

## PLANNING LEGISLATION AND POLICIES

### **Planning Act, R.S.O. 1990, c. P.13**

#### **Provincial interest**

**2** *The Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,*

- (a) *the protection of ecological systems, including natural areas, features and functions;*
- (b) *the protection of the agricultural resources of the Province;*
- (c) *the conservation and management of natural resources and the mineral resource base;*
- (d) *the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;*
- (e) *the supply, efficient use and conservation of energy and water;*
- (f) *the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;*
- (g) *the minimization of waste;*
- (h) *the orderly development of safe and healthy communities;*
- (h.1) *the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;*
- (i) *the adequate provision and distribution of educational, health, social, cultural and recreational facilities;*
- (j) *the adequate provision of a full range of housing, including affordable housing;*
- (k) *the adequate provision of employment opportunities;*
- (l) *the protection of the financial and economic well-being of the Province and its municipalities;*
- (m) *the co-ordination of planning activities of public bodies;*
- (n) *the resolution of planning conflicts involving public and private interests;*
- (o) *the protection of public health and safety;*
- (p) *the appropriate location of growth and development;*
- (q) *the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;*
- (r) *the promotion of built form that,*
  - (i) *is well-designed,*
  - (ii) *encourages a sense of place, and*
  - (iii) *provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;*
- (s) *the mitigation of greenhouse gas emissions and adaptation to a changing climate. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1); 2006, c. 23, s. 3; 2011, c. 6, Sched. 2, s. 1; 2015, c. 26, s. 12; 2017, c. 10, Sched. 4, s. 11 (1); 2017, c. 23, Sched. 5, s. 80.*

## **Policy statements**

### **Policy statements and provincial plans**

*3 (5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,*

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and*
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5; 2017, c. 23, Sched. 5, s. 80.*

## **Official Plans**

### **24 Public works and by-laws to conform with plan**

*(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. R.S.O. 1990, c. P.13, s. 24 (1); 1999, c. 12, Sched. M, s. 24.*

## **Zoning by-laws**

*34 (1) Zoning by-laws may be passed by the councils of local municipalities:*

### **Restricting use of land**

- 1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.*

### **Restricting erecting, locating or using of buildings**

- 2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.*

### **Significant archaeological resources**

*3.3 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource.*

### **Construction of buildings or structures**

- 4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.*

### **Area, density and height**

*(3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the minimum and maximum density and the minimum and maximum height of development in the municipality or in the area or areas defined in the by-law. 2006, c. 23, s. 15 (1).*

## **Provincial Policy Statement, 2020**

### **2.3.4 Lot Creation and Lot Adjustments**

*2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:*

- c) a residence surplus to a farming operation as a result of farm consolidation, provided that:*
  - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
  - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; ...*

## **6.0 Definitions**

*Residence surplus to a farming operation: means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).*

## **Greenbelt Plan, 2017**

### **4.6 Lot Creation**

- 1. Lot creation is discouraged and may only be permitted for:*
  - f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:*
    - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and*
    - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.*

## **Niagara Official Plan, 2022**

### **4.1.4 Lot Creation and Related Development Within the Agricultural System**

4.1.4.2 *Proposed residential lots being considered under Section 4.1.5... for a consent within the agricultural land base must meet the following conditions:*

- a) the size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and long-term operation of a private sewage disposal system as determined by Provincial; and Regional requirements;*
- b) any new lot has sufficient frontage on an existing publicly maintained road;*
- f) proposed lots shall be located and configured to minimize impacts on surrounding farming operations.*

### **4.1.5 Lot Creation in Specialty Crop Areas**

4.1.5.1 *In the specialty crop areas, consents to convey may be permitted only in accordance with the following provisions and the general consent provisions in Policy 4.1.4.2...*

- a) the consent is supported through a planning justification report...*
- g) the consent is for a residence surplus to a farming operation as outlined in Policy 4.1.5.2*

4.1.5.2 *The severance of a residence surplus to a farming operation may be permitted under the following circumstances:*

- a) the proposed lot contains a habitable residence, which existing as of December 16, 2004, that is rendered surplus as a result of farm consolidation;*
- b) the size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and private sewage disposal system as determined by Provincial and Regional requirements to a maximum of 1 hectare;*
  - i. proposals that exceed 1 hectare may be considered subject to an amendment to this plan;*
- c) to reduce fragmentation of the agricultural land base, the retained lot shall be merged with an abutting parcel. Where margining of two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes*

## **Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended**

### **7.4 General Agriculture Policies**

7.4(4)(e) *Consents may be granted for a residence surplus to a farming operation as a result of a "farm consolidation" (refer to Greenbelt Plan for definition) where the dwelling existed prior to December 16, 2004 provided that:*

- (i) The zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the zoning ensures the parcel will continue to be used for agricultural purposes;*

- (ii) *The size of any new lot does not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Ministry of the Environment and Climate Change, Ministry of Municipal Affairs, or persons appointed on behalf;*
- (iii) *The farms are both located within the Town of Niagara-on-the-Lake;*
- (iv) *The new lot is located to minimize the impact on the remaining farm operation; ...*

## **Town of Niagara-on-the-Lake Proposed Official Plan (2019)**

### **Section 3 Protected Countryside: The Unique Specialty Crop Area**

#### **3.2 Agricultural System**

##### **3.2.15 Surplus Farm Dwellings**

3.2.15.1 *Where a habitable dwelling existed prior to December 16, 2004, a consent to sever a lot containing the dwelling may be granted if that residence becomes surplus to a farming operation as a result of a farm consolidation, as defined in the Greenbelt Plan, provided that:*

- a) *The zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the zoning ensures the parcel will continue to be used for agricultural purposes;*
- b) *The size of any new lot does not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary by the appropriate authority to support a well and private sewage disposal system;*
- c) *The farms are both located within the Town of Niagara-on-the-Lake;*
- d) *The new lot is located to minimize the impact on the remaining farm operation; and*
- e) *The new lot complies with the MDS Formula.*