

AMENDMENT NO. 77
TO THE
CITY OF WINDSOR OFFICIAL PLAN

Part E (Details of the Amendment) of the following text constitutes Amendment No. 77.

Also Included, but not constituting parts of the Amendment are explanations of purpose, location, background, implementation, public involvement.

A. PURPOSE

The purpose of Official Plan Amendment No. 77 (OPA 77) is to implement planning policy recommendations put forth in the City's Brownfield Redevelopment Strategy. This is accomplished through the amendment of policies within the City's Official Plan concerning potentially contaminated sites. Specifically, the amended Potentially Contaminated Site Policies will ensure that contaminated and potentially contaminated sites are properly assessed and remediated or risk managed prior to development. The revised policies will also provide a policy basis to ensure environmental due diligence through the planning application review process and minimize liability associated with the approval of development on contaminated sites that have been remediated.

OPA 77 also amends related Official Plan provisions and definitions to complement the primary policy amendments noted above.

B. LOCATION

The text changes made to Volume I of the City of Windsor Official Plan apply to all land within the municipal boundaries of the City. Accordingly, no map is provided.

C. BACKGROUND

At its January 5, 2004 meeting, City Council directed the Planning Department to begin a strategy for the redevelopment of brownfield properties. A discussion paper, which was completed in April 2005, recommended that the City become actively involved in the remediation of brownfield sites and take the necessary steps to develop a strategy for the remediation and redevelopment of brownfield lands. On October 11, 2005 Council adopted an approach for the preparation of a Brownfield Strategy and Community Improvement Plan (CIP), which included making application to the Federation of Canadian Municipalities (FCM) for funding to partially offset costs associated with the project. In April 2007 the City was informed that an FCM grant has been approved for up to 50% of the project costs. In October 2007, RCI Consulting was retained to assist in the preparation of the Brownfield Strategy and CIP.

RCI Consulting prepared a Brownfield Background Report in June 2008, which—among other things—recommended the City of Windsor review and update its potentially contaminated sites policies in its Official Plan.

RCI prepared a Planning Policies Report in March 2009, which provides a review of the City's current Potentially Contaminated Site policies and contains recommendations for the adoption of new and revised Official Plan policies.

D. POLICY BASIS FOR THE AMENDMENT

The underlying policy basis for OPA 77 comes from the Provincial Policy Statement (PPS), which directs municipalities to make planning decisions that ensure identified contaminated sites are assessed and remediated to an appropriate level prior to use or

reuse. The PPS also promotes the remediation and redevelopment of brownfield sites as a means of promoting efficient development and land use patterns, minimizing land consumption and servicing costs, providing opportunities for intensification and redevelopment, optimizing existing infrastructure and public service facilities, and supporting long-term economic prosperity.

Windsor’s Community Strategic Plan, which was adopted in February 2007, provides a vision of a durable economy and a healthy environment. Brownfield remediation and redevelopment support this vision along with the four Strategic Plan pillars, which include:

- i. A Cultivated and Competitive economy;
- ii. Diverse and Caring Society;
- iii. Clean and Efficient Environment; and
- iv. Responsive and Responsible Government.

And finally, the City’s current Official Plan supports brownfield remediation and redevelopment through its Growth Concept (Section 3.3), Potentially Contaminated Sites Policies (Section 5.4.8), Land Use (Section 6), Infrastructure (Section 7) and Community Improvement (Section 11.8) policies.

E. DETAILS OF THE AMENDMENT

- 1. Chapter 2, entitled Glossary is amended by deleting the definition of Potentially Contaminated Sites.
- 2. Chapter 5 is amended by deleting Section 5.4.8, entitled Potentially Contaminated Sites Policies, which includes subsections 5.4.8.1 -5.4.8.5 (inclusive) and replacing them with the following:

“5.4.8 Potentially Contaminated Sites Policies

**POTENTIALLY
CONTAMINATED
SITES
DEFINITION**

5.4.8.1 *For the purpose of this Plan, Potentially Contaminated Sites are sites where the environmental condition of the property or properties may have potential for adverse effects on human health, ecological health or the natural environment. In order to prevent these adverse effects, prior to permitting development on these properties, it is important to identify these properties and ensure that they are suitable or have been made suitable for the proposed land use(s) in accordance with provincial legislation, regulations and standards.*

AVAILABLE
INFORMATION

5.4.8.2 *While the identification of potentially contaminated sites is important in the planning application review process, the policies in this section should not be interpreted as a commitment on the part of the City to identify all contaminated sites. Rather, these policies should be regarded as an effort by the municipality to responsibly utilize available information in the planning application review process to help ensure that development takes place only on sites where the environmental conditions are suitable for the proposed use of the site.*

PREVIOUS LAND
USE

5.4.8.3 *The City will require applicants to document previous uses of a property or properties that are subject of a planning application and/or properties that may adversely impact a property or properties that are subject of a planning application in order to assist in the determination of the potential for site contamination.*

RESIDENTIAL
DEVELOPMENT

5.4.8.4 *When a planning application involves the subdivision of land for residential purposes, the City shall require an affidavit from a qualified person as defined by provincial legislation and regulations, confirming that a Phase I ESA has been completed in accordance with Ontario Regulation 153/04, as amended from time to time.*

RECORD OF
SITE CONDITION

5.4.8.5 *Where the City determines that there is a proposed change in land use to a more sensitive use on a property or properties that have been identified through the City's planning application review process as "potentially contaminated", the City will:*

- (a) *Require as a condition of planning approval, written verification to the satisfaction of the City from a qualified person as defined by provincial legislation and regulations, that the property or properties in question are suitable or have been made suitable for the proposed use in accordance with provincial legislation, regulations and standards, including where required by the City, or provincial legislation and/or regulations the:*
 - (i) *filing of a Record of Site Condition (RSC) signed by a qualified person in the Environmental Site Registry;*

(ii) *submission to the City of a Declaration signed by the qualified person acknowledging that the City may rely on the statements in the RSC ; and,*

(iii) *submission to the City of written acknowledgement from the Ministry of Environment specifying the date that the RSC was filed in the Environmental Site Registry.*

(b) *Establish conditions of planning approval for all planning applications to ensure receipt of satisfactory verification of suitable environmental site condition as per Policy 5.4.8.5; and,*

(c) *Where applicable, utilize the holding provisions of the Planning Act to ensure that satisfactory verification of suitable environmental site condition is received as per Policy 5.4.8.5 (a).*

REVIEW OF REPORTS **5.4.8.6** *The City reserves the right to require as a condition of planning approval, submission and review of some or all of the environmental site assessment reports prepared in support of a Record of Site Condition.*

PEER REVIEW **5.4.8.7** *Where the City determines that an independent peer review of environmental site assessment reports is required, the proponent shall be required to pay for this peer review.*

DEEDED LAND **5.4.8.8** *Where the City is deeded land for public highways, road widenings, parks, stormwater management, easements, or for any other purpose, the City may require, as a condition of transfer, satisfactory verification of environmental site condition as per Policies 5.4.8.5 to 5.4.8.7.”*

3. Chapter 10 is amended by deleting Section 10.2.18, entitled Environmental Site Assessment, which includes subsections 10.2.18.1 – 10.2.18.2 (inclusive).

F. IMPLEMENTATION

OPA 77 enhances the existing Official Plan policies respecting Potentially Contaminated Sites Policies and related provisions. The Amendment should be read and implemented in conjunction with the overall policies contained with the Plan. Environmental due diligence procedure, including changes to planning application forms and an environmental screening protocol will also been necessary to fully implement OPA 77.