

# 1 INTRODUCTION

## 1.1 PURPOSE OF MANUAL

The need to prepare a comprehensive Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (UTRCA) was driven by a number of factors including:

- The need to update the UTRCA'S outdated Municipal Plan Review Guidelines dated April 1993;
- In response to the implementation of a new Generic Regulation 157/06, there was a need to update the UTRCA's Policy and Procedural Manual dated March 1993; and
- The need to develop a Comprehensive Policy Manual that would facilitate the implementation of the Authority's integrated systems approach for *watershed* planning and which is consistent with the 2005 Provincial Policy Statement.

"Inspiring a Healthy Environment" is the vision which guides the programs of the UTRCA and the preparation of this policy manual. In keeping with this vision, the Authority has formulated a Mission Statement which is designed to achieve a healthy environment on behalf of its watershed municipalities and incorporates the following themes;

- To protect life and property from *flood* and *erosion*
- To ensure a sustainable water supply
- To protect and enhance water quality
- To preserve and manage natural areas
- To provide outdoor recreation opportunities.

The purpose of the Policy Manual, taking guidance from Provincial Policy, is to provide local Upper Thames *watershed* policies which will guide *development* and *site alteration* while protecting, preserving and enhancing the natural environment. The policies are based on the interrelationship between environmental, physical and social factors that impact land use planning and *development* in the *watershed*.

This manual will be implemented by UTRCA Staff through its Environmental Planning Services program and it is envisioned that this Policy Manual will be a valuable tool for the UTRCA Board of Directors and Staff as well as for our *watershed* municipalities, the land *development* industry and the public.

## 1.2 LAYOUT OF MANUAL

This policy manual is a living document which will continue to evolve. The policies and implementation requirements contained herein have been formulated using a variety of sources. These include:

- the UTRCA's Municipal Plan Review Guidelines (1993)
- the UTRCA's Policy and Procedure Manual for the Administration of the *Fill, Construction and Alteration to Waterways Regulation*
- the new Conservation Authorities Act, the enacting Regulation (the *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*) and supporting documents
- *Watershed*-based Fact Sheets
- UTRCA files from past *development* and case law
- The Provincial Policy Statement (PPS, 2005) and relevant provincial technical manuals and guidelines.

The layout of the document is structured to be very general at the beginning and then becomes more detailed. Section 1 Introduction provides the reader with a general overview of the Authority and its programs. It establishes the purpose of the manual and provides an overview of the watershed and the UTRCA's regulatory activities. Section 2 – Environmental Planning – Areas of Interest describes the principles, goals and objectives which guide the planning of *natural hazards*, natural heritage, natural resources and servicing and mitigation. It is anticipated that Sections 1 and 2 will be used by a broad audience including the general public, community organizations and professional staff.

The detailed, technical policies contained in Sections 3, 4 and 5 which pertain to the UTRCA's Municipal Plan Review Process, our Permit Process and our Inquiry Services, as well as the implementation thereof as set out in Section 6, are more complex in nature. It is anticipated that these latter sections will be used primarily by professional staff including land use planners, lawyers and engineers. For all users, the italicized terms in the manual are defined in the glossary. Further more detailed information is included in the Appendices to assist development professionals. It is anticipated that additional accepted methodologies, general terms of reference documents and other technical support information will be added to continue to update and improve the Manual. Users should periodically refer to the UTRCA website to check on the availability of updates and revisions.

The policies in this manual are intricately interwoven and inter-connected. They should always be read in their entirety. When Authority Staff review a *development* proposal or application and the potential impacts thereof on the watershed's *natural hazards*, natural heritage and natural resources, all of the policies will be reviewed and the appropriate ones will be applied. The Authority anticipates that the manual will be updated annually to incorporate changes in legislation and government policy as well as when the Authority's understanding of the Thames River *watershed* is expanded through the implementation of other UTRCA programs and services.

## 1.3 THE UPPER THAMES RIVER CONSERVATION AUTHORITY

### 1.3.1 Environmental Commitment & the Watershed Approach

The Upper Thames River Conservation Authority (UTRCA) was formed in 1947. Since then, the Authority's original water resources mandate and programs have evolved to respond to the issues of our *watershed* municipalities, science findings as well as Provincial Policy and Legislation. This includes developing a broad range of *watershed* management programs and services that engage the community in responding to *watershed* issues.

The Authority continues to strive towards implementing a *watershed* or *ecosystem approach* to planning. This approach is consistent with Section 2.2.1a) of the PPS, which encourages the use of the *watershed* "as the ecologically meaningful scale for planning" because it is considered to be the most effective and comprehensive systems-based approach for *ecosystem* planning. While this concept has only recently been incorporated into the PPS, the Authority has a long legacy of planning, implementing and monitoring using *watershed* and *subwatershed* management units. Through the application of this approach, the implications of local management actions and municipal decisions can be evaluated in a *watershed* context. The *watershed* approach addresses the fact that water does not respect political boundaries and the *riparian rights* of the downstream community are considered.

### 1.3.2 Our Watershed

The UTRCA has developed a program for the upper *watershed* of the Thames River. The Upper Thames *watershed* has an area of 3,482 square kilometers, a population of more than 470,000 residents and drains land in the Counties of Perth, Huron, Oxford and Middlesex, the City of London, the City of Stratford and the Separated Town of St. Marys. The predominant land use in the *watershed* is agriculture, covering approximately 73% of the land area. Urban land use covers approximately 15% of the *watershed* and *woodlands* and *wetlands* make up the remaining 12% of land area. The *watershed* is divided into 28 *subwatersheds* which are either major tributaries or sections of the main branches of the Thames. Each area is of a sufficient size for evaluating environmental information, monitoring environmental change and targeting rehabilitation work.

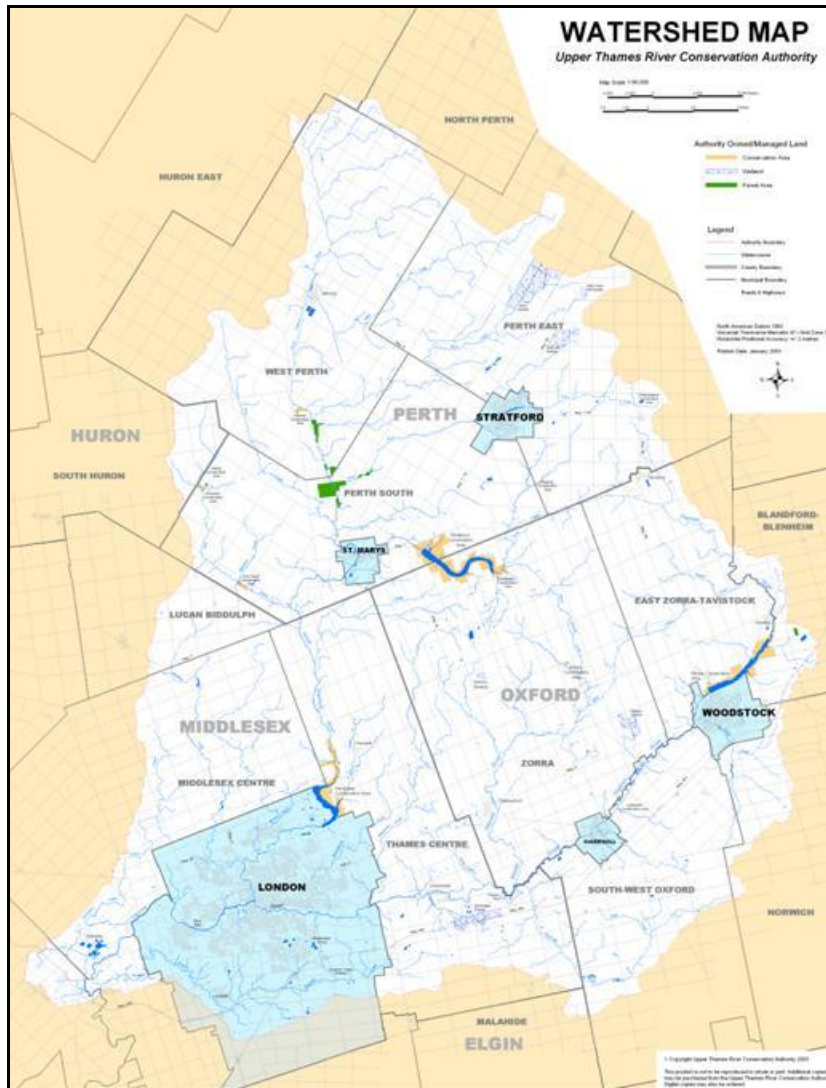


Figure 1-1

Because of its location in a highly developed part of southern Ontario, the *watershed* experiences pressures from both urban and rural land uses. The water quality and quantity in the Thames River and its tributaries is influenced by the relatively intense land uses and land management in the *watershed*. The Thames remains one of the most biologically diverse rivers in Canada. The river and its tributaries provide a *habitat* for more than 90 species of fish and many species-at-risk including the Spiny Softshell Turtle and the Queen Snake. The Thames River system has been designated a Canadian Heritage River based on its rich cultural heritage and diverse recreation opportunities.

### 1.3.3 Our Planning Approach – The Watershed Model

The broad plan for the Upper Thames *watershed* follows the watershed planning model approach. As illustrated in Figure 1, *watershed* planning is a continuous cycle of plan development, plan implementation, monitoring and research and reporting and evaluating. It is critical that the various components of the cycle are undertaken collaboratively with the community which includes municipalities, landowners, professionals, other government agencies and advocacy groups.

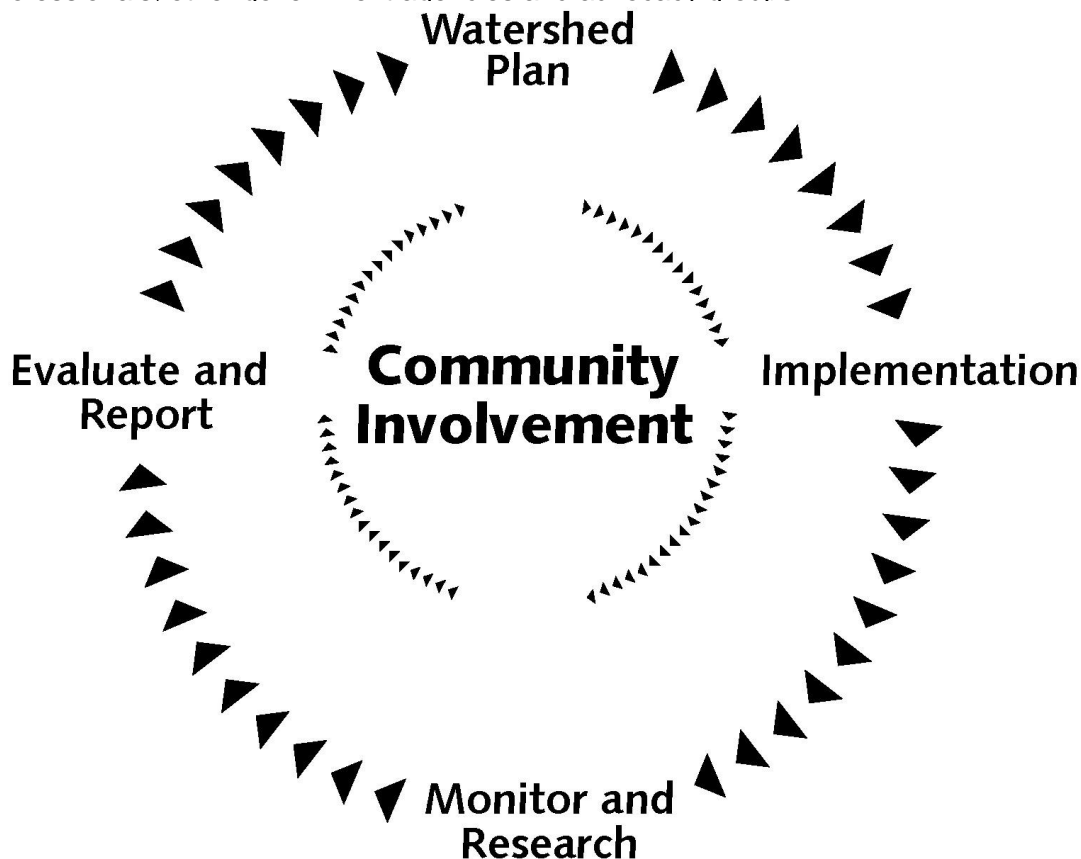


Figure 1-2

The continuous process involves the following components:

- **Plan Development:** a *watershed* plan is developed based on the information that is available about the *watershed* at the time. The plan is developed collaboratively with the community and includes the identification of implementation activities. It is recognized that the plan is based on available information and projections for implementation and the need for future adjustments or revisions depending on results is acknowledged.
- **Implementation:** a number of strategies are identified to implement the plan. These may include activities such as education, regulation of land acquisition.

- **Monitoring:** as the plan is implemented, monitoring needs to be undertaken to collect information to assist with assessing plan effectiveness and to expand the understanding of the management activities and *watershed* processes.
- **Evaluation & Reporting:** the continually evolving understanding of the *watershed* through monitoring and research is evaluated and reported. This information is used to make modifications to the plan and the cycle continues.

The five main implementation strategies include:

1. Acquisition - The purchase of land or easements as a means of obtaining management control. The Authority owns approximately 6500 ha. of land which is managed for various purposes including recreation, protection of *wetlands*, and protection of the public from *flooding* processes.
2. Stewardship - Providing the tools to landowners and the community to undertake measures which sustain and improve resources. *Stewardship* is often combined with incentive measures that reward good management practices. The incentive can be financial or simply recognition.
3. Education – Creating a broad awareness of the importance of *watershed* resources and actions that can be taken to maintain and restore these resources. Education and *stewardship* are closely linked.
4. Water Management – Conservation Authorities are uniquely positioned to develop and implement water management programs that include strategies such as *flood* control and low flow management using dams.
5. Regulatory Measures – Measures that control an individual's freedom to act for the benefit of the individual, the community or the broader public interest. The Authority may be involved as the direct implementer of legislation or as an advisor to other organizations that implement legislation.

This Environmental Planning Policy Manual focuses on the UTRCA's regulatory implementation activities.

## 1.4 REGULATORY ACTIVITIES

The UTRCA is involved with the implementation of several laws and regulations. This Policy Manual focuses on the following two main tools:

- The Planning Act – Largely through an advisory role, the Authority provides planning and technical advice to municipalities to assist them with fulfilling their responsibilities under the Planning Act.
- The Conservation Authorities Act – Under Section 28, the Authority regulates *development* and *site alteration* within the Regulation Limit.

The guidance provided in this manual for the implementation of the Planning Act and the Conservation Authorities Act is applicable to all other Acts and Regulations that the UTRCA may be asked to comment on.

### 1.4.1 The Planning Act

The Planning Act provides municipal governments, Conservation Authorities and other agencies with a broad, province-wide framework to promote the orderly *development* of land. It guides land use planning decisions in Ontario as well as local policy formulation that is consistent with provincial requirements. Section 3 of the Planning Act enables the Province to develop and implement detailed policies for those matters considered to be of provincial interest.

#### 1.4.1.1 The UTRCA's Role in Planning

Municipalities circulate Planning Act applications to the Upper Thames River Conservation Authority for review in accordance with circulation procedures established under the Planning Act. UTRCA comments consider the following factors:

1. **Delegated Responsibility** - The Minister of Natural Resources has delegated responsibility for reviewing and commenting on hazard planning issues to the Conservation Authorities in those areas where Conservation Authorities have been established. This delegation includes interpretation of hazard policies contained in the Provincial Policy Statement. The Minister's delegation letter to the UTRCA is dated April 19, 1995 (See Appendix 9.1.4).
2. **Watershed Agency** - The UTRCA provides comments to municipalities on the implications of *development* proposals from a *watershed* perspective. These comments pertain to natural hazard planning, natural heritage planning or *groundwater* and surface water management. In addition to reflecting the requirements of Provincial Policy, the Authority's comments reflect the Authority's goals and objectives for the management of the Upper Thames *watershed*. This manual consolidates the Authority's policies for commenting as a *watershed* based agency.

**3. Municipal Planning Advisory Service** - The UTRCA has an arrangement with its *watershed* municipalities to provide access to planning and technical expertise on a fee for service basis. The UTRCA provides expertise in the following areas:

- advisory services related to all natural hazard matters;
- advisory services related to the all natural heritage matters; and
- advisory services related to *groundwater* and surface water quantity and quality.

It is noted that while the UTRCA provides advice to municipalities on natural heritage, this advice is not provided on behalf of the Province and does not necessarily reflect the position of the Ministry of Natural Resources or the Ministry of Municipal Affairs and Housing.

**4. Regulatory Agency** - UTRCA comments identify the Authority's regulatory role and the potential need for permits.

**5. Landowner** – The Authority is occasionally involved in the review of a Planning Act application as a proponent or an adjacent landowner. In these rare cases, the Authority must ensure that the comments provided as a landowner are clearly identified and treated separately from our comments as a regulatory and technical agency provided under our other roles.

#### 1.4.1.2 Municipal Plan Review Process

With the exception of participation as a landowner, the various roles of the UTRCA with respect to the implementation of the Planning Act are undertaken through the Municipal Plan Review Process. The areas of interest for the Municipal Plan Review Process are presented in Section 2 of this Manual and the specific policies to guide the review of Planning Act applications are provided in Section 3.

Municipalities are empowered to make most decisions under the Planning Act. They need to satisfy themselves that the decisions that they are making are consistent with Provincial Policy (as outlined in the PPS). The main function of the UTRCA Plan Review Service is to provide planning advice and technical review services to assist municipalities with fulfilling their responsibilities under the Act when they are reviewing and commenting on *development* and *site alteration* proposals. In providing its comments on Planning Act applications, the Authority considers the requirements of the Planning Act, the PPS, the requirements of other legislation and the Upper Thames *watershed* specific policies.

The objectives of the UTRCA's municipal plan review process include:

1. To minimize the potential for loss of life, property damage and social disruption and to create a safer and healthier environment for everyone who lives in the Upper Thames River *Watershed*;
2. To reduce the need for public and private expenditures for emergency operations, evacuation, and restoration of properties which may be impacted by *flooding* and erosion;

3. To increase public awareness about the potential risks to *development* as a result of the physical conditions associated with hazardous areas;
4. To use an *ecosystem* planning approach for identifying the environmental implications of *development* applications in order to maintain, protect, preserve and enhance natural heritage resources and natural resources;
5. To screen *development* applications and proposals to identify where a Provincial or *watershed* interest may be impacted;
6. To specify conditions of approval which satisfy the afore noted objectives;
7. To serve as an information centre for inquiries from landowners, potential landowners, lawyers, municipalities, and community groups interested in environmental legislation, approvals and *stewardship*;
8. To advise and inform potential applicants (and/or their consultants) to consult with UTRCA Staff prior to submitting their *development* proposals in order to identify potential concerns that could result in delays to the planning process, as well as for the need to prepare and submit technical reports and supporting information required to undertake the review and approval of applications;
9. To provide responses to site specific inquiries in a timely manner through the continued expansion of data bases (e.g. natural heritage data bases and inventories) and other information management systems; and
10. To continue to liaise with other agencies, county and municipal governments and departments, consultants, developers and *watershed* residents to ensure continued co-operation in achieving effective management of our natural resources.

The Authority's Municipal Plan Review Process provides decision-makers, applicants and the public with important information regarding the potential impacts and opportunities for mitigation related to *development* and *site alteration*.

Through its Municipal Plan Review Process, the Authority provides comments on Planning Act Applications which address provincial interests as well as those of the Authority on natural hazard, natural heritage, natural resource and servicing related matters. The UTRCA's *Watershed* municipalities recognize the Authority's expertise in assisting them with fulfilling this role. Planning Act Applications include:

- Official Plans & Official Plan Amendments
- Zoning By-Laws & Zoning By-Law Amendments
- Minor Variances
- Consents (severances)
- Plans of Subdivision
- Plans of Condominium
- Site Plans

The specific policies which guide the Municipal Plan Review Process are provided in Section 3.

## 1.4.2 The Conservation Authorities Act

Section 28 of the Conservation Authorities Act empowers the UTRCA to prepare regulations and require permits within its area of jurisdiction regarding the following:

- a) restricting and regulating the use of water in or from rivers, streams inland lakes, ponds, *wetlands* and natural or artificially constructed depressions in rivers or streams;
- b) prohibiting, regulating or requiring the permission of the Authority for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a *wetland*;
- c) prohibiting, regulating, or requiring the permission of the authority for *development*, if, in the opinion of the Authority, the control of *flooding*, *erosion*, dynamic beaches or *pollution* or the *conservation of land* may be affected by the *development*.

The following objectives provide the basis for the decision making process for implementing the Authority's regulation and permit process:

- prevent loss of life;
- minimize property damage and social disruption;
- reduce public and private expenditure for emergency operation, evacuation and restoration;
- minimize the hazards and unnecessary *development* of riverine *flood plains* and *flood* and *erosion* susceptible shoreline areas which in future years may require expensive protection measures;
- regulate works and *development* which, singularly or collectively, may reduce riverine channel capacities to pass *flood* flows resulting in increased *flood* levels, and creating potential danger to upstream and downstream landowners;
- control *filling* and/or draining of natural storage areas such as wetlands;
- encourage the *conservation of land* through the control of construction and placement of *fill* on existing or potentially unstable valley slopes or shoreline bluffs,
- reduce soil erosion and sedimentation from *development* activity;
- control *pollution* or other degradation of existing and potential *groundwater* aquifer(s) and aquifer recharge areas, created by *fill* activities; and
- control water *pollution*, sedimentation, and potential nuisances due to floating objects and debris.

## 1.4.3 Other Legislation

The Appendices of the Manual presents other federal and provincial legislation that Authority Staff consider as part of its Permit, Municipal Plan Review and Other Technical Advisory processes. Authority Staff will endeavour to assist applicants in identifying the relevant policies that pertain to their submissions.

The federal legislation can be accessed at [laws.justice.gc.ca](http://laws.justice.gc.ca) while the provincial legislation can be accessed at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

#### 1.4.4 Inquiry Services

The UTRCA is routinely called upon to provide property information to landowners and other stakeholders. These range from informal telephone inquiries seeking general information about an individual's property to specific requests for information as part of the purchase or sale of property. This information sharing process contributes to the Authority's proactive approach to land use planning and resource management for the watershed. The UTRCA considers its inquiry service as an opportunity to provide valuable information and to educate stakeholders about the Natural Hazard and *Natural Heritage Features* on the subject property. It also provides an indication of the potential limitations on *development* to a landowner or prospective home-buyer.

#### 1.4.5 Integration & Cumulative Effects

The Authority fully supports and advocates an integrated *ecosystem or as defined in the PPS, a natural heritage system approach* to planning for the Upper Thames River watershed. This system includes *natural heritage features and areas* that are linked by natural corridors which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species and *ecosystemss*. These systems can include lands that have been restored and areas with the potential to be restored to a natural state.

As previously noted, the PPS recognizes the meaningfulness of planning on a *watershed* scale with respect to protecting long-term ecological functions, *bio-diversity* and the linkages between and among features, systems and areas. The *watershed* is an integrated system of human and natural resources that needs to be managed in a holistic and balanced way to achieve a healthy and sustainable environment.

The UTRCA encourages municipalities to take a lead role in preparing comprehensive studies on natural hazard, natural heritage and natural resource features and processes on appropriate management scales. While it is preferred that all land use planning decisions be guided by the findings of comprehensive studies, it is recognized that this is not economically feasible or even practical in many cases. The Authority recommends that comprehensive studies be required to support site specific decision making in those cases where *development* pressure can be anticipated for an area or in those cases where the resource is particularly significant or stressed.

The UTRCA's approach to long range planning gives careful consideration to the *cumulative effects* of human activities on the watershed's resources in order to ensure that they are used wisely and effectively, and are preserved for future generations. This approach balances a wide range of public and private interests that may extend beyond a single *development* site. A precautionary approach is taken in making decisions on *development* which may have a minimal impact on a case by case basis yet cumulatively and incrementally may have an adverse impact on the resources of the watershed.

## 1.4.6 Fees

The UTRCA charges fees for its Environmental Planning Services. The fees are established on a cost recovery basis, and the benefit received by the applicant from specific types of services. The ability to charge fees is set out in Section 21 (m.1) of the Conservation Authorities Act and the fees are administered in accordance with the MNR Policies and Procedures for the Charging of Conservation Authority Fees (MNR, June 1997).

Within the Environmental Planning Service Unit, the UTRCA charges fees for the following three areas of service:

1. Municipal Plan Review
2. Section 28 Review and Approval
3. Inquiries

### 1.4.6.1 Municipal Plan Review Fees

The Planning Act empowers local municipal governments to regulate *development*. As part of this regulatory process, municipalities often call on the technical expertise of conservation authorities. As previously noted, through its Municipal Plan Review Process, Authority Staff provide advice on natural hazard, natural heritage and water quality and quantity matters when commenting on Planning Act applications.

Municipal Plan Review Fees are charged to the *development* proponent. The Municipal Plan Review Fee Schedule is included in Appendix 9.1.1 of this manual. This fee schedule is reviewed on a regular basis to ensure that the revenue generated is comparable to the operating costs to provide the service.

The UTRCA will work with municipalities to:

- develop screening protocols to target applications that need to be forwarded to the Authority for review; and
- to coordinate the collection of fees.

#### **1.4.6.1.1 Application Review Fee Component**

The Application Review Fee component covers the following activities:

- Screening of Planning Act applications to determine if natural hazard, natural heritage, natural resources or servicing mitigation interests may be affected in accordance with the Provincial Policy Statement and the specific Municipal Plan Review policies of the UTRCA;
- Identifying the need for technical reports;
- Recommending conditions of approval and clearing or revising of those conditions; and
- Maintaining a record of the transaction.

#### **1.4.6.1.2 Technical Review Fee Component (Peer Review)**

The Technical Review Fee covers the Authority's cost to undertake peer reviews of technical reports submitted by the proponent. Peer review is a process used for evaluating the work performed by other professionals in order to ensure that it meets established criteria. This review is an important aspect of Ontario's land use planning system wherein municipalities are empowered to make decisions on Planning Act applications.

Technical reports are prepared by qualified professionals and characterize existing conditions and/or predict the impacts of land use change. Peer review brings integrity to the planning process by allowing the work submitted by a *development* proponent to be reviewed by another qualified professional. Through this process:

- the applied methodologies and assumptions can be confirmed; and
- the peer reviewer may suggest options or modifications to the technical report. Any suggestion or modification must be considered as a viable option. If the option is to be incorporated into the report or *development*, it must be with the approval of the "design" consultant.

The UTRCA provides peer review services to its watershed municipalities to assist them with fulfilling their responsibilities under the Planning Act. With the broad range of technical expertise on staff, the UTRCA is able to provide peer review services for a number of types of technical reports. In addition to possessing the technical expertise, the UTRCA also has long term monitoring data which is a valuable resource for the peer review process.

When reviewing technical reports in support of land use planning and *development*, the UTRCA will assess the technical report for the following:

- Confirm that it has been prepared by a qualified professional;
- Ensure that accepted technical guidelines, standards, methodologies or procedures have been followed;
- Check that appropriate data was utilized or if other data could have been used and if the information was properly analyzed;
- Check that relevant existing comprehensive studies for the area have been utilized or cross referenced; and
- Determine if the technical conclusions are reasonable and if recommendations for future monitoring are included or are necessary.

#### **1.4.6.1.3 Levy Services to Municipalities**

The UTRCA provides the following services to municipalities as a levy service (no application fee required):

1. Input on and review of comprehensive Official Plans and Zoning By-Laws;
2. Maintenance of mapping and data resources;
3. Expert witness support to municipalities for OMB Hearings or other proceedings;
4. Review of municipally sponsored applications such as policy and technical amendments;
5. General inquiries and technical support to municipalities;
6. Development and maintenance of services and technology;
7. Policy *development*;
8. Identify a need for;
  - Storm Water Management Facilities and Studies;
  - Subwatershed Studies;
  - Comprehensive Environmental Impact Studies related to natural heritage features;
  - Studies to assess mitigation measures for applications that may be impacted by flooding or erosion hazards: and
  - Assist in the preparation of the terms of reference for any studies identified above.

Participate in pre-consultation meetings for potential planning applications upon the request of the Municipality.

#### **1.4.6.2 Section 28 Review & Approval Fees**

In accordance with the Conservation Authorities Act, the UTRCA regulates *development* within its Regulation Limit as defined in its *Development, Interference with Wetlands and Alteration to Shoreline Regulation*. In reviewing applications and issuing permits within the Regulation Limit, the Authority considers natural hazard, natural heritage and water quantity and quality concerns. The Section 28 Review and Approval Fee Schedule is provided in Appendix 9.1.1 of the manual. It is reviewed on a regular basis to ensure that the revenue generated is comparable to the operating costs to provide the service.

#### **1.4.6.3 Inquiry Fees**

The UTRCA is routinely asked to provide property information to landowners and other stakeholders. Telephone requests for information are answered in a professional manner at no cost. Requests for written information require more effort, are more valuable to the recipient and therefore, require additional responsibility and care in preparation. As a result, fees are charged for written inquiries and data requests. The Inquiries Fee Schedule is included in Appendix 9.1.1 of this manual. The fee schedule is reviewed on a regular basis to ensure that the revenue generated is comparable to the operating costs to provide the service.