



# The Governance of Land Use

## Canada

### The planning system

#### *Levels of government and their responsibilities*

Canada is a federal state with three levels of government; the national government, 10 provinces and 3 territorial governments, and 3 805 local authorities, out of which 1 233 are general local governments and the remaining 2 572 are special purpose authorities, such as school districts. The division of powers between the federal government and the provinces is constitutionally defined, and provinces have full autonomy over land-use planning. However, the federal government plans for land uses under its direct control (e.g. federal lands in the National Capital Region, national waterways and parks). It can also influence land-use planning at the provincial and municipal levels through targeted programme and financial support – e.g. urban infrastructure programmes.

Provinces have full autonomy to create their own framework legislation to structure their planning systems. The resulting systems of land-use planning are broadly comparable across all provinces and territories, but nevertheless important differences exist. Provinces and territories with few inhabitants tend to centralise land-use planning. In contrast, provinces and territories with a large number of inhabitants tend to delegate more power to local governments. This is only partly due to a different legislative framework. Another factor is differences in administrative capacity at the local level, reflecting the varying population sizes and resources available in provinces. For example, in the Province of Ontario, approximately 4 300 professional planners are employed by public authorities and consulting firms; the corresponding figure for the Province of Prince Edward Island is approximately 10-15 professional planners.

Formally, municipalities in all provinces have similar powers. They can prepare and adopt different types of land-use plans as by-laws and use them to regulate development on their territory. Furthermore, they are responsible for issuing planning permissions and building permits. However, as mentioned above, important differences between the provinces exist on how powers are exercised.

#### *Spatial and land-use plans*

No national level plan exists in Canada, but all provinces and territories have one or more *Regional Plans*. Typically, they contain high-level objectives and policies for regional-scale land use, growth management, environmental protection, regional-scale infrastructure and economic development. Beyond these commonalities, *Regional Plans* vary considerably across provinces and territories. Some contain map based land-use plans, whereas others contain only strategic guidelines. In some instances, *Regional Plans* cover the entire province (e.g. British Columbia and Alberta) and in others they are prepared only for specific areas. In Ontario, for example, a *Regional Plan* has been prepared for the Greater Toronto and Hamilton Area (GTAH) by the Province of Ontario.

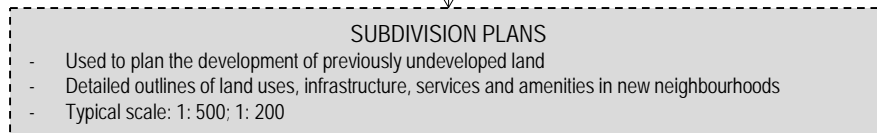
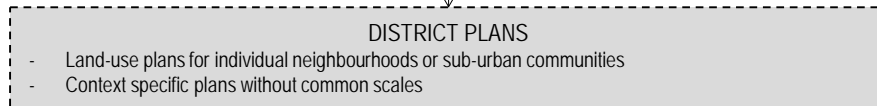
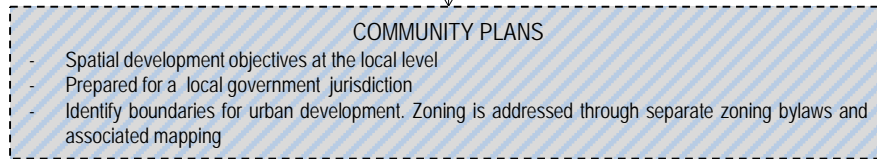
## Organisation of spatial and land-use planning in Canada

### General framework

State



Local



- > Sub-ordinate plans must conform
- .....> Sub-ordinate plans do not need to conform
- Primarily policy / strategic guidelines
- Primarily land-use plans
- ▨ Strategic and land-use guidelines
- ⋯ Partial geographical coverage

*Community Plans* are the highest-level plans in a hierarchy of local plans. They are designed to provide an over-arching vision and policy-framework for finer-detailed plans. While *Community Plans* are land-use plans, they also provide a vision for the future

development of a community and lay out strategies and tools to realise this vision. They are prepared with extensive public consultation and are the main instruments for stakeholder engagement in land-use planning. *Community Plans* are called different things in different provinces (e.g. *Official Plan*, *Official Community Plan*, *Development Plan*, *Municipal Plan*, *Plan d'Urbanisme*) and can vary in content. Typically, they are prepared for the entire administrative territory of a municipality.

*District Plans* are plans for specific parts of cities and towns and provide more detail than *Community Plans*. They are used to guide new developments or the redevelopment of existing neighbourhoods, but they generally do not provide details at the plot level. They may also be created for special-purpose areas such as downtowns, educational nodes, recreational land or significant parts of the transport network. Depending on the province, the official names of *District Plans* vary (e.g. *Secondary Plan*, *Secondary Planning Strategy*, *Area Structure Plan*, *Programme Particulier d'Urbanisme*).

*Subdivision Plans* are detailed plans that contain property boundaries, street locations and dimensions, topography, environmental constraints and considerations of urban design and aesthetics. They are used to determine the impact of developments on infrastructure, services and the environment. *Subdivision Plans* are typically drawn at scales of 1: 500-1: 200. Draft plans are circulated to agencies and public authorities with an interest in the concerned area, and who can provide conditions for approval. Once all conditions are met, the plans are approved by the responsible local government and the provincial or territorial authority. The official names of *Subdivision Plans* may be *Proposed Plan/Plan of Subdivision*, *Proposed/Registered Plan of Subdivision*, *Draft/Registered Plan of Subdivision*, or *Règlement de Lotissement*.

*Site Plans* are the lowest-level plans. They provide a very high degree of detail, for example the location of the building on the plot. Their scale depends on the size of the property under consideration. Once a *Site Plan* has been approved, a building permit may be issued.

### ***Major laws and regulations***

All provinces and territories have framework legislation that structures the planning system. In most provinces and territories, it concerns primarily the planning system, whereas in others, it structures the powers and responsibilities of local governments more generally. The framework legislation also governs the use of zoning by-laws, which municipalities use to regulate land use. Furthermore, provinces are responsible for environmental legislation and can adopt *Environmental Acts* that structure and restrict municipal land use. They also adopt *Building Codes*, which are modelled on the *National Building Code*.

### ***Co-ordination mechanisms***

Co-ordination of policies between levels of government occurs primarily through legislative frameworks that assign each level of government a clearly defined task. Co-ordination between policy fields at the local level is assured through *Community Plans*, which cover a wide range of sectoral policies. At the provincial level, co-ordination mechanisms vary. While responsibilities for various aspects of land-use planning are

generally fragmented among different provincial ministries, some provinces have initiated policies that require ministries to co-ordinate planning policies and programmes.

### ***Expropriations***

Expropriation is possible for public and private use of land if a development is in the public interest, such as the construction of infrastructure and public buildings, mining, and for the establishment of nature reserves. However, expropriation is politically and legally difficult, often expensive, and comparatively rare.

### ***Recent and planned reforms to the system of land-use planning***

The provinces' and territories' responsibility for land-use planning is based on the British North America Act of 1867 and reaffirmed in the Constitution Act of 1982. Four provinces established Planning Acts or comparable legislation in 1912. Since then, reforms and legislative changes have occurred at different times at the provincial level. Changes to policy on the national level were mostly related to factors such as how the national government uses financial incentives to affect land use.