



VILLAGE OF NEWBURY

OFFICIAL PLAN

January 1, 2017
consolidated version

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CONSOLIDATED VERSION

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This Official Plan of The Corporation of the Village of Newbury was adopted by the Council of the Village of Newbury by By-law No. 770-85 passed on April 10, 1985 pursuant to Section 17(6) of the Planning Act, 1983, as amended and subsequently approved by the Ministry of Municipal Affairs.

On July 1, 1998, the Ministry's authority to approve official plans and amendments thereto was delegated to the County of Middlesex pursuant to Ontario Regulation 342/98 of the Planning Act, R.S.O. 1990, as amended.

As of January 1, 2017, 9 amendments to the Official Plan have occurred, as outlined below, which have been adopted by the Village of Newbury and approved by the approval authority.

LIST OF OFFICIAL PLAN AMENDMENTS

OPA NO.	BY-LAW NO.	ADOPTION	APPROVAL	APPLICANT	LOCATION	EFFECT
1	845-91	Jun. 4/91	OMB Order (O 910115)	Chris Mahovich	Railway St.	Re-designates from 'Commercial' to 'Residential' with text modification – Adds Section 3.3.4
2	867-92	Oct. 5/92	MMA	Ron Monk	22988 Hagerty Rd.	Re-designates lands to allow use for commercial purposes limited to motor vehicle sales and service in the existing building – Adds Section 3.3.5
3	STATUS ?	Dec. 13/93	MMA	R. Barnaby	Glendon Dr.	Re-designates from 'Commercial' to 'Residential'
4	877-94	Jan. 19/94	MMA	Alta McNaughton	Part Lot 16, Concession 2	Re-designates lands from 'Parks and Open Space' to 'Restricted Farming'
5	880-94	Feb. 14/94	MMA	Emmanuel Congregational Christian Church	Tucker St.	Adds Section 3.5.7 to allow the use of the lands for 'Institutional' purposes
6	112-99	Jun. 14/99	Aug. 10/99	Janice Brown and Ronald Vallieres	20 Broadway St.	Re-designates from 'Commercial' to 'Residential'
7	129-01	Dec. 10/01	Apr. 8/03	Village of Newbury	Wellington St.	Re-designates lands from 'Restricted Farming' to 'Residential' and 'Parks and Open Space'
8	103-02	Feb. 11/02	May 21/02	Fennell Woodlands	Washington St. at Hagerty Rd.	Re-designates lands from 'Industrial' to 'Commercial'
9	106-13	Mar. 5/13	May 14/13	Village of Newbury	Tucker St.	Re-designates lands from 'Parks and Open Space' to 'Residential'

1. INTRODUCTION

With the enactment of the Planning Act, 1983, Council for the Village of Newbury decided to prepare their own official plan readopting the approved policies of the Southwest Middlesex Official Plan insofar as they pertained to the Village of Newbury. No significant alterations were made to the approved policies contained in the Southwest Middlesex Official Plan.

The Village of Newbury through this Plan ceases to be part of the former Southwest Middlesex Planning Area that included the Village of Glencoe, the Village of Newbury, the Village of Wardsville, the Township of Mosa, and the Township of Ekfrid. This Plan contains the most recent policies adopted by the Village Council. This Plan applies to all the lands within the Village of Newbury.

2. PURPOSE, BASIS AND GOALS

2.1 PURPOSE

The “Official Plan of the Village of Newbury” is designed to serve the following general purposes:

- 2.1.1 to ensure that future growth and development which occurs in the Village occurs in an orderly and controlled manner in recognition of the potentials, constraints, and limitations of the Village and in accordance with sound and emerging planning principles;
- 2.1.2 to maintain and strengthen the existing pattern of land use and the rural character which exists in the Village;
- 2.1.3 to ensure that where growth is to occur it is within the Village’s financial and service capability, and is without undue and disruptive impacts to existing community character and identity;
- 2.1.4 to ensure that the Village is not unduly constrained in carrying out the responsibilities entrusted to it as a result of the policies of this Plan;
- 2.1.5 to reflect, insofar as is possible, the uncertainties and the implications resulting from the implementation of the policies of this Plan as well as from the growth and activity of the surrounding region;
- 2.1.6 to specify the basic assumptions on which the policies of this Plan are based;
- 2.1.7 to express the local commitment to change and the nature of change within the Village, and in so doing to act as input into the decision-making responsibilities of the Village, the consent granting authority, the County of Middlesex, the conservation authorities, Provincial ministries and agencies, Federal ministries and agencies, and any other public or quasi-public body having an interest or responsibility in the Village;
- 2.1.8 to assist individuals and the private sector in general as to the public policies in effect with respect to growth and development in the Village such that they govern their decisions accordingly; and

- 2.1.9 to provide the basis on which comprehensive zoning by-laws (and amendments thereto) regulating the use of land and the type, size, and location of buildings and structures and prepared and adopted.

2.2 BASIS OF THE PLAN

This Plan is based on the results of a planning exercise undertaken in preparation of the former Southwest Middlesex Official Plan, a public meeting and decisions made by the Council for the Village of Newbury.

The text and Schedule “A” constitute this Official Plan.

2.3 GOALS

It is the intention of this Plan to establish a number of general goals. The following are the goals of the Official Plan:

- 2.3.1 to develop in a compact and economic urban form within municipal boundaries;
- 2.3.2 to ensure that all types of land uses are maintained in balance;
- 2.3.3 to ensure that the Village of Newbury remains a viable residential, service center and social focal point for the surrounding agricultural community;
- 2.3.4 to ensure that no public work is undertaken which does not conform to this Plan; and
- 2.3.5 to provide guidelines for the proper zoning or rezoning of lands within the Village.

2.4 PLANNING PERIOD

The planning period for the Plan is set at 20 years (1976-1996). A longer planning period is constrained by the uncertainty of events that far into the future. A shorter planning period, on the other hand, lends a greater degree of uncertainty as to future events, however, it does not provide the long range commitment and confidence in community and farm planning and investment decisions in an agricultural area.

3. POLICY ELEMENTS

3.1 GENERAL

- 3.1.1 In addition to the specific policies contained elsewhere in this Plan, the following general policies apply to all development or redevelopment of any land within the Village of Newbury.
- 3.1.2 Within the designated land use areas, sufficient lands will be set aside to accommodate expected requirements over the planning period.
- 3.1.3 Proposals for new development within designated areas shall serve to reinforce and strengthen the existing character of the community as a small rural centre capable of providing the basic range of needs to their inhabitants and those of the surrounding agricultural area, and capable of accommodating limited but increased population growth.
- 3.1.4 In order to ensure a more efficient and compact utilization of land and to provide an adequate and reliable supply of water and sanitary waste disposal to meet existing and future needs, the construction of municipal water supply and sanitary sewerage systems is supported in the municipality in accordance with Section 4.3.1 and Section 4.4.1 respectively.
- 3.1.5 In addition to Section 3.1.3, proposals for new development in the municipality shall be of a type, scale, design, and location compatible with existing and evolving community character. Proposals which are not compatible or would result in or lead to major or sudden disruptive effects on the Village shall not be permitted.
- 3.1.6 Within the Village additional access to the county road shall be permitted provided approval is received from the County of Middlesex.
- 3.1.7 The preparation of detailed design plans and programs may be undertaken in the Village to maintain and strengthen the character and attractiveness of the community. Among other things, these plans and programs may take into consideration:
- (a) the preservation and rehabilitation of historical landmarks and buildings;
 - (b) the redevelopment or improvement of vacant and under-utilized buildings and land;
 - (c) the removal of obsolete or unsafe buildings, and incompatible land uses; and
 - (d) street landscaping, exterior building design, lighting, signage, and tree planting.

3.2 LAND USE POLICIES AND SCHEDULE A

- 3.2.1 The land base of the Village of Newbury shall be developed or redeveloped in accordance with both the policies contained herein and with the land use designations shown on the Future Land Use Plan Schedule "A". Land within the municipality is divided into six (6) basic land use classifications: Residential, Commercial, Industrial, Parks and Open Space, Hazard Lands and Restricted Farming.

3.3 RESIDENTIAL

Lands designated Residential shall conform to and meet the following requirements:

- 3.3.1 New residential development shall normally take place on lots of a registered plan of subdivision or on lots created by consent of the authority having jurisdiction. Consents shall only be granted when a registered plan of subdivision is not necessary to ensure the effective implementation of the policies of this Plan.
- 3.3.2 Where residential areas are designated, development shall be restricted to residential and institutional uses. New residential development in the Village shall be limited in scale and restricted to low density, single family and two family dwellings.
- 3.3.3 Proposals for new single family and two family residential development and institutional uses shall conform to the following policies:

- (a) Water Supply – An adequate and potable groundwater water supply shall be available or made available. In view of the groundwater deficiencies throughout the area, a condition may be applied to the granting of a rezoning, a consent, or a plan of subdivision requiring the applicant to demonstrate and assure the adequacy and availability of the water supply to serve the proposed use or uses.

Where a communal water supply system serving less than five households is proposed, the terms and conditions under which water will be provided shall be spelled out in an agreement between the parties involved. Such agreement shall be registered against the lands to which it applies. Communal water supply systems serving five or more households, or drawing or capable of drawing water at a rate of 50,000 litres or more of water per day, require the approval of the Ontario Ministry of the Environment.

- (b) Sanitary Waste Disposal – Soils shall be suitable or made suitable to support individual waste disposal systems subject to the requirements and the approval of the authority(ies) having jurisdiction.
- (c) Access – Access must be available or made available from a public highway or road of suitable construction and year-round maintenance, subject to the approval of the authority having jurisdiction. Access shall not be permitted where traffic hazards could result due to limited sight lines on grades or curves or proximity to a traffic intersection. Additional access points off the county road, shall be discouraged in order to preserve the primary traffic carrying function of these arteries Access permits or the granting of access to county road or a local road shall be acquired from the County of Middlesex, and the Village respectively.
- (d) Adjacent and Surrounding Land Use – residential development, which includes the conversion of existing farm residences, shall not be permitted where the adjacent or surrounding environment is considered unsuited to the enjoyment of property due to the presence of any noise, dust, odour, or visually disturbing impacts unless these negative impacts can and will be overcome by the provision of buffer strips,

landscaping, or similar devices. Non-compatible adjacent or nearby land uses may include livestock operations, solid waste disposal sites, sewage lagoons, railroads, automobile salvage yards. Minimum separation distances between residential development and non-compatible neighbouring land uses may be established in the zoning by-law.

- (f) Lot Size and Frontage – Generally, the minimum lot size for residential development shall be 1393 square metres (15,000 square feet) with a maximum frontage of 30 metres (100 feet) and a maximum lot depth to lot frontage ratio of 3:1. A larger minimum lot size and lot frontage may, however, be provided in the zoning by-law.
- (h) Zoning – In no case shall lots be created which do not conform to the provisions of the zoning by-law unless the by-law is otherwise amended or a variance granted.

3.3.4 Where new residential development is proposed on the Amendment Lands [related to OPA 1], the proponent shall implement noise and vibration attenuation measures required in consultation with the railways. Noise vibration attenuation measures could include, but may not necessarily be limited to soundproofing measures and construction techniques, i.e. brick veneer, double-glazed windows, general lay out and design of structures and foundation rail vibration isolation treatments.

3.3.4 [For the lands subject to OPA 2], the use of a motor vehicle sales establishment and a public garage conditional on the retention and use of the existing building as the only building used for such purpose [shall be permitted] and on further condition that no major exterior renovation or addition be made to such building, the lands identified on Schedule “A” attached hereto.

3.4 COMMERCIAL AND INDUSTRIAL

Lands designated Commercial and Industrial shall conform to and meet the following requirements:

3.4.1 Proposals for new commercial, industrial, or institutional uses within the municipality shall conform to the policies and shall meet the following requirements. Where a commercial or industrial area has been designated, the use of the subject lands shall be restricted generally to the designated use.

3.4.2 Commercial uses are defined as those activities engaged in the retailing or servicing of a product. Industrial uses are generally defined as those activities engaged in the manufacturing, processing, wholesaling, or warehousing of a product but shall also include activities such as transportation services, waste disposal sites, and hydro transformer stations. Institutional uses are defined as public and quasi-public activities engaged in serving the public directly and include such establishments as post offices, libraries, schools, rest homes, churches, cemeteries, and indoor sports facilities.

3.4.3 A residential unit may be included within a proposed commercial, industrial, or institutional use if such unit is necessary to the operation and/or maintenance of the proposed use.

3.4.4 Industrial and commercial uses which are not defined as “dry” shall not be permitted. Dry industrial and commercial uses are those which discharge waste water from one or more of the following sources only:

- sanitary sewage from washrooms
- storm water drainage; and
- for industrial uses, water used for indirect cooling of equipment and ancillary purposes.

3.4.5 Institutional uses are encouraged to locate in the Village in view of their fundamental importance and value in maintaining and enhancing strong community identity.

3.4.6 The piecemeal creation of ribbon development of commercial, industrial and/or institutional uses along major roads shall be discouraged.

Wherever possible, industrial, institutional and commercial uses should also be encouraged to locate in proximity to one another.

3.4.7 In addition to the general policies which apply, the following requirements, where applicable, must be satisfied by proposed commercial, industrial, and institutional developments:

- (a) Water Supply – A water supply adequate for the proposed use shall be available or made available. Water supply systems drawing or capable of drawing 50,000 litres per day require approval of the Ontario Ministry of the Environment.
- (b) Sanitary Waste Disposal – Soils shall be suitable or made suitable to support a waste disposal system subject to the approval of the authority(ies) having jurisdiction.
- (c) Access – Access must be available or made available from a public highway or road of reasonable construction and year-round maintenance, and subject to the approval of the authority having jurisdiction. Access shall not be permitted where traffic hazards could result due to limited sight lines on grades or curves, or to proximity to a traffic intersection.
- (d) Lot Requirements – The size and frontage of the lot shall be appropriate to the use being proposed. In no case shall lots be created or used for commercial, industrial, or institutional purposes which do not conform to the provisions of the zoning by-law. The zoning by-law shall include separate zones for commercial, industrial, and institutional uses.
- (e) Adjacent and Surrounding Land Uses – Proposed commercial, industrial, and institutional uses shall be compatible with adjacent and surrounding land uses. Developments which may result in a land use conflict, either now or in the future, shall not be permitted unless adequate measures such as setback distances are undertaken.
- (f) Off-Street Parking – An adequate supply of off-street parking appropriate to the use being proposed shall be provided in accordance with the standards set out in the zoning by-law.

- (g) On-Site Advertising – On-site advertising and other attention getting devices shall be designed in accordance with the character of the Village and with safe highway practices.
- (h) Zoning – All new commercial, industrial, and institutional developments shall be zoned in the appropriate zoning category of the zoning by-law affected.
- (i) Site Plans – Proposals for new, and major expansions to existing, commercial and industrial uses may require the submission of a site plan at a scale not smaller than 1:480 showing:
 - i) lot boundaries, size, shape, and dimensions;
 - ii) location of all natural features including woodlots, watercourses, stream valleys, wooded areas, marshes;
 - iii) location of all man-made features including buildings, structures, rail lines, and transmission lines;
 - iv) name, location, and width of all streets, roads, or highways abutting the lands;
 - v) location, siting, and setbacks of all buildings, structures, open storage areas, parking areas, and loading areas;
 - vi) methods and locations of proposed water supply and waste disposal systems; and
 - vii) proposed landscaping scheme.

Site plan within the context of this policy does not mean passing a by-law or entering into agreements as outlined in Section 40 of the Planning Act, 1983.

3.5 PARKS AND OPEN SPACE

- 3.5.1 Lands designated Parks and Open Space shall conform to and meet the following requirements:
- 3.5.2 Parks and open space refers to those lands which are used for active and passive outdoor recreation purposes as well as those lands which because of their natural resource potential are to be kept open and free of all buildings and structures except for those which are necessary and accessory to the enjoyment of recreation activities.
- 3.5.3 Where lands designated as parks and open space are in private ownership, this does not imply that the particular parcel will necessarily remain in this category indefinitely nor does it imply that all parks and open space areas are free and open to the general public or will be purchased by the Village of any other public agency. If an application is made to change the designation of parks and open space lands, the Council will, in its review, determine if the land is required for public purposes and if its purchase is desirable recommend such purchase to the appropriate municipal body or other public agency or body.

- 3.5.4 In areas designated parks and open space, provision may be made for the year-round occupancy of the owners/operators only. Year-round occupancy for club members or the public shall not be permitted without an amendment to this Plan.
- 3.5.5 Where new lands are being developed for residential purposes in accordance with a registered plan of subdivision or a consent, a condition may be imposed requesting the dedication of 5 percent of the lands for park purposes pursuant to Section 50 of the Planning Act, 1983. Alternatively, cash in lieu of the 5% dedication will be requested with such monies to be used for acquiring or upgrading park facilities in the Village as provided under Section 41(8) of the Planning Act, 1983.
- 3.5.6 Lands in parks and open space shall be classified as such in the zoning by-law.
- 3.5.7 Notwithstanding the policies of this section to the contrary, lands comprising part of Lot 41, Registered Plan 434 in the Village of Newbury as shown on Schedule "A" attached hereto, may be used for institutional purposes.

3.6 HAZARD LANDS

Lands shown as Hazard Lands shall conform to and meet the following requirements:

- 3.6.1 Areas shown as Hazard Lands on Schedule "A" are those lands which exhibit or potentially exhibit a hazardous condition as a result of their susceptibility to flooding, erosion, subsidence, slumping, inundation or the presence of organic soils or steep slopes.
- 3.6.2 Within the Hazard Land Classification, no buildings or structures or additions thereto shall be permitted, with the exception of buildings or structures of a public authority intended for flood or erosion control purposes, without the expressed written approval of the Village, the conservation authority having jurisdiction, and the Ontario Ministry of Natural Resources. Such approval shall take into consideration:
- (a) the degree of existing or potential physical hazards;
 - (b) the potential impact of these hazards on the proposed building or structure;
 - (c) the proposed methods by which these impacts may be overcome in a manner consistent with accepted resource management practices and engineering techniques;
 - (d) adequate building setbacks in relation to the kind, extent, and severity of both the existing and potential hazard.
 - (e) the costs and benefits in a monetary, social, and biological value as a result of any required resource management practices or engineering works to overcome the impacts of the hazard.
- 3.6.3 Subject to Section 3.6.2, uses permitted in the Hazard Land area shall be the same of those uses permitted of the underlying policy area affected (e.g. residential area, parks and open space area).

- 3.6.4 Where residential development is proposed on a site part of which is considered to be hazard lands, then such lands may not necessarily be acceptable as part of all of the dedication requirement for public park purposes under Section 50 of the Planning Act, 1983. All lands dedicated shall be conveyed in a physical state satisfactory to the Village.
- 3.6.5 No placing or removal of fill of any kind, whether originating on the site or elsewhere, shall be permitted within the Hazard Land areas without the expressed written approval of the Lower Thames Valley Conservation Authority or the St. Clair Region Conservation Authority as the case may be.
- 3.6.6 Whenever any flood control or other works, are undertaken or more detailed surveys and mapping, such as the Lower Thames Valley Conservation Authority fill line mapping program, are available which result in significant changes to the areas designated hazard lands, such changes shall be incorporated by amendment to this Plan.

3.7 RESTRICTED FARMING

Lands designated Restricted Farming shall conform to and meet the following requirements:

- 3.7.1 The Restricted Farming area is designated within the Village to allow for a buffer between the built up area of the Village and the agricultural areas in the surrounding Township.
- 3.7.2 The primary purpose of the Restricted Farming area is to safeguard other land uses in the Village from any undue noise, odours, dust or other adverse environmental impacts or conflict arising out of the farm operations.
- 3.7.3 The Restricted Farming area is also designed to provide a clear and recognizable separation between urban uses and rural uses. It is not considered a land reserve for future urban expansion during the planning period.
- 3.7.4 Land use within the Restricted Farming area shall be used generally for farming and farm-related uses, forestry, and those uses in existence at the date of the adoption of this Plan. New uses which shall be specifically prohibited with the areas include livestock farms, mushroom farms, fur-bearing animals farms, livestock sales barns or marketing yards, estate residential and rural residential subdivisions.
- 3.7.5 Expansions to existing livestock operations within the Restricted Farming area shall be considered in accordance with the policies and requirements of Section 5.7.3 and with the requirements of the Agricultural Code of Practice. All existing livestock farm operators are encouraged to bring their operations into conformity with the Code of Practice and obtain a Certificate of Compliance.
- 3.7.6 Within the Restricted Farming Areas, by-laws may be passed pursuant to the Environmental Protection Act, R.S.O., 1980 to regulate noise levels from the use of farm equipment and machinery except during planting or harvesting periods when timing is of critical importance to agriculture.

4. **TRANSPORTATION AND HARD SERVICES**

4.1 ROADS

- 4.1.1 The road system serving the Village is made up of a County road and municipal roads. With the exception of new roads created as a result of a plan of subdivision being registered, the existing road system is considered adequate to meet the needs of the Village over the planning period. No significant changes apart from normal maintenance and improvements are expected or considered necessary.
- 4.1.2 The County road is designated as an arterial road on Schedule "A". Arterial roads are designed to connect the major traffic generating areas of the Village and to be capable of carrying large to medium volumes of traffic within and through the Village. All other roads are designated local roads designed to provide access to abutting properties, to serve destination as opposed to through traffic, and to act as feeders to the arterial road system.
- 4.1.3 The required road allowance of a road or highway shall be determined by the authority having jurisdiction. Generally, arterial roads shall have a right-of-way ranging from 20 metres to 30 metres (66 feet to 100 feet). Local roads shall have a right-of-way ranging from 20 metres to 26 metres (66 feet to 86 feet). In some cases, such as cul-de-sacs and short streets, consideration may be given to road allowances less than 20 metres (66 feet), however in no case shall the allowance be less than 15 metres (50 feet) in width.
- 4.1.4 The road system of the Village shall be compatible and co-ordinated with the road system of adjacent municipalities.
- 4.1.5 Unopened road allowances leading to a navigable waterway shall not be stopped up and closed where such lands are capable of being developed for recreational purposes by the appropriate conservation authority or the Village.
- 4.1.6 New roads created as a result of consent or plan of subdivision shall be constructed to the standards of the Village prior to assumption by the Village. When new road intersect a County Road, standards of construction at these intersections shall be subject to the approval of the County of Middlesex.
- 4.1.7 Priority to road improvements shall be given where local residents are prepared to assist the Village under the Local Improvement Act, R.S.O., 1980, or where it is desirable to carry out improvements in conjunction with other public work projects.

4.2 RAILROADS

- 4.2.1 In view of existing and anticipated rail traffic on the C.N.R. mainline passing through the Village, new residential development with the exception of infilling shall not be permitted adjacent to the railway right-of-way unless adequate measures (including setbacks, earthberms, landscaping) can and will be taken to reduce effectively noise, vibration, diesel fumes, and visual impacts.

4.3 WATER SUPPLY

- 4.3.1 It is the intention of this Plan that a municipal supply system be ultimately provided to serve existing and limited future development in the Village. Prior to any decision being made to provide a municipal water supply system, an assessment may be made of all feasible alternatives and all impacts (financial or otherwise) arising out of the construction of such system.
- 4.3.2 It is anticipated that the long term water supply requirements of the Village will be met by an extension of the West Lorne water supply system, or alternatively directly from Lake Erie.
- 4.3.4 The extension of the Village's municipal water supply system to serve development outside the Village's ability to provide services for its own needs and provided satisfactory arrangements can be made between the Village and the affected party(ies) including any public authorities having jurisdiction.
- 4.3.5 Water supply for new development in the Village shall be in accordance with the policies established in Section 3.

4.4 SANITARY WASTE DISPOSAL

- 4.4.1 It is the intention of this Plan that municipal sanitary waste disposal services be ultimately provided to serve existing and limited future development possibly in Newbury. Prior to any decision being made to provide a municipal sanitary waste disposal system, an assessment may be made of all feasible alternatives and all impacts (financial and otherwise) arising out of the construction of such a system.
- 4.4.2 The provision of sanitary waste disposal for new development in the Village shall be in accordance with the policies established in Section 3 of this Plan.

4.5 SANITARY WASTE DISPOSAL

- 4.5.1 In view of the limited capacity of the existing sanitary landfill site in the Township of Mosa, it is anticipated that alternative methods or sites will have to be found during the planning period.

4.6 COMMUNITY FACILITIES AND SERVICES

- 4.6.1 The municipality will continue to provide and support community facilities and services consistent with its financial resources, their ability to arrive at satisfactory cost-sharing arrangements, and the needs of the Village.

5. **PLAN IMPLEMENTATION**

5.1 GENERAL

5.1.1 The Official Plan of the Village of Newbury shall be implemented through the activities of the private sector and the public sector. In the latter case, a variety of means shall be used to implement the features of the Plan. These means shall include, but shall not be limited to, zoning by-laws, maintenance and occupancy by-laws, plans of subdivision and subdivision agreements, consents, public works, capital works programmes, the Ontario Building Code Act, Agricultural Code of Practice and other relevant or appropriate provisions of the Planning Act, the Municipal Act, or any other act.

5.2 INTERPRETATION

5.2.1 The boundaries of any special policy area, and all land use designations as depicted on Schedule "A" are approximate except where they coincide with highways, roads, railway lines, transmission lines, lot lines, rivers, or any other clearly defined cultural or natural feature.

5.2.2 Where boundaries of areas shown as Hazard Lands are in doubt, the Village shall consult with the conservation authority having jurisdiction and/or the Ontario Ministry of Natural Resources to determine whether the hazard land policies apply.

5.2.3 The location of all highways and roads on Schedule "A" are considered approximate.

5.2.4 Amendments to the Plan will not be required to effect minor adjustments to the land use boundaries, or the location of highways and roads provided the general intent and spirit of the Plan is maintained.

5.2.5 Numerical figures contained within this Plan shall not be considered rigid and inflexible. Minor deviation shall be permitted without an amendment to the Plan provided the general intent and spirit of the Plan is maintained.

5.2.6 Wherever a use is permitted in a land use classification, it is intended that uses, buildings, or structures normally incidental, accessory, and essential to that use shall also be permitted.

5.3 OFFICIAL PLAN REVIEW AND AMENDMENTS

5.3.1 This Plan shall undergo a comprehensive review approximately every five years following its approval by the Minister to ensure that it remains responsive to changing conditions and circumstances affecting the Village.

5.3.2 This Plan may be amended from time to time upon due consideration of:

- a) the need of the proposed amendment;
- b) the effect of the proposed amendment on the matters contained within the Plan; and

- c) the effect of the proposed amendment on the economic, social, financial and physical base of the Village.

5.3.3 To ensure the public receives adequate notification of any proposed amendment to the Plan, notice shall be given in accordance with the procedures and regulation of the Planning Act, 1983.

Following the approval of the amendment by the Minister, sufficient copies for public distribution shall be prepared and a notice placed in local newspapers advising of such approval and that copies of the amendment may be obtained from the Village Council.

5.4 PLANS OF SUBDIVISION

5.4.1 Only those plans of subdivision which conform to the policies of this Plan and the requirements of Section 50 of the Planning Act, 1983 shall be recommended for approval to the Minister of Municipal Affairs and Housing by the Village.

5.4.2 The policies of this Plan and the requirements of the Village regarding plans of subdivision will be implemented primarily through a subdivider's agreement between the Village and the subdivider and the Zoning By-law.

5.5 CONSENTS

5.5.1 The granting of consents in the Village shall continue to be the responsibility of the Middlesex County Council or their delegated authority.

5.5.2 A consent shall only be granted if the purpose for which the lands which are the subject of the consent to be used is in conformity with this Plan and the provisions of the affected zoning by-law, and when it is clear that a plan of subdivision is not considered necessary to ensure the effective implementation of the policies of this Plan. Where a consent application contravenes this Plan or the zoning by-law, no consent shall be granted unless this Plan and/or the zoning by-law is duly amended and approved by the authority having jurisdiction of the appropriate condition regarding the zoning change is included in the decision of the authority granting the consent.

5.5.3 The policies of this Plan and the requirements of the Village regarding consents shall be implemented through an agreement between the Village and the applicant.

5.5.4 A consent shall only be granted for mortgage purposes where it is capable of satisfying the appropriate policies of this Plan and the appropriate provisions of the zoning by-law affected with respect to the use to which the lands would be put if the mortgage foreclosed and a separate lot created.

5.5.5 The granting of a consent for purposes of correcting or adjusting lot boundaries or to convey additional lands to an adjacent lot shall be permitted provided:

- (a) the conveyance does not lead to the creation of an undersized irregularly shaped lot unsuited to the purpose for which it is being used or to be used, and contrary to the provisions of the zoning by-law;
- (b) the lands being conveyed will be registered in the same name and title as the lands to which they are being added.

5.5.6 In the event of a decision on a consent application is granted which does not conform to the policies of this Plan, the municipality may appeal the decision to the Ontario Municipal Board.

5.6 ZONING BY-LAWS

5.6.1 Upon the approval of this Plan, a comprehensive zoning by-law shall be brought into effect in accordance with the provisions of Section 34 of the Planning Act, 1983 and with the policies of this Plan. A comprehensive zoning by-law will be prepared for and adopted by the Village.

5.6.2 The comprehensive zoning by-law shall contain, where appropriate, land use zones in accordance with the land use designations of this Plan (Schedule "A"), and will establish regulations to control the use of land and the character, location, and use of buildings and structures.

5.6.3 Some uses of land existing at the date of adoption of this Plan may not satisfy all the land use policies set out in the Plan. In response to these situations and notwithstanding the land use policies and designations, such uses may be zoned in the by-law in accordance with their present use and performance standards provided that:

- (a) the zoning will not allow any change of use which will be detrimental to adjacent complying uses;
- (b) the use does not constitute a danger to surrounding uses by the traffic the use generates;
- (c) where the use is discontinued, a re-zoning may only take place in accordance with the policies and intent of this Plan.

5.6.4 Land use designations on Schedule "A" may not be zoned for such uses or purposes immediately in the zoning by-law. Certain areas maybe placed in a 'holding zone' category until such time as the conditions and circumstances necessary for development have been satisfied and without the need for amendment of the Plan. 'Holding' within the policies of this subsection does not mean 'holding' as allowed in Section 35 of the Planning Act, 1983.

5.6.5 The Village may appoint a Committee of Adjustment pursuant to Section 43 of the Planning Act, 1983.

5.7 NON-CONFORMING USES

5.7.1 Nothing in this Plan shall serve to affect adversely the continuation of a use which was legally established at the date of adoption of the Plan. Any land use existing at the date of adoption of this Plan or its predecessor that does not conform with the land use designations as shown on Schedule "A" or the policies related thereto should, as a general rule, cease to exist in the long run. In the short run, these uses may be zoned in accordance with Section 5.6.3.

In co-operation with the owner or owners, the council of the affected municipality shall attempt to reduce or re-located non-conforming uses which are detrimental to public health, welfare, or safety.

5.7.2 In special instances it may be desirable to permit the extension or enlargement of a non-conforming use in order to avoid unnecessary hardship. It is the intention of this Plan that extensions and enlargements be handled through the use of Section 34 (10) of the Planning act, 1983 in accordance with Section 6.7.3 of this Plan.

5.7.3 Any application, in accordance with Section 34 (10) of the Planning act, 1983 for the extension or enlargement of a use which does not conform to the implementing zoning by-law and which existed at the time of passing of such by-law shall be dealt with in the following manner:

- (a) Council shall determine the feasibility of acquiring the property concerned at the time of application or possibly at some future date and of holding, selling, or leasing or redeveloping the property in accordance with the provisions of the Planning Act, 1983. Special attention will be given to the possibility of re-establishing the use under consideration in a different location where it would be able to perform and produce under improved conditions in accordance with the policies of this Plan.
- (b) If acquisition at this time does not appear to be feasible and if the special merits of the individual case make it desirable to grant permission for the extension or enlargement of the non-conforming use, Council may consider the passing of a by-law pursuant to Section 34(10) of the Planning Act, 1983 and such by-law may then be passed without the necessity to amend the Plan providing it complies with the policies of subsection (iii) below.
- (c) The Council, before passing such a by-law, shall be satisfied that those of the following requirements which are relevant to the specific application are, or will be, fulfilled:
 - i) That the proposed extension or enlargement of the established non-conforming use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the policies of this Plan and the requirements of the zoning by-law applying to the area;
 - ii) That the proposed extension or enlargement shall be in an appropriate proportion to the size of the non-conforming use established prior to the passing of the implemented restricted area by-law;

- iii) That an application which would affect the boundary area of different land use designations on Schedule “A” will only be processed under the policies if it can be considered as a “minor adjustment” permitted under Section 5.2 of this Plan. Any major variance will require an amendment to the Plan;
 - iv) The characteristics of the existing non-conforming use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generating capacity. No amendment to the zoning by-law shall be made if one or more of such nuisance factors will be created or increased so as to add substantially to the incompatibility of the use with the surrounding area;
 - v) That the neighbouring conforming uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisances and, where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, or advertising signs. Such provisions and regulations shall be applied to the proposed extension or enlargement and, where feasible, be also extended to the established use in order to improve its compatibility with the surrounding area;
 - vi) That traffic and parking conditions in the vicinity will not be adversely affected by the application and traffic hazards will be kept to a minimum by appropriate design of ingress and egress points to and from the site and improvement of sight conditions especially in proximity to intersections;
 - vii) That adequate provisions have been, or will be made for off-street parking and loading facilities; and
 - viii) That applicable services such as storm drainage, sewage disposal and water supply are adequate and meet the approval of the London-Middlesex Health Unit and/or the Ministry of Environment.
- d) Council will not pass an implementing zoning by-law pursuant to Section 34(10) of the Planning Act, 1983 before it is satisfied in regard to the policies contained in the appropriate section above.

5.7.4 Non-conforming uses which have been destroyed or partially destroyed by act of God such as fire, flood or winds, may be replaced or repaired provided that written permission is received by Council, and in the case of areas designated as Hazard Land by the conservation authority having jurisdiction. Prior to granting permission to repair or replace a non-conforming use and in order to minimize the detrimental effects of the non-conforming use, Council may enter into agreement with the owner as to:

- a) the size and siting of the building or structure;
- b) the mitigating of any adverse environmental impacts such as odours, dust, noise, drainage;

- c) the lighting and landscaping of the site including the provision of buffer planting;
- d) the provision of parking and loading facilities including the design of entrances and exits to the site; and
- e) the exterior design and appearance of the building or structure.

Council shall not be obligated to grant permission to replace or repair a non-conforming use under any circumstances.

5.8 MAINTENANCE AND OCCUPANCY STANDARDS BY-LAW

5.8.1 The Village shall undertake to keep in a fit and well-maintained condition all municipally-owned properties and structures, and to provide or maintain in good repair such municipal services as roads, sidewalks, water and sewage facilities, and landfill sites.

5.8.2 The Village pursuant to Section 31 of the Planning Act, 1983, may pass by-laws to establish minimum standards of maintenance and occupancy, and to conserve, sustain and protect existing and future development. The maintenance and occupancy by-law, applicable to all property within the municipality may contain requirements with respect to:

- a) Garbage disposal and pest prevention;
- b) Structural maintenance, safety and cleanliness of buildings;
- c) Services to buildings including plumbing, heating and electricity;
- d) Keeping properties free from rubbish, debris, weeds, abandoned or used vehicles, trailers, boats, barges, mechanical equipment or material;
- e) Maintaining yards, lands, parking and storage areas, fences, swimming pools, accessory buildings, and signs;
- f) Occupancy standards.

5.8.3 The Village shall appoint a Property Standards Officer who will be responsible for administering and enforcing the maintenance and occupancy by-law, and a Property Standards Committee for the purpose of hearing appeals against an order of the Property Standards Officer.

5.9 PUBLIC WORKS AND CAPITAL WORKS PROGRAM

5.9.1 The construction of all public works within the Village of Newbury shall be carried in accordance with this Plan.

5.9.2 This Plan shall be used as a basis for the preparation of a five year capital works program for the Village.

5.10 PHASING OF DEVELOPMENT

5.10.1 The phasing and priority of development within the Village shall be determined by the policies contained in this Plan, the adequacy of existing services, and the feasibility of extending existing services or constructing new services.

5.11 ONTARIO BUILDING CODE

5.11.1 The Village shall enforce the provisions of the Ontario Building Code in order to ensure necessary standards of construction in new development or in the extension or enlargement to existing development.