

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.

Ontario Heritage Act, R.S.O. 1990, c. O.18

27 (1) The clerk of a municipality shall keep a register of property situated in the municipality that is of cultural heritage value or interest. 2019, c. 9, Sched. 11, s. 6.

(1.1) The clerk of the municipality shall ensure that the information included in the register is accessible to the public on the municipality's website. 2022, c. 21, Sched. 6, s. 3 (1).

Contents of register

(2) The register kept by the clerk shall list all property situated in the municipality that has been designated by the municipality or by the Minister under this Part and shall contain, with respect to each property,

- a) a legal description of the property;
- b) the name and address of the owner; and
- c) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. 2019, c. 9, Sched. 11, s. 6.

Non-designated property

(3) Subject to subsection (18), in addition to the property listed in the register under subsection (2), the register may include property that has not been designated under this Part if,

- a) the council of the municipality believes the property to be of cultural heritage value or interest; and
- b) where criteria for determining whether property is of cultural heritage value or interest have been prescribed for the purposes of this subsection, the property meets the prescribed criteria. 2022, c. 21, Sched. 6, s. 3 (2).

Same

(3.1) If property is included in the register under subsection (3), the register shall contain, with respect to such property, a description of the property that is sufficient to readily ascertain the property. 2022, c. 21, Sched. 6, s. 3 (2).

Restriction on demolition, etc.

(9) If a property that has not been designated under this Part has been included in the register under subsection (3), the owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days notice in writing of the owner's intention to demolish or remove the building or structure

or to permit the demolition or removal of the building or structure. 2019, c. 9, Sched. 11, s. 6.

Same

(10) Subsection (9) applies only if the property is included in the register under subsection (3) before any application is made for a permit under the Building Code Act, 1992 to demolish or remove a building or structure located on the property. 2019, c. 9, Sched. 11, s. 6.

Same

(11) The notice required by subsection (9) shall be accompanied by such plans and shall set out such information as the council may require. 2019, c. 9, Sched. 11, s. 6.

Provincial Policy Statement, 2020

2.6 Cultural Heritage and Archaeology

2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

2.6.4 Planning authorities should consider and promote archaeological management plans and cultural plans in conserving cultural heritage and archaeological resources.

2.6.5 Planning authorities shall engage with Indigenous communities and consider their interests when identifying, protecting and managing cultural heritage and archaeological resources

2022 Niagara Official Plan

6.5.1 Cultural Heritage Resources

6.5.1.1 Significant cultural heritage resources shall be conserved in order to foster a sense of place and benefit communities, including First Nations and Métis communities.

- 6.5.1.2 The Region encourages Local Area Municipalities to designate properties of cultural heritage value or interest, either individually or as part of a larger area or Heritage Conservation District, under the Ontario Heritage Act.
- 6.5.1.3 Local Area Municipalities shall advise the Region of properties of cultural heritage value or interest that have been designated or listed on the register under the Ontario Heritage Act.
- 6.5.1.4 Local Area Municipalities are encouraged to develop and use cultural master plans to inform decision-making.
- 6.5.1.5 Development and site alteration on protected heritage property or adjacent lands shall not be permitted, except where the proposed development and site alteration has been evaluated through a heritage impact assessment and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- 6.5.1.6 The Region shall maintain cultural asset mapping of fixed resources including cemeteries, designated or listed built heritage resources, historic sites, and the historic Welland Canal to assist in the review of development applications.
- 6.5.1.7 Local Area Municipalities are encouraged to consider the use of heritage impact assessment in conserving cultural heritage resources on a community planning basis.

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

SECTION 6A: GROWTH MANAGEMENT POLICIES

Subsection 4.4 Urban Design

- a) Infill and intensification sites should match the average pre-established building setback of adjacent buildings within the block face.
- b) Parking for commercial, mixed use and apartment buildings should be located at the rear of the buildings, with a secondary entrance at the side or back of the building. The main entrance to the building should front onto the street.
- c) Where appropriate, the design of the commercial, mixed use and apartment buildings development should provide linkages and connections to existing and proposed pedestrian and bicycle networks.
- d) Bulk, mass and scale of new development shall fit the context within which it is located.
- e) Garages for single, semi and townhouse units shall not exceed 50% of the building façade and shall be setback from the front face of these units.
- f) The design of infill and intensification development should be consistent with the Land Use Compatibility criteria of this Plan

4.6 Land Use Compatibility Policies

Intensification and/or redevelopment should be consistent with:

- a) The existing and/or planned built form and heritage of the property and surrounding neighbourhood;
- b) The existing and/or planned natural heritage areas of the site and within the surrounding neighbourhood;
- c) The existing and/or planned densities of the surrounding neighbourhood; and,
- d) The existing and/or planned height and massing of buildings within the surrounding neighbourhood.
- e) Development proposals will demonstrate compatibility and integration with surrounding land uses by ensuring that an effective transition in built form is provided between areas of different development densities and scale. Transition in built form will act as a buffer between the proposed development and existing uses and should be provided through appropriate height, massing, architectural design, siting, setbacks, parking, public and private open space and amenity space.
- f) Intensification and/or redevelopment shall be compatible and integrate with the established character and heritage of the area and shall have regard to:
 - Street and block patterns
 - Lot frontages lot area, depth
 - Building Setbacks
 - Privacy and over view
 - Lot grading and drainage
 - Parking
 - Servicing

SECTION 18: HERITAGE CONSERVATION

18.2 GOALS AND OBJECTIVES

- (1) To protect, preserve and encourage the restoration of the original architectural detail wherever feasible on all buildings having architectural and historical merit within the context of the Town of Niagara-on-the-Lake, as well as on all buildings contributing towards the heritage value of the Town of Niagara-on-the-Lake.
- (2) To encourage good contemporary building design by using sympathetic forms while avoiding simply copying historic architecture. To restrict building design that is not compatible with existing structures or unsympathetic alterations to buildings that would detract from the character of a Heritage Resource. Where lands or buildings have been designated pursuant to the Ontario Heritage Act the provisions of that Act regarding buildings and additions shall apply...
- (3) To prevent the demolition, destruction or inappropriate alteration or use of heritage resources.

- (5) To develop and encourage creative, appropriate and economically viable uses of heritage resources.
- (6) To support and encourage the voluntary designation of historic buildings and structures.
- (7) To recognize the importance of archaeological sites within the municipality that represent the physical remains of a lengthy settlement history and a fragile non-renewable cultural legacy.

18.3 HERITAGE POLICIES

(1) Criteria and Guidelines

A set of criteria has been established for the selection of sites, structures, buildings, areas and environments of heritage significance. The basis for selection are tied to the historical and architectural development of the Town of Niagara-on-the-Lake. Criteria are also included to address new development proposals in the municipality.

(3) Criteria for Individual Buildings

Council and LACAC shall consider the following criteria when evaluating individual buildings for designation under The Ontario Heritage Act. The buildings so designated should interpret the Town's heritage through architectural merit and/or historical association.

- a) Has the building been associated with the life of an historic personage or has it played a role in an important historic event.
- b) Does the building embody the distinguishing characteristics of an architectural type recognized for its style or period of construction, or is it a notable example of workmanship by an early master builder, designer or significant architect.
- c) Does the building or building type have special significance in that it forms an integral component of a particular neighborhood character within the community.
- d) The potential for illustrating the heritage value should be such that it will be possible for visitors to gain from the building an appreciation for the architecture or history with which it is associated.
- e) In considering the designation of a building, the extent of the original materials and workmanship remaining should be important to that designation.
- f) Intangible elements such as feeling, association and aesthetics shall be considered as well as the physical appearance of buildings or structures.
- g) Architectural character should be considered on the basis of style, plan and sequence of spaces, uses of materials and surface treatment and other details including

windows, doors, lights, signs and other fixtures of such buildings and the relation of such factors to similar features of the buildings in the immediate surroundings.

(4) Criteria for Assessing New Development

Where a planning application has been received that proposes new development in the municipality, the Planning & Development Services Department for the Town shall include LACAC as a commenting agency to be given an opportunity to review the application and provide comments. The comments from all circulated agencies shall form part of the required planning report prepared by the Town. The review by LACAC shall address the following:

- a) The impact of the development on existing heritage resources
- b) The proposed building design and its effect on the historic character of abutting properties and the streetscape.

18.4 GENERAL HERITAGE CONSERVATION POLICIES

- (1) To assist in the program for preservation of the Town's heritage, Council has under Section 28 of The Ontario Heritage Act, established a "Local Architectural Conservation Advisory Committee" (LACAC). Members of this Committee are to be selected from local organizations, historical groups, architectural societies, interested individuals and other appropriate bodies in order to provide a combination of diverse skills and interests. The Committee's primary purpose shall be to advise and assist Council on all specified matters relating to the Ontario Heritage Act. The committee may also be responsible for other special heritage concerns of the Town as requested by Council.
- (2) It shall be the policy of Council to encourage the preservation of buildings and sites having historical and/or architectural values.
- (3) Council shall identify and maintain a list of possible heritage properties. This list will be the basis for preservation, restoration and utilization of heritage resources.
- (4) Council shall designate and regulate heritage resources under appropriate legislation, including The Ontario Heritage Act, the Planning Act and The Municipal Act, whenever deemed feasible.
- (5) Council shall exercise its legislative authority to control the alteration or demolition of heritage. Where Council has through by-laws designated individual buildings or districts under The Ontario Heritage Act, and established an area of Demolition Control under Section 33 of the Planning Act, 1983, no person shall demolish the whole or any part of the designated property or property in a designated area, or alter or make additional to a designated property or property in a designated area, without first receiving a permit issued by Council.

- (6) Council, with the advice of LACAC, will regulate and guide alterations and additions to heritage resources. Council may also request comments from LACAC for any development within a Heritage District, proposed expansion area or where it is believed that a development may impact on heritage resources.
- (8) If necessary, Council will acquire, restore and appropriately manage heritage property on a selective basis.
- (9) It shall be the policy of Council to seek the acquisition of easements on properties of architectural or historical significance in order to assure the preservation of these properties.
- (11) Council will undertake heritage plans and programs in accordance with the following system of priorities:
 - a) The protection of heritage areas.
 - b) The stimulation and utilization of heritage by the public.
 - c) Selective restoration and rehabilitation of heritage by the Town.