

POLICY CONTEXT

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

Alteration of property

33 (1) No owner of property designated under section 29 shall alter the property or permit the alteration of the property if the alteration is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be, unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the alteration. 2019, c. 9, Sched. 11, s. 11.

Application

(2) An application under subsection (1) shall be accompanied by the prescribed information and material. 2019, c. 9, Sched. 11, s. 11.

Other information

(3) A council may require that an applicant provide any other information or material that the council considers it may need. 2019, c. 9, Sched. 11, s. 11.

Notice of complete application

(4) The council shall, upon receiving all information and material required under subsections (2) and (3), if any, serve a notice on the applicant informing the applicant that the application is complete. 2019, c. 9, Sched. 11, s. 11.

Notification re completeness of application

(5) The council may, at any time, notify the applicant of the information and material required under subsection (2) or (3) that has been provided, if any, and any information and material under those subsections that has not been provided. 2019, c. 9, Sched. 11, s. 11.

Decision of council

(6) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (7),

(a) shall,

(i) consent to the application,

(ii) consent to the application on terms and conditions, or

(iii) refuse the application; and

(b) shall serve notice of its decision on the owner of the property and on the Trust. 2019, c. 9, Sched. 11, s. 11.

Same

(7) For the purposes of subsection (6), the time period is determined as follows:

1. Unless paragraph 2 applies, the period is 90 days after a notice under subsection (4) is served on the applicant or such longer period after the notice is served as is agreed upon by the owner and the council.

2. If a notice under subsection (4) or (5) is not served on the applicant within 60 days after the day the application commenced, as determined in accordance with the regulations, the period is 90 days after the end of that 60-day period or such longer period after the end of the 60-day period as is agreed upon by the owner and the council. 2019, c. 9, Sched. 11, s. 11.

Deemed consent

(8) If the council fails to notify the owner under clause (6) (b) within the time period determined under subsection (7), the council shall be deemed to have consented to the application. 2019, c. 9, Sched. 11, s. 11.

Appeal to Tribunal

(9) If the council of a municipality consents to an application upon certain terms and conditions or refuses an application, the owner may, within 30 days after receipt of the notice under clause (6) (b), appeal the council's decision to the Tribunal by giving a notice of appeal to the Tribunal and to the clerk of the municipality setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged by the Tribunal. 2019, c. 9, Sched. 11, s. 11; 2021, c. 4, Sched. 6, s. 74 (2).

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

(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.

The Standards and Guidelines for the Conservation of Historic Places in Canada

General Standards for Preservation, Rehabilitation and Restoration

1. Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character-defining elements. Do not move a part of an historic place if its current location is a character-defining element.
2. Conserve changes to an historic place that, over time, have become character-defining elements in their own right.
3. Conserve heritage value by adopting an approach calling for minimal intervention.
4. Recognize each historic place as a physical record of its time, place and use. Do not create a false sense of historical development by adding elements from other historic places or other properties, or by combining features of the same property that never coexisted.
5. Find a use for an historic place that requires minimal or no change to its character-defining elements.
6. Protect and, if necessary, stabilize an historic place until any subsequent intervention is undertaken. Protect and preserve archaeological resources in place. Where there is potential for disturbing archaeological resources, take mitigation measures to limit damage and loss of information.
7. Evaluate the existing condition of character-defining elements to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.
8. Maintain character-defining elements on an ongoing basis. Repair character-defining elements by reinforcing their materials using recognized conservation methods. Replace in kind any extensively deteriorated or missing parts of character-defining elements, where there are surviving prototypes.
9. Make any intervention needed to preserve character-defining elements physically and visually compatible with the historic place and identifiable on close inspection. Document any intervention for future reference.

Additional Standards Relating to Rehabilitation

10. Repair rather than replace character-defining elements. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements. Where there is insufficient physical evidence, make the form, material and detailing of the new elements compatible with the character of the historic place.
11. Conserve the heritage value and character-defining elements when creating any new additions to an historic place or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.

12. Create any new additions or related new construction so that the essential form and integrity of an historic place will not be impaired if the new work is removed in the future.

Additional Standards Relating to Restoration

13. Repair rather than replace character-defining elements from the restoration period. Where character-defining elements are too severely deteriorated to repair and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements.

14. Replace missing features from the restoration period with new features whose forms, materials and detailing are based on sufficient physical, documentary and/or oral evidence.