

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.

Marshy lands, etc.

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy, unstable, hazardous, subject to erosion or to natural or artificial perils.

Contaminated lands; sensitive or vulnerable areas

- 3.1 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land,
 - i. that is contaminated,
 - ii. that contains a sensitive groundwater feature or a sensitive surface water feature,
or
 - iii. that is within an area identified as a vulnerable area in a drinking water source protection plan that has taken effect under the Clean Water Act, 2006.

Natural features and areas

- 3.2 For prohibiting any use of land and the erecting, locating or using of any class or

- classes of buildings or structures within any defined area or areas,*
- i. that is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest,*
 - ii. that is a significant corridor or shoreline of a lake, river or stream, or*
 - iii. that is a significant natural corridor, feature or area.*

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

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

- 1.1.1 Healthy, livable and safe communities are sustained by:*
 - a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
 - b) accommodating an appropriate affordable and market-based range and mix of... institutional (including places of worship...) uses to meet long-term needs;*
 - c) avoid development and land use patterns which may cause environmental or public health and safety concerns;*
 - e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;*
 - f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;*
 - g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs*

1.1.4 Rural Areas in Municipalities

1.1.4.1 *Healthy, integrated and viable rural areas should be supported by:*

- a) *building upon rural character, and leveraging rural amenities and assets;*
- e) *using rural infrastructure and public service facilities efficiently;*
- f) *promoting diversification of the economic base and employment opportunities through goods and services, included value-added products and the sustainable management or use of resources*
- g) *providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;*
- h) *conserving biodiversity and considering the ecological benefits provided by nature; and*
- i) *providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3 [of the PPS]*

1.2.6 Land Use Compatibility

1.2.6.1 *Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.*

1.7 Long-Term Economic Prosperity

1.7.1 *Long-term economic prosperity should be supported by:*

- a) *promoting opportunities for economic development and community investment-readiness;*
- c) *optimizing the long-term availability and use of land, resources, infrastructure and public service facilities;*
- e) *encouraging a sense of place, by promoting well-designed built form and cultural planning...*
- i) *sustaining and enhancing the viability of the agricultural system through protecting agricultural resources, minimizing land use conflicts...;*
- k) *minimizing negative impacts from a changing climate and considering the ecological benefits provided by nature...*

2.3 Agriculture

2.3.1 *Prime agricultural areas shall be protected for long-term use for agriculture.*

Greenbelt Plan, 2017

4 General Policies for the Protected Countryside

4.5 Existing Uses

1. *All existing uses are permitted.*
4. *Expansions to existing buildings and... uses and/or conversions of legally existing uses which bring the use more into conformity with this Plan are permitted subject to a demonstration of the following:*
 - a) *Notwithstanding section 4.2.2.2 [of the Greenbelt Plan], new municipal*

- services are not required; and
- b) *The use does not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, unless there is no other alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.*

5.2.1 Decisions on Applications Related to Previous Site-Specific Approvals

Where a zoning by-law was amended prior to December 16, 2004 to specifically permit land use(s), this approval may continue to be recognized through the conformity exercise described in section 5.3 [of the Greenbelt Plan], and any further applications required under the Planning Act or the Condominium Act, 1998 to implement the use permitted by the zoning by-law are not required to conform with this Plan.

Applications to further amend the site-specific official plan or zoning by-law permissions referred to above for uses similar to or more in conformity with the provision of this Plan are also permitted. All such applications should, where possible, seek to achieve or improve conformity with this Plan.

Niagara Official Plan, 2022

4.1 The Agricultural System

4.1.2 Specialty Crop Areas and Prime Agricultural Areas

4.1.2.2 In specialty crop areas, all existing uses lawfully used for such purpose prior to December 16, 2004 are permitted...

4.1.3 Minimize Conflicts of Non-Agricultural Uses

4.1.3.2 Non-agricultural uses must address Greenbelt Plan policies for non-agricultural uses in the specialty crop areas and prime agricultural areas.

4.1.3.7 Where agricultural uses and non-agricultural uses interface, land use compatibility shall be achieved by avoiding or, where avoidance is not possible, minimizing and mitigating adverse impacts on the agricultural system, by incorporating measures as part of new or expanding non-agricultural uses, as appropriate, within the area being developed.

4.1.10 Non-Conforming Uses in the Agricultural System

4.1.10.2 Expansions to existing buildings and structures, accessory structures and existing uses, as well as conversions or redevelopment of legally existing uses that bring the use more into conformity with this Plan, are permitted subject to demonstration of the following:

- a) *new municipal services are not required;*
- b) *the proposal does not expand into key natural heritage features and key hydrologic features, unless there is no other alternative in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure;*
- c) *if applicable, the proposed new use complies with the Specialty Crop*

- Guidelines, as amended from time to time;*
- e) *the proposal does not result in the intrusion of new incompatible uses...*

7.12 General Implementation Policies

7.12.1 Non-Conforming Uses

- 7.12.1.1 *A non-conforming use that has been legally established is one which does not conform with this Plan. Such use may be permitted to expand or enlarge without an amendment to the Plan provided that the general intent of the objectives and policies of the Plan are maintained and the expansion or enlargement does not create noise, air, environmental or servicing impacts.*
- 7.12.1.2 *A use which does not conform with this Plan should, over the long term, cease to exist or relocate to an appropriate location.*
- 7.12.1.3 *Council may acquire, hold and dispose of land for the purpose of implementing the objectives and policies of the Plan.*

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

Section 7: Agriculture

7.2 Goals and Objectives

- (1) *To help ensure the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands.*
- (2) *To help preserve the existing and potential agriculturally productive land giving highest priority to Good Tender Fruit/Grape Lands.*
- (3) *To allow flexibility to farm operations in both type and size and to permit the expansion and contraction of farm operations as necessary provided that the farm remains economically viable and that the size of the farm is appropriate and common in the area.*
- (5) *To ensure that existing small scale industries and commercial uses supportive of agricultural operations are allowed to expand where appropriate, while requiring new development or redevelopment not primarily related to agriculture is to locate in appropriately designated areas (ie. Light Industrial, General Commercial, etc.).*
- (6) *To ensure that agricultural areas are protected from harassment and conflict from nonfarm residents and non-farm related uses through measures such as preventing the development of non-farm uses in the Agricultural designation.*
- (7) *To consider the impact on agriculture as the primary guideline in evaluating development proposals in the agricultural areas.*

7.3 Land Use Designations

7.3.1 Agricultural

Main Uses: The main use permitted is agriculture including all types of farming, their related buildings and structures, the farm residence, the raising of animals and fowl, market gardening, greenhouses and nurseries, forestry and reforestation. Conservation of water, soil, wildlife and other natural resources in their natural state is also permitted.

Secondary Uses:

Uses permitted with a Main Use:

- roadside produce outlets
- farm wineries
- home industries and occupations including bed & breakfasts
- group homes
- accessory buildings and structures
- farm help houses and additional farm dwellings for seasonal or full time farm help

Uses permitted independent of a Main Use:

- agricultural markets
- estate wineries
- small scale industrial and commercial activities that are directly related to and serve agriculture and require a location in close proximity to farms. Provided that such uses are not in conflict with the Niagara Escarpment Plan, as amended from time to time and it is not possible for such uses to locate in Urban Areas. Such uses should also be located so that their effect on surrounding prime agricultural land and viable farm operations is minimized.

7.5 Exceptions

- (1) Where lands are shown as EXCEPTIONS in the agricultural area, the uses permitted shall be limited in the implementing zoning by-law to the following:
 - a) The existing or approved use of the lands as explained in each exception (see Policy (2));
 - b) Any use permitted in the agricultural designation of this Plan subject to the policies of Section 7 of the Plan;
 - c) Any use having a similar impact to that of the existing use that is deemed reasonably compatible with the agricultural area to take advantage of existing buildings and facilities. Such uses shall only be permitted by a site specific amendment to the zoning by-law;
 - d) Zoning restriction for lot coverage, height, etc., may be applied to limit development and expansion of any building so as not to adversely affect the agricultural area.
- (2) The following are exceptions to the agricultural designation. The explanation with each exception indicates the existing use of the lands at the time of the adoption of the Plan as well as any previous planning approval given or any subsequent approvals.

EX-AG-5 Existing Churches

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

Section 3 Protected Countryside: The Unique Specialty Crop Area

3.2 Agricultural System

3.2.2 Objectives

3.2.2.1 The objectives for managing and building the Town's agricultural system include:

- l) encouraging the preservation of agricultural lands for agricultural purposes and directed non-farm uses to settlement area.

- m) *Managing the interface between agricultural and non-agricultural uses by preventing conflicts and implementing edge planning controls (buffering, separation, etc.) that protect the ability and right to farm and grow specialty crops.*

3.2.3 Permitted Uses

- 3.2.3.1 *The following uses may be permitted in the Protected Countryside in accordance with the applicable provisions of this Plan:*
 - i) *All existing uses lawfully used for such purpose prior to December 16, 2004, the date the Greenbelt Plan came into effect...*

3.2.4 General Policies for Specialty Crop Area

- 3.2.4.5 *All uses in the Specialty Crop Area will be designed, located and managed to not detract from the primacy of agriculture.*
- 3.2.4.6 *All lands designated as Specialty Crop Area will be placed in an Agricultural Zone in the Zoning By-law. Existing uses which are permitted by this Plan will be placed in an appropriate exception zone if the Town is satisfied that the use has been in continuous operation since December 16, 2004 and the use does not pose a risk to public health or safety.*
- 3.2.4.7 *Where municipal services are not available, uses shall be limited to low water and low effluent producing uses, on condition that the site can accommodate the use on private water and private sewage treatment systems in perpetuity.*

10.16 Non-Conforming Uses

- 10.16.1 *Where a property has an existing use of land that does not comply with the land use designation shown in this Plan, or to any other applicable policy in this Plan it may, notwithstanding the policies of this Plan, be zoned for the existing use provided that:*
 - a) *The zoning will not permit any change of use or performance standard that will aggravate any situation detrimental to adjacent complying uses;*
 - b) *The use does not constitute a danger to surrounding uses and persons by virtue of a hazardous nature, the traffic generated, or other nuisance;*
 - c) *Cultural heritage resources will be conserved and/or enhanced; and*
 - d) *It does not interfere with desirable development in adjacent areas that are in conformity with this Plan.*
- 10.16.4 *Where a property contains a non-complying use the use may expand in accordance with the following:*
 - a) *The expansion will not seriously jeopardize the possibility of future developments in their vicinity that may comply more closely with intent of this Plan;*
 - b) *In any such expansion special efforts are made to enhance the compatibility of the uses and to improve amenity and design; more specifically, matters dealing with buffering, landscaping, parking and vehicular circulation will be*

given attention;

- c) The expansion or redevelopment is only permitted through an amendment to a zoning by-law; and*
- d) The expansion must not supersede settlement area boundaries or involve a major intensification of land use.*