs of their more developed areas. These planning documents cover all the major areas of concern, but often in more specific detail dealing with a complexity of abutting land uses.

3.1 MUNICIPAL PLANNING STRATEGY

Formalized land-use planning is accomplished through the adoption by council of a municipal planning strategy (MPS). An MPS is a policy document that conveys the long-term desired land use of your community. It shows how the land base is expected to change over time. Preparing an MPS presents staff and council with an opportunity to shape the future in ways that are aligned with the values, intentions and desires of the community at large. An MPS must be accompanied by a land-use by-law (LUB). The LUB is required to implement land-use control policies contained in the MPS. There should be enough text, policy, and maps in the MPS to support the provisions in the LUB. ([Section 5.0](#) of this guideline discusses the interrelationship between an MPS and an LUB.)

Planning is often identified as one of a group of activities (along with, for instance, budgeting and staffing) that together can be called *management*. “Municipal planning,” however, is a specialized activity quite apart from the broader management of a municipality. The traditional use of an MPS as a tool to create “policies for zoning” often discourages its use as a broader management tool.

A modern MPS deals with change in areas of municipal jurisdiction other than land-use and development by formally stating objectives and policies concerning the future of any municipal program, service, or department. An MPS provides guidance to staff through standing policies and provides the public with a clear statement of the council's intentions. Ideally, these types of management policies would be carefully integrated with the land-use policies.

Examples of the content of such an MPS:

Objectives	Policy
#1 To increase the level of recreational activities and facilities for teenagers and senior citizens	<ul style="list-style-type: none"> •Conduct a recreation needs assessment to determine activities desired by target age groups. •Create a new staff position in the Recreation Department in year 2. •Renovate the Community Centre, preferably in year 3, with suitable reference to capital budgeting.
#2 To increase the rate of industrial growth in the community	<ul style="list-style-type: none"> •Continue to support the work of the Regional Enterprise Network and Economic Development Committee (Committee of Council). •Prepare and distribute new promotional literature to potential developers. •Request that the Planning Department conduct a comprehensive review of the municipality's approach to promoting development and submit a report to Council in year 2.
#3 To improve long-term capital and public works management	<ul style="list-style-type: none"> •Develop and monitor a ten-year maintenance program for the sewer and water systems. •Request all departments to prepare a five-year vehicle and equipment replacement forecast. •Establish terms of reference for a Development Forecast Study to determine the areas of land likely to require service extensions in the next decade and the financial impact of these. •Annually review all long-term expenditure forecasts in the preparation of the Three-Year Capital Budget.

Some Councils may wish to deal primarily with land-use matters in their MPS, while others may wish to include non-land-use questions. Non-land-use issues do not require an implementing LUB.

This management approach to municipal planning should involve all the relevant municipal departments required to achieve the policy objective. For example, Objective #3, "To improve long-term capital and public works management," would require the involvement of Engineering, Public Works, Planning, and Finance staff.

3.1.1 General Format

Municipal plans in Nova Scotia employ a few different document organizational formats and styles. However, it is important to remember that an MPS is a working public document, and for this reason the objective should

be to make the document user-friendly. It should not be a document that only planners can understand or use. To make the document more user-friendly, try

- using cross references and footnotes;
- listing all the background studies in an appendix
- setting out in an appendix a brief description of how all pertinent boards or committees relate to council (this might describe their purpose, funding responsibilities, and composition; any relevant special legislation might also be cited)
- including a glossary of terms

3.1.2 Unofficial Portions of a Municipal Planning Strategy

It is possible to include background studies or additional information in the MPS; however, it must be clearly stated that these do not form part of the official MPS for legal purposes. In most cases, these should be referenced in the MPS but kept in a separate document.

If there are procedures that may change frequently, such as a municipality's administrative planning procedures or public engagement program, they should not form part of the MPS. If they are included, an amendment to the MPS will be required every time council decides to make changes. This amendment process involves substantial work and may take considerable time to complete. Matters such as this should not be included in the official part of the MPS.

3.2 SECONDARY PLANNING STRATEGIES

Secondary planning strategies (SPSs) may be suitable for a municipality that includes a few diverse areas with unique planning needs. It involves council's amending its MPS to include reference to

- more detailed plans for specific areas of the municipality (e.g., a village, an urban fringe area, different inner-city neighbourhoods)

and/or

- detailed management strategies for municipal services, such as sewers, water, and recreation.

Staff resources may influence council's decision as to the number and scope of secondary planning areas. Staggering the preparation of SPSs over the course of several years may make this more feasible.

An SPS should be consistent with the MPS, though policies may differ to address unique circumstances in the secondary planning area. This will eliminate any conflict between the two documents. For example, the MPS may state that an SPS covering a coastal area may encourage marine related uses, while an SPS that covers prime agricultural lands may discourage residential development.

In some instances, the policy set out in an SPS may necessitate amending the relevant policy in the MPS. When this occurs, the general MPS policy

SAMPLE MPS TABLE OF CONTENTS 1

Functional Classification System

1. Introduction
2. Background & Context
3. Statements of Provincial Interest
4. Land Use
 - a) Residential
 - b) Commercial
 - c) Industrial
 - d) Institutional
 - e) Resource
 - f) Recreational
5. General Government Services
6. Protective Services
 - a) Fire
 - b) Police
7. Transportation Services
8. Environmental Health Services
 - a) Water
 - b) Wastewater
 - c) Solid waste
9. Public Health Services
10. Environmental Development Services
 - a) Housing*
 - b) Natural Resources*
 - c) Industrial Parks*
 - d) Tourism*
11. Recreation & Cultural Services
 - a) Open Space*
 - b) Parks*
 - c) Recreation Facilities*
12. Implementation
13. Review

*Include if not covered in
Land Use section (#4)

should be amended at the same time as council is adopting the SPS. This situation might arise if the SPS establishes a new zone within the future land-use designation. The MPS would need to be amended to incorporate policy establishing this new zone. Furthermore, if supported by council, it may perhaps be necessary to amend the MPS to allow the use of this new zone outside the geographical area of the SPS.

A rural municipality will likely not need the detail required for an urban centre MPS. However, once it has addressed the requirements of the MGA and the Regulations Respecting Statements of Policy in Municipal Planning Strategies, a rural municipality may have areas remaining that need an SPS because these areas have a unique issue associated with land use. For example, existing strategies have been adopted that focus on the protection of the municipal drinking water supply area and on the location of land uses involving wind farms, scrapyards, fish reduction plants, and fox and mink ranches. Ideally, these issues would be incorporated into the policies of the MPS. However, existing single-issue strategies can be converted into SPSs that deal only with specific land-use issues.

4.0 ORGANIZATION

The overriding aim in drafting an MPS is to make it understandable, practical, and workable from a planning, legal, and administrative point of view. The public and council both want a document that is understandable to the professional and the public. There are a many functional approaches to the organization of an MPS, and the choice of approaches rests with the municipality. The following four equally effective examples are suggested systems for organizing an MPS.

4.1 FUNCTIONAL CLASSIFICATION SYSTEM

This approach to developing a table of contents organizes planning policy into categories related to the functional expenditure areas set up by the Department of Municipal Affairs and Housing and used by municipalities in their annual estimates and financial reports. The basis of this system can be found by looking at "Financial Information Return," Appendix B of the *Financial Reporting and Accounting Manual*. The order or sequence of the categories in an MPS may be adjusted to fit the individual municipality. An MPS organized along these lines might first address land-use themes and then deal with the various municipal services.

SAMPLE MPS TABLE OF CONTENTS 2

Regulations-Based Classification System

1. Introduction
2. Background & Context
3. Statements of Provincial Interest
4. Land Use
 - a) Residential
 - b) Commercial & Industrial
 - c) Institutional
 - d) Recreation & Open Space
 - e) Resources
 - f) General Development
5. Municipal Infrastructure & Services
6. Transportation Network
 - a) Water, Wastewater & Solid Waste Services
 - b) Health, Education & Library Services
 - c) Police and Fire Protection
7. Capital Budgeting
8. Implementation
9. Review

SAMPLE MPS TABLE OF CONTENTS 3

Planning Process Classification System

1. Introduction	
2. Background and Context	survey
3. Issues and Opportunities	analysis
4. Goals and Objectives	plan
5. Policies	
6. Implementation and Monitoring	

4.2 REGULATIONS-BASED CLASSIFICATION SYSTEM

A simpler alternative to the functional classification system is to use the Regulations Respecting Statements of Policy in Municipal Planning Strategies as a base, adding Municipal Infrastructure & Services. A separate section could then be included to link MPS policies with the capital budgeting process.

4.3 GEOGRAPHIC CLASSIFICATION SYSTEM

The Geographic Classification System can be used independently or combined with the Regulations-Based Classification System. For this system, the MPS would be organized around geographical areas such as neighbourhoods, communities, town centres, or resource areas. This approach may be most appropriate for more rural municipalities. For example, an MPS for a rural municipality might be organized around two areas: “rural hamlets” and “areas outside the hamlets,” with each area including policy only for relevant land-use activities. This approach was used in the Municipalities of Kings County and Yarmouth and Barrington Districts. In a town, an MPS might be combined with the Regulations-Based Classification System, singling out the town centre and the fringe for detailed treatments.

4.4 PLANNING PROCESS CLASSIFICATION SYSTEM

For some municipalities, it may be preferable to organize the MPS to reflect the planning process. This can range from the traditional process of survey, analysis, and plan (see Sample MPS Table of Contents 3) to the rational decision-making approach. The rational decision-making approach consists of the following steps:

- a) the decision to adopt a plan
- b) goal formulation and identification of objectives
- c) generation of possible alternative courses of action
- d) evaluation of alternatives
- e) implementation (including policy formulation) and monitoring
- f) Specific Content

4.5 CONTEXT

An MPS should begin by explaining the purpose and role of the document. This should include basic statements such as: “the municipal planning strategy is a legal document, a policy document, and a framework for development, and where land and development issues are covered in a municipal planning strategy, they shall be implemented by the land-use by-law.” This is to ensure the legal status of the MPS is fully understood. Reference should also be made to the authority under which the MPS is being prepared (i.e., to the Provincial legislation and regulations), and the location of the area covered by the MPS should be indicated on a map.

The MGA requires public participation and engagement with abutting municipalities during the preparation of an MPS. It is recommended that these, together with the overall planning process used to prepare the MPS, be acknowledged and briefly outlined.

4.6 BACKGROUND

Each municipality is unique; consequently, policies should reflect the local situation. In order to understand the purpose and suitability of the policies, background information on the municipality is provided. This can include historical demographic and development trends, the level and extent of municipal services, characteristics of the community, identification of major planning issues, and the county or regional setting within which a municipality exists. This information may be outlined in greater detail in separate background studies, but the MPS should include enough information from these studies to support the policy statements. If the context, scale, and level of activities in a municipality are not established in an MPS, it is difficult to understand the appropriateness of the policies; and to evaluate their effectiveness.

4.7 STATEMENTS OF PROVINCIAL INTEREST

Every municipal planning strategy must be reasonably consistent with the Statements of Provincial Interest (SPI) (*MGA S.198 [Charter S.214]*). Legislation and regulations are not prescriptive in how the SPI are referenced in an MPS; however, it is strongly encouraged that municipalities organize their MPS to include a section or subsection on the SPI (refer to [Section 4.0](#) of this Guidebook). This section should list each of the SPI and speak to how it applies in the local context with references to specific policies in the MPS. This will allow council and municipal staff to ensure that the MPS is reasonable consistent with the SPI and increase councils’ confidence that the plan will meet the requirements of the Department of Municipal Affairs & Housing review.

Statement	Statement 1: Drinking Water	Statement 2: Flood Risk Areas	Statement 3: Agricultural Lands
Application	This Plan protects drinking water quality from harmful development through the creation of the Public Water Supply Designation in this Plan and a series of Wellfield zones in the Land Use By-law. The uses and density of development permitted in each zone are aligned with the source water protection plan for each water supply.	This Plan takes steps to restrict development in areas considered to be at risk of flooding for the return periods as defined in the SPI. This is achieved through the creation of the Environment Zone in the Land Use By-Law and its application to the geomorphic floodplains that are currently mapped.	This Plan does not deal directly with the preservation of agricultural lands. The municipality does not have any viable agricultural land within its boundaries. However, it does restrict development that may be harmful to agricultural production for properties adjacent to agricultural land in abutting municipalities. The Plan also encourages development in serviced areas of the municipality which will help reduce development pressure on agricultural land in the region.
Policies	5-6, 5-7, 5-8, 5-9	4-1, 4-2, 4-5, 4-8	2-8, 5-5, 6-1, 6-5

The example provided here uses a chart format that highlights how the SPI are applied in the MPS and LUB and the specific policies for implementation.

4.8 POLICIES

Policies should be concise, understandable, and defensible, containing just enough text to justify and support them. To make the MPS easier to follow and understand, policies should be grouped and set off from the rest of the text. They need to strike the right balance between the general and the specific and should be numbered and indented in bold or italic font, or otherwise differentiated from the general text of the MPS.

Policies should be internally consistent and not in conflict with other policies in the MPS or extend beyond a municipality's jurisdictional authority. Policies in which council can exert only indirect influence should be differentiated from those over which council has direct control. In the case of the former, the policy should identify the authoritative body. For example:

Policy 6: *It shall be the intention of council to discuss moderate-income housing with the Department of Community Services and request that additional units be developed in the town.*

Given that an MPS is a municipal by-law, policies should appear as legally interpretable statements. Over time, these policies may be interpreted in appeals before the Nova Scotia Utility and Review Board. Therefore, policies should be clear and precise. If policies are difficult to understand or overly broad, they may well be interpreted differently than council intended or be difficult to apply appropriately through the LUB. Very general policies such as "Council shall provide for the well-being of all citizens" should also be avoided, because they give council little decision-making direction.

At the same time, council's flexibility is reduced when policies in an MPS are too specific, such as they would be if standards were actually listed. When this occurs any change in the standard will require an MPS amendment. This may require council to have to amend the MPS for minor changes rather than for fundamental shifts in policy. Therefore, restrictive, specific policies, such as "Each lot shall be a minimum of one acre" should be avoided or left to the LUB, except if council intends to be very rigid. If rigid policy is deemed necessary, council should consider using a secondary planning strategy for the topic or area requiring more specificity (see [Section 3.2](#) of this guidebook for more information).

4.8.1 Terminology

When writing policies, choose your words carefully. Terms used in MPS policies should be consistent with the terms used in the LUB. Some terms—"light industry," for example—have often been used inconsistently but should be used or described in policies in a manner consistent with the definitions given in the LUB. Other examples of terms that are often used inconsistently are "institutional uses" and "low density residential," "medium density residential," and "high density residential." Ideally, a glossary of terms is provided in the MPS and the LUB that defines how specific words should be understood in the context of the planning documents.

The wording of policies should reflect an awareness of subtle differences in the meanings of words used. One example is seen in the difference between "support" and "encourage": the former refers specifically to a financial commitment by council, whereas the latter is used generally, with the sense of *giving assistance* to in non-financial ways. Likewise, policies that deal with the expenditure of money are usually written as *intentions*, not as mandatory prescriptions or regulations, so that council is not committed to the action if the budget does not provide for it. In this context, the word "shall" will indicate something is mandatory, but of course the use of the word "may" will not. Accordingly, it is better to use the clause, "it shall be the intention of council to acquire land for a playing field next to the elementary school" than to say, "council shall acquire land for a playing field." In general, it is recommended that all policies employ the "intention approach" and begin with "It shall be the intention of council...."

4.8.2 Future Land-Use Designations and Zones

An MPS should contain policies describing all the desired future land-use designations and the range of uses that will be permitted in each designation. The areas where these designations will be applied should also be described. The land-use designations must be illustrated on a map, often called the Generalized Future Land-use Map (GFLUM), that depicts the intended future uses of the lands as contemplated in the municipality's municipal planning strategy. The policies related to land-use designations

should outline the zones that will be established in the LUB, as well as the general range of permitted uses that will be allowed as of right within each zone. Likewise, in establishing future land-use designations, policies should indicate how all the lands within these designations will be zoned (see also [Section 6.2.1](#) of this guidebook).

4.8.3 Permitted Uses

Policies outlining the range of permitted uses for the various future land-use designations and zones should provide a degree of flexibility. Flexibility in the policies means an MPS amendment will not be required with every change to the permitted uses. This can be achieved by using phrases such as “uses similar to but not excluding” or “uses such as.” Employing these phrases would enable a municipality to add some types of permitted uses to the list set out in the LUB without having to employ an MPS amendment. For example, if the policy describing uses permitted as of right in the R-2 zone is flexible, it may be possible to amend the LUB to add “day-care facility” to the list without an MPS amendment.

4.9 IMPLEMENTATION

Consideration must be given to how a land-use policy will be implemented. Will it require a specific future land-use designation, another land-use zone, the establishment of special provisions within a zone, a site-plan, or a development agreement? The MPS is a policy document that indicates the rationale and provides the support for the regulating provisions contained in the LUB. This is in accordance with MGA s.219 [Charter s.234], which requires that an LUB be adopted to carry out the policies of an MPS. Thus, it is necessary to have policies to establish these implementation mechanisms in the MPS.

For example, there might be a policy to limit development on lands designated environmentally sensitive (e.g., wetland or hazardous slopes). By itself such a policy means very little. To make this policy operative, additional policies might indicate council’s intention:

- to create a conservation zone in the LUB with a limited range of permitted uses and then zone the environmentally sensitive areas or hazardous land for conservation
- to allow certain types of development in these areas only by re-zoning
- to establish specific criteria to be used by council when evaluating re-zoning requests

Then, the measures must be carried out in the LUB.

The implementation section is one of the most important components of an MPS, because it describes how its policies will be put into effect. It should be complete, precise, and well organized. An effort should be made to explain policy statements, particularly when they are quite technical.

While the inclusion of a special section on general implementation is recommended, it is recognized that an MPS may be organized with specific implementation policies contained within the various other sections of the MPS. The following items are recommended for inclusion in an implementation section.

Suggested Content of the Implementation Section of an MPS

Subsection	Content
Land-Use By-law (LUB)	<ul style="list-style-type: none"> • indicate what it does and how it relates to the MPS • list all proposed land-use zones to be established • describe the types of LUB amendments (i.e., text and map amendments) • describe the types of development that will be permitted only by amendment (e.g., shopping centres will require a rezoning to a shopping centre zone)
General Criteria for Evaluating Amendments to the LUB	<ul style="list-style-type: none"> • impact upon municipal services • cost/revenue implications • impact upon schools and other community facilities and adjacent uses • development form • development potential of natural sites • general land-use compatibility • traffic generation (i.e., increases in volume and locations of access points)
Development Agreements and Criteria for Evaluating Development Agreement Proposals*	<ul style="list-style-type: none"> • explanation of an agreement • a summary of developments to be handled by development agreements (MGA s.225 [Charter s.240]). • types of development and criteria used (If the developments to be considered have not previously been discussed in detail, policies should be included here to clearly indicate the types of development and the criteria used when evaluating a proposal.) • items that may be included in an agreement • a summary of general criteria used when evaluating all or certain types of development agreement proposals; for example: <ul style="list-style-type: none"> ◦ adequacy of municipal services to the site (Note: agreements cannot require municipal services.) ◦ cost/revenue implications ◦ environmental impact (Note: agreements cannot include issues, such as air pollution, without legal authority for their inclusion.) ◦ impact upon adjacent uses ◦ development form ◦ traffic generation (i.e., increases in volume, locations of access points, traffic flows, and parking areas) ◦ general land-use compatibility ◦ hours of operation for the proposed use ◦ proposed buffering and landscaping
Site-plan Approval	<ul style="list-style-type: none"> • uses subject to site-plan criteria • areas under site-plan control • matter subject to site-plan control
General Flexibility Clause	<ul style="list-style-type: none"> • See Section 5.4 of this guideline.
Development Officer	<ul style="list-style-type: none"> • description of duties and statutory authority

*Development Agreements and Evaluation Criteria

Criteria for amending the LUB may be very specific, especially when it relates to large developments or amendments in environmental constraint areas. An additional criterion for large commercial or industrial developments may be the distance from residential areas. In such cases, the more specific criteria would be incorporated into the section of the MPS that deals with that land use. For more general criteria, a list in the implementation section of the MPS will minimize the repetition that would occur if all criteria were listed for every land-use type.

Non-conforming Uses and Structures*	<ul style="list-style-type: none"> Indicate whether the provisions of MGA s.238–241 [Charter s.253–256] are to apply, or if policies are to be adopted pursuant to MGA s.242 [Charter s.257], which allows for some relaxation of the act's provisions. 	<p>*Non-conforming Uses & Structures</p> <p>MGA s.239 sets out provisions with respect to non-conforming structures for residential use. This addresses the situation of older neighbourhoods with dwellings that pre-date existing planning regulations. Usually, if an older dwelling is completely destroyed by fire, the owner can only rebuild if the new dwelling conforms to the existing zoning provisions. However, existing zoning may require a building envelope substantially different from the former dwelling and incompatible with the neighbourhood. The zoning requirements may also restrict or limit renovations or repairs to these dwellings, including such things as new front porch steps. To deal with these issues, LUBs can use a general zoning provision worded similarly to MGA S.239.</p>
Subdivision Controls	<ul style="list-style-type: none"> the basic controls and their purpose items varying from the Provincial Subdivision Regulations summary of items enabled as a result of supporting policy in the MPS (e.g., 10 per cent open-space dedication and infrastructure charges) 	
Other Relevant Municipal By-laws	<ul style="list-style-type: none"> minimum maintenance standards by-laws concerning manufactured-housing parks heritage district by-laws 	
Capital Improvement Program	<ul style="list-style-type: none"> discussion of relationship between the MPS and the capital work program concise listing of capital projects identified in the MPS and a summary of council's general capital expenditure priorities 	
Guidance for Variances	<ul style="list-style-type: none"> the variance process any additional items with supporting policy in the MPS (MGA s.235(2) and s.242(1) [Charter s.250(2) and s.257(1)]) 	
MPS Amendments	<ul style="list-style-type: none"> the amendment process, including public participation changes to the Generalized Future Land-use Map bringing an MPS into line with the Statements of Provincial Interest changing policy direction changes as a result of other activities outlined in the MPS (e.g., in preparing and adopting a Secondary MPS) 	
MPS Review	<ul style="list-style-type: none"> The MGA S.214(1) [Charter S.229(1)] requires statements of policy on "(c) the implementation and administration of the municipal planning strategy and the periodic review of the municipal planning strategy, its implementing land-use by-law and the extent to which the objectives set out in the municipal planning strategy are achieved." 	
Ongoing Planning*	<ul style="list-style-type: none"> policies for future secondary planning strategies public information and education programs integration of capital budgeting role of the Planning Advisory Committee (PAC) monitoring process 	<p>* Ongoing Planning</p> <p>The ongoing planning process is seldom given more than a passing acknowledgement in strategies, but it is important. Planning does not stop between the time an MPS is adopted and the time a review is required. However, the monitoring process is more administrative in nature; therefore, it may be practical to make these policies more general than particular.</p>
Recovery of Expenses	<ul style="list-style-type: none"> A municipality may establish a fee to cover expenses (MGA sections 220(4), 221(2), 232(4), and 237(3) [Charter sections 235(4), 236(2), 247(5), 252(3)]): the cost of advertising of LUB amendments and development agreements (Should advertising cost more than the established fee, the applicant may be billed for the difference; if less, the difference shall be refunded.) the cost of notifying adjacent landowners the cost of posting a sign administrative processing costs 	

5.0 BY-LAW RELATIONSHIP

5.1 GENERAL

If the municipal planning strategy (MPS) provides the future vision for the municipality, the land-use by-law (LUB) provides the tools to achieve it. An LUB is the principal mechanism for implementing the land-use policies provided in the MPS. Like the MPS, the LUB is a by-law of the municipality adopted by council and subsequently reviewed by the Department of Municipal Affairs and Housing (DMAH) in conjunction with the MPS. The LUB sets out such things as

- the land-use zones (including any comprehensive development districts)
- permitted uses for these zones
- standards for development
- performance standards
- developments to be considered by development agreement
- developments to be considered by site-plan approval process
- future transportation reserves

The LUB also includes sections on definitions, signs, administration, interpretation, general provisions for all zones, and a map dividing the municipality into use districts or zones as set out in the text of the LUB. New LUB provisions are not retroactive and will not affect existing buildings or uses.

The LUB can only be adopted or amended to carry out the intent of the MPS (MGA s.219(3) [Charter s.234(3)]). If an MPS does not have policies respecting a matter contained in the LUB, that portion of the LUB may be held to be invalid. For example, an LUB may contain a

Metric Conversions

Metric standards should be used with suitable round figures. If an imperial equivalent is deemed necessary, it should follow in parentheses (i.e., 5 m [16.4 ft])

provision that neighbourhood convenience stores do not exceed 1,500 square feet of commercial floor space in area. However, if the MPS contains no supporting policy for limiting the size of neighbourhood convenience stores, the provision may be declared invalid if challenged.

If the intent of a land-use policy is not carried into implementation through an LUB, it lacks enforceability. For example, the MPS must

identify developments only to be permitted through a development agreement, but to become operative these policies must be included in the LUB. In addition, MGA s.220(5) [Charter s.235(5)] identifies LUB provisions that require supporting policies in the MPS.

These include provisions to control access, outdoor storage, location of disposal sites, the alteration of land levels, and topsoil removal.

Normally, LUB provisions will be covered by the more general MPS policies. However, if the MPS does not set the actual standards, it may be useful to add details about the rationale for the provisions in the MPS. By clearly indicating the rationale for provisions—for instance, as regards yard requirements—the MPS will serve as a guide to both the development officer and council in judging minor variances. If the detailed standards were incorporated into the MPS, any changes would require an MPS amendment rather than an LUB amendment. The former is a longer process requiring review by the DMAH. For ease of use and maintenance, the MPS and LUB should be self-contained and separate documents.

Theme	Information
Zoning Parameters	<ul style="list-style-type: none"> • existing land-use • municipal boundaries • property mapping • collecting ownership information to use as a basis for estimating lot sizes and frontages and determining zone boundaries
Property Characteristics	<ul style="list-style-type: none"> • building characteristics • height, bulk, densities • setback, yards, and coverage • sign characteristics
Development Pressures	<ul style="list-style-type: none"> • large land ownerships and assemblies • current or proposed public projects • current re-zoning and subdivision applications • developable land • adequacy of existing controls
Problems that May Be Overcome by Zoning	<ul style="list-style-type: none"> • optimum use of services • sign problems • parking and driveway locations • strip development • potential incompatible land-uses and features
Natural Constraints & Potentials	<ul style="list-style-type: none"> • steep slopes, marshes, swamps, and flood plains • municipal drinking water supply areas • vistas, views • wildlife areas • unique forests or vegetation
Infrastructure & Servicing	<ul style="list-style-type: none"> • transportation/road network (existing and proposed) • extent of municipal drinking water infrastructure services • extent of municipal sewer and wastewater services • extent of municipal solid waste services • utilities easements
Special Treatment Areas	<ul style="list-style-type: none"> • downtown cores • historic buildings • resource-based villages (fishing, farming, etc.) • hazard lands

5.2 LAND-USE BY-LAW

The *Model Land-Use By-Law*¹ outlines some format and content suggestions for LUBs. However, depending on the nature of the municipality (e.g., fishing and agricultural communities, or urban communities) not all suggestions will be appropriate, particularly with respect to the range of zones, the mix of uses permitted within zones, and development standards (i.e., sign provisions, parking standards, and minimum lot-size requirements). Above all, it is important that the municipality adopt its own standards, zones, and permitted uses in accordance with the policies in its MPS and the local context. The type of detailed information that may be required for the LUB and zoning map is provided in the table on the left. (Note: Some of the information may not be required for all areas.)

5.3 DEFINITIONS

The definition part of an LUB is usually extensive, though its development may sometimes not be given as much consideration as the other parts. However, its importance should not be overlooked; it provides the definitive meaning of words and phrases as used in the LUB, with the aim of ensuring that everyone can determine that meaning. Adequate consideration, then, must be given to the definitions provided in the LUB. These definitions need to reflect the meaning of the term as they are used in the MPS. Sometimes definitions used in an LUB for one municipality are copied verbatim into an LUB for another. This may cause future difficulties if the two communities are dissimilar.

¹ Model Land-Use By-law is one in a series of documents created by the Department of Municipal Affairs and Housing to assist municipalities as they carry out land-use planning in their jurisdictions to meet the minimum planning standards for Nova Scotia. Also see the “**1.0 OVERVIEW**” section at the beginning of this guidebook.

For example, a rural municipality may use a very broad definition of “home occupations” that would not be acceptable in the case of a town. Similarly, in rural areas the definition of “commercial and industrial activities” may not need to be as rigid as it would be for more urban areas. If a term is not used in the LUB or the MPS or it follows the commonly accepted definition of a word found in a dictionary, it should not be included. Remember, a definition can always be added to an LUB by amendment if necessary.

5.4 LAND-USE BY-LAW AMENDMENTS

There are two types of LUB amendments, text and map amendments. These types of amendments can be undertaken without MPS amendments, providing there is supporting policy enabling this in the MPS. Text amendments involve such things as changes to the lot-size requirements in a zone, changes to a definition, or adding a use to the list of permitted uses in a zone, provided they are enabled by policy in the MPS. Map amendments are the most frequent and involve what is generally known as “re-zoning”— that is, a change to the zoning map.

The MPS must provide guidance through policy for amending the LUB. It should indicate that amendments to the LUB are a normal procedure in the process of land development. In addition, the MPS must set out the criteria that should be used by council in evaluating an LUB amendment request. The implementation portion of an MPS usually includes a policy setting out the general criteria council will use when evaluating LUB amendments. When refusing an amendment, council is required to give reasons for doing so based on the policies in the MPS. If a change to the LUB can be determined to be in contravention of MPS policy, the change can be overturned on appeal to the Utility and Review Board. However, if an LUB amendment is made to implement an MPS amendment, there is no opportunity for an appeal to the Utility and Review Board.

5.5 GENERAL FLEXIBILITY CLAUSE

As noted in section 5.4.2 of this guide, a map, often called the Generalized Future Land-use Map (GFLUM), that depicts the intended future uses of the lands as contemplated by the municipality’s municipal planning strategy is required. However, it is often not possible to anticipate precise boundaries between various land-use types. Therefore, in many areas, the MPS accommodates amendments to the LUB (i.e., zoning map changes) without requiring amendments to the MPS. This is accomplished by including a policy in the implementation section of the MPS referred to as “the general flexibility clause.” The policy might read as follows:

Policy: *It shall be the intention of council to consider a request for an LUB amendment to zone any area immediately adjacent to a future land-use designation displayed on the Generalized Future Land-Use Map in keeping with the zoning permitted in the adjacent designation, without requiring an MPS amendment, provided that all policies of the MPS are satisfied.*

When such flexibility is not desirable (e.g., for areas of serious land-use conflicts or where physical boundaries exist such as major streets or railway lines), a fixed boundary may be preferred. Any specific exceptions should be clearly described in policy and shown on the GFLUM as not being subject to the “boundary flexibility clause.” (See [Section 6.0.](#))

5.6 DEVELOPMENT AGREEMENTS

A development agreement is a legal agreement between a council and a property owner. It runs with the land and is in force until discharged by council. It is a development control tool that overrides existing zoning and provides new development requirements for a site. When a municipality decides to consider certain types of development proposals by development agreement, its MPS must identify these developments in policy, together with the criteria council will use to evaluate such proposals. In addition, the LUB must include a section that identifies those developments that will be considered by development agreement and in what geographical areas they may be located (MGA s.225 [Charter s.240]).

5.7 SITE-PLANS

Unlike a development agreement, which can involve a lengthy and expensive process, the site-plan approval process is a simpler way of dealing with site-related issues. However, the site-plan approval is limited to dealing with only one lot at a time, whereas a development agreement can involve a subdivision or multiple lots. To use this tool, a municipality must have policy support in its MPS identifying the use or uses and/or the zone where the municipality wants to have greater control over site-specific items. Items that can be dealt with in a site-plan are set out in MGA s.231(4) [Charter s.245A(4)]. The policy provisions must explain why the municipality requires this extra control. The LUB provisions should also provide guidelines for the development officer in evaluating site-plans.

A development subject to the site-plan approval process must be a permitted use in the zone in which the proposed development is to be located. The negotiations for the site-plan take place between the developer and the development officer (MGA s.232(1) [Charter s.247(1)]) and can be discharged at any time in whole or part by the development officer with the agreement of the property owner (MGA s.232(5) [Charter s.247(8)]).

A site-plan is not a written contract; it is a drawing or plan that includes written notations. It deals with the site items set out in the MPS and LUB. If provided for in the MPS and LUB, it can regulate buffering, retention of existing vegetation, lot grading, outdoor lighting, driveway access, parking location, signage, management of storm or surface water, and larger notification distances. The site-plan cannot regulate land-use, the height of a building, the hours of operation, or the number of required parking spaces.

Prior to the approval of the site-plan, the applicant must agree in writing to carry out its terms. This can be done simply; for example, a notation on the site-plan itself or an attachment to the plan can suffice. When a development officer approves or refuses a site-plan, the process and rights of appeal are the same as those for a variance (MGA s.232(2) [Charter s.247(2)]). This requires notice to neighbours with 14 days to appeal the decision to council. If the owner is in breach of the site-plan, the municipality may enter the land and perform any of the terms contained in the site-plan. Doing so would constitute a first lien on the land (MGA s.265 [Charter s.275]).

Site-plans are specific to the property and continue to apply in the event the property is sold, unless discharged by council (MGA s.234 [Charter s.249]). *An owner of the land may later wish to change the use of the property to another permitted as of right in the zone. If the new use is subject to site approval, the original negotiated site-plan would be revisited.*

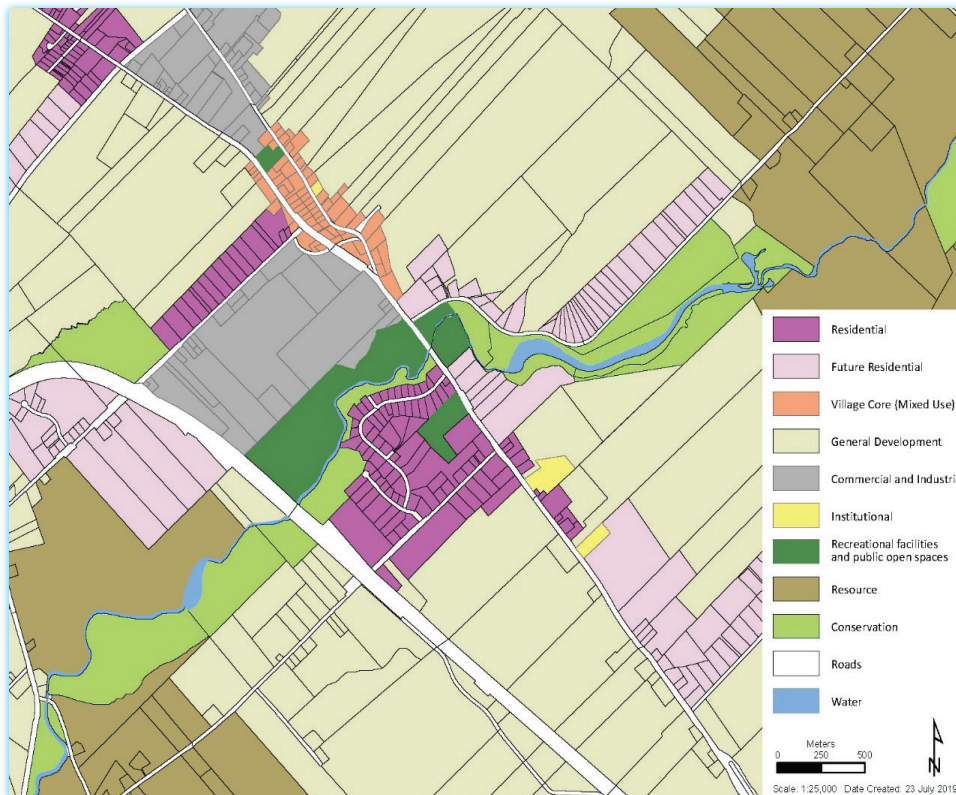
6.0 MAPS AND GRAPHICS

6.1 GENERALIZED FUTURE LAND-USE MAP

Regulations Respecting Statements of Policy in Municipal Planning Strategies requires that an MPS includes a map that depicts the intended future uses of the lands as contemplated by the municipality's municipal planning strategy, often called the Generalized Future Land-use Map (GFLUM) (also see [Section 4.8.2](#) of this guidebook for further information). This map shows the desired future land uses for the municipality in broad categories. It reflects the MPS policies and guides the zoning in the LUB. It should be at a scale that can be readily interpreted, preferably at the same scale as the zoning map to facilitate comparison and provide context. The inclusion of major street names and landmarks is strongly suggested.

Designations on the map should concentrate on future intended land uses, not the existing uses, although in many situations they may be the same. Designations should be drawn as generalized areas. Most boundaries will be flexible, and this should be reflected in the graphic style. Conversely, the map should clearly identify any boundaries that are intended to be rigid as indicated by policies in the MPS.

Generalized Future Land Use



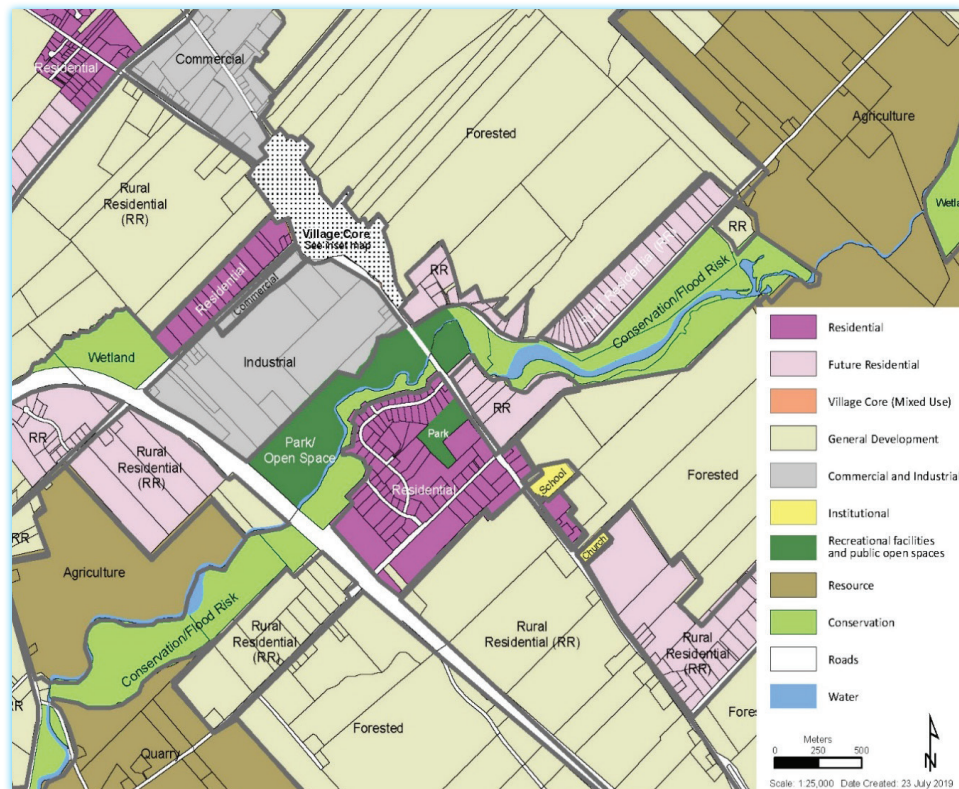
6.2 ADDITIONAL MPS MAPS

Though they are not required, other maps should be used in the MPS to convey basic information and explain policies. Three suggested maps are for illustrating existing land-use inventory, existing and future services (roads, sewer, and water), and development constraints (e.g., flood risk areas, unstable slopes). Other maps, photographs, charts, and line drawings can be included wherever it is useful to clarify or illustrate information or policies. Examples include special features maps, regional context maps, maps showing parks and open-space proposals, road and street maps (showing arterials, collectors, local streets, traffic problem areas, and any proposed streets), and community facilities maps.

6.2.1 Existing Land-Use Inventory Map

This map can be used to convey a great deal of information about such matters as land-use conflicts and development capacity. It should be as up to date as possible and in as much detail as possible given the constraints of scale and data limitations. For context, major street names and landmarks can be shown, and highlighting problem areas or planning-issue areas would be beneficial.

Land Use Inventory



6.2.2 Services Map

A services map should show the existing sewer and water lines in the municipality, the potential serviceable area, the pipe sizes, and any planned future extensions to these services. This information visually helps to explain the rationale of zoning provisions and future development policies, besides providing basic public information.

6.2.3 Development Constraints Map

A development constraints map should show areas based on policies in the MPS that designate land conservation, environmentally hazardous areas, or other factors that may limit development in certain areas. For example, it might show areas of subsidence, flooding, and steep slopes or identified flood-risk areas specifically tied to the provisions and definitions provided in the Statement of Provincial Interest Regarding Flooding.

6.3 LAND-USE BY-LAW ZONING MAPS

A map or maps showing land-use zones must be included as part of the LUB. The zoning maps will constitute *schedules* to the LUB. Boundaries on the map should be based upon easily definable limits, such as property lines, watercourses, or roads. These boundaries are intended to be specific; therefore, they should be accurate enough to enable distances to be scaled. A set of rules regarding interpretation of zone boundaries should be part of the LUB (refer to Part 4, “Interpretation,” in the guidebook, *Model Land-Use By-Law*).

A zoning map must be based upon the generalized future land-use map, although the two maps will differ in certain ways. For example, future land-use designations may be quite general, while zones on the zoning map will be very specific. If map discrepancies exist, they should be explained in the MPS. For example, an area may be designated residential but current zoning presents a mix of uses, such as agriculture, general development, and rural residential. Discrepancies will require supporting policy in the MPS to explain the rationale for future uses. A policy example:

Policy 27: *It is the intention of council to direct future residential development to the east fringe of the central urban hamlet designation to reduce residential development pressure on agricultural land elsewhere in the municipality.*

Similarly, if a future land-use designation permits several different zones, the range of possible zones should be identified in the text and policies of the MPS.

Zoning maps due to their more numerous zone types tend to be much more complicated than generalized future land-use maps, especially in highly developed areas. If colours and patterns are used, it may be difficult to distinguish between the various zones. To make zoning maps legible, it is suggested that the zone codes (e.g., R1, C1) be provided in addition to colour coding.

6.4 SCALE

All maps should be scaled to allow for easy interpretation and manageability. Where feasible, maps should be embedded into the planning documents, except for the generalized future land-use map and zoning maps. These maps are often at a larger scale and may be amended from time to time. Hard copies may also be used for display purposes and should be placed in envelopes that are bound into the corresponding documents.

Larger municipalities (regional, district, county) should prepare municipal-wide maps at a smaller scale (e.g., 1:50,000), with larger-scale maps (e.g., 1:2,000, 1:5,000, 1:10,000) being used for more detailed planning in small communities and urban areas. It is important that detailed planning-area boundaries be clearly illustrated on the municipal-wide map. All maps should include a title (and map number if applicable), a date, a legend, a north arrow, and the scale, along with a bar scale that will remain accurate when reduced.

