

PEARSON ECO-BUSINESS ZONE POLICY TOOLKIT

PRIMERS

LINKS BETWEEN ONTARIO PLANNING POLICY AND PARTNERS IN PROJECT GREEN



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Description

This primer provides an overview of key pieces of Provincial legislation that might be used to support Partners in Project Green and eco-business zone activity. This primer is meant for high level information only and does not represent any legal opinion on the interpretation of the referenced legislation.

Provincial Policy Statement (PPS) 2005

The PPS is currently undergoing review. The PPS provides direction related to sustainability and supports the Pearson Eco-Business Zone through some of the following policies:

- 1.1.1 Interest in efficient development and cost-effective development standards to reduce land required and servicing costs.
- 1.1.3 Support for land use densities and mix to ensure efficient use of resources and infrastructure, and reduce impacts on climate change.
- 1.6.8 Waste management systems to promote reduction, reuse and recycling.
- 1.7.1 Create economic opportunities for increased energy conservation, and renewable and alternative energy.
- 1.8.1 Promote passive energy design, and energy conservation through compact development patterns.
- 1.8.2 Increase opportunities for renewable and alternative energy generation facilities to meet future needs.
- 1.8.3 Allow renewable energy systems throughout Ontario to meet future needs.
- 2.2.1 Promote efficient and sustainable water practices including water conservation and maintaining water quality.

Places to Grow (2006)

The provincial growth management plan supports innovative approaches to reducing energy and resource use, as well as impacts from new development, infrastructure and ongoing operations in employment lands. Some of these policies include:

- S.2.2.6 Employment lands should be planned for compact, transit-supportive growth patterns and retain an appropriate mix of industrial and other employment uses.
- S.3.2.5 To reduce need for infrastructure expansion, development should support strategies for water conservation and demand side management.
- S.4.2.1 Municipalities are encouraged to cooperate with other agencies to create trails and an open space system within built up areas.
- S.4.2.4 Official Plans should support water conservation, including opportunities to recycle water; energy conservation via efficient building practices, land use patterns, and opportunities for renewable energy generation; and waste management strategies that consider new opportunities for reuse and diversion and collaborative management strategies.

Planning and Conservation Land Statute Law Amendment Act, 2006 (Bill 51)

Recently, municipalities were granted a range of increased powers under the Planning and Conservation Land Statute Law Amendment Act, 2006 (Bill 51), which provides:

- Increased clarity and effectiveness in the planning process;
- More flexibility in the use of land use regulation tools;
- Increased information and participation in the planning process; and,
- Greater transparency within the Ontario Municipal Board.

Bill 51 amends the Planning Act, along with other legislation. Some of the amendments to the Planning Act that are relevant to the Partners in Project Green context include:

- Enhanced powers for the range of required information that can be requested as part of ‘complete’ planning applications. Such requirements can be established in Official Plans.
- Expanded definition of Community Improvement Plans (CIP) to include provisions for addressing construction and energy efficiency matters. Eligible costs for grants and loans are also expanded to apply to energy efficient uses, structures, buildings, works and improvements to facilities. Upper tier municipalities are also allowed to establish their own CIPs, and upper and lower tier municipalities may share grants and loans between the different tiers.
- Municipalities can address maximum and minimum height requirements for buildings.
- Municipalities can attach specific conditions to zoning approvals (although this matter has yet to be authorized by provincial regulation).
- New authority to regulate Site Plan Control to address sustainability features and to secure additional off-site improvements such as bike parking or recycling facilities.
- New municipal authority to address sustainability through energy efficient subdivision design and sustainable site design. Parkland dedications may also be waived in lieu of cash if sustainability criteria are met.
- Greater municipal power to protect employment lands by adopting Official Plan policies addressing the erosion and removal of employment lands. With such policy in place, applications to convert employment lands to other uses that are rejected by Council may be prohibited from appealing the decision.

Planning Act

The Planning Act governs out how land use planning is exercised in Ontario and establishes a framework within which municipalities are able to pursue sustainability in planning and development. As legislation, it also requires that matters of provincial interest be addressed in local planning activity. The following sections of the Planning Act might be particularly helpful in achieving the goals of Partners in Project Green.

Brampton, Mississauga and Toronto have already established Community Improvement Plans for other areas within their municipalities.

Economic Development via Community Improvement Plans – S.28

Municipalities can establish CIPs to help achieve sustainability objectives such as energy efficiency, water conservation and district and renewable energy⁵. A municipality may adopt Official Plan policies relating to community improvement, and then subsequently designate specific areas (via bylaw) as a community improvement project area, such as within the Pearson Eco-Business Zone. With such a bylaw in place, municipalities can establish loan and grant programs to provide incentives for land owners, property owners and tenants to undertake improvements to buildings, facilities and works, including for the purpose of energy efficiency. This approach might support the activities of the Building Performance, Green Site, and District Energy Teams to achieve their goals. This tool is oriented towards revitalization and improvement of an existing area and would be appropriate in a brownfield or redevelopment context.

Sustainable Design via Site Plan Control - S.41

Municipalities can establish Site Plan Control areas, in which they may impose conditions relating to sustainability as a condition of granting development approval. Sustainable design issues that may be regulated are limited to the exterior of the building including, character, scale, appearance and other design features of the building. Design features of an adjoining municipal highway may also address sustainability through tree and vegetation plantings, permeable paving, waste and recycling containers and bike parking facilities. These provisions give municipalities a wide range of authority with which to amend Official Plans to create policies for guiding green development in the Pearson Eco-Business Zone. Sustainability matters that may not be addressed via Site Plan Control include interior design, interior layout, and construction standards. The City of Toronto’s authority regarding Site Plan Control also comes from the City of Toronto Act, as noted below (See also the *Principles for Eco-Business Development Standards* tool).

Sustainability Incentives via Reduced Parkland Payments – S. 42

The Pearson Eco-Business Zone is already 90% built-out, so development is likely to be retrofit and redevelopment. A redevelopment may exercise an option to reduce the amount of parkland payment fees, if the proposed project meets sustainability criteria specified in the Official Plan.

⁵However, a CIP in an upper tier municipality may only address matters relating to infrastructure within its jurisdiction, land use and buildings within and adjacent to existing or planned transit corridors with potential for higher density mixed use activity, and affordable housing.

The Official Plan must identify the criteria as well as the payment structure that a developer would need to meet to qualify for the reduced fees. Subsequent Official Plan updates can take advantage of this provision to provide greater incentive for green development in the Pearson Eco-Business Zone and meeting other Official Plan sustainability objectives.

Parking Reductions – S. 40

Municipalities may allow reductions in parking requirements in exchange for payment into a municipal reserve fund. Subsequent Official Plan updates can take advantage of this provision to provide additional incentives for green development in the Pearson Eco-Business Zone.

Power to Obtain Additional Information to Support Innovation in Complete Applications for Amendments and Subdivision Approvals – S.22, 34, 51

When reviewing and approving a proposed amendment to an Official Plan (S.22(5)), Zoning Bylaw (S.34(10.2)), or a new Plan of Subdivision (S.51(18)), the Planning Act gives municipalities the authority to request any additional information they consider necessary. The Official Plan must first provide policy relating to these subsections before municipal authorities can take advantage of these clauses. Municipalities can explore the use of these powers⁶ to request information related to Partners in Project Green such as: the nature and amount of waste materials anticipated; the potential for waste heat production; and a description of the applicant's consideration of an integrated design process. Used in this way, this tool can also help satisfy Official Plan policies or economic development objectives relating to waste reduction or supporting new value-added business activity.

Toronto used the above provisions for additional information to require the Toronto Green Standard checklist as part of a complete application.

Subsection (S.51 (24)) also establishes the authority for municipalities to assess the design of draft plans of subdivisions with regards to the optimization of the supply, efficient use and conservation of energy. With this provision, subsequent Official Plan updates can incorporate the subdivision principles noted in the *Eco Business Zone Development Screening Tool*. This tool will be more relevant in greenfield projects than in redevelopment efforts (although it may be helpful if there is an opportunity for a small-scale redevelopment that requires a subdivision, such as the consolidation of existing lots).

⁶Some of the potential uses and boundaries of these policy tools have not yet undergone legal review in Ontario. As municipalities undertake this process, results can provide a shared model for other partner municipalities to adapt to their own context within the Pearson Eco-Business Zone.

Development Permit System – S.70.2

Bill 51 establishes a Development Permit System, which consolidates zoning, site plan approval and minor variance into a single process. With this tool, municipalities can require developers to address issues of sustainability within their project, as well as on adjoining public streetscapes. A Development Permit System allows municipalities to establish conditions that must be met prior to, or at the time of, a development permit application. Municipalities also have the ability to request additional or technical studies to ensure all the necessary information is available to make quick decisions. With respect to the Pearson Eco-Business Zone, a Development Permit System might set a condition asking businesses for ongoing reporting of annual resource flows (such as energy, water consumed; solid, liquid waste generated; and so on), and in this way develop a database to support future eco-industrial opportunities. (Please refer to the *Using Development Permits to Promote Eco-Business Zone Activity* tool for more information.)

Municipal Act (2001) and City of Toronto Act (2006)

The Municipal Act (2001) establishes the sphere of municipal powers in Ontario and how these may be exercised. Municipal authority for the City of Toronto is governed by provisions in this act, as well as a separate municipal statute, the City of Toronto Act (2006).

Sections of the Municipal Act (2001) and the City of Toronto Act (2006) that are particularly relevant to Partners in Project Green are referenced below:

Energy Conservation Programs – Municipal Act (2001) – S.147

Enables municipal provision or arranging of, or participation in, energy conservation programs, such as improving building energy efficiency, supporting alternative energy, and peak load shifting.

Assistance to Manufacturing Industry – City of Toronto Act (2006) – S.82; and Municipal Act (2001) – S.106

Section 82 of the Act continues the current prohibition in Section 106 of the Municipal Act, 2001 against the City of Toronto giving assistance to a manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose. However, the Municipalities are authorized to provide financial incentives to commercial enterprises in specified circumstances.

Sustainable Design via Site Plan control – City of Toronto Act (2006) – S.114

The City of Toronto's authority relating to Site Plan Control comes from the Planning Act (S. 41) as described above, as well as the City of Toronto Act (S. 114). The scope of sustainable design matters that may be addressed are the same as those noted in the Site Plan Control section above.

Green Roofs – City of Toronto Act (2006) – S.108

Under S. 108, the City also has authority to pass bylaws relating to green and alternative roof designs. Toronto has already passed a bylaw in this respect.

REFERENCE CASE STUDIES

- **TaigaNova Eco-Industrial Park** – using development permits and additional information
- **Innovista Eco-Industrial Park** – support for sustainable site design in approvals process
- **City of Edmonton** – full review of planning framework to identify tools for eco-business activity
- **Devens Enterprise Commission** – using additional information to support eco-business activity

To view the case studies, please visit www.partnersinprojectgreen.com/policytoolkit