

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.

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 Planning Statement, 2024

2.5 Rural Areas in Municipalities

1. Healthy, integrated and viable rural areas should be supported by:

- d) using rural infrastructure and public service facilities efficiently;
- e) promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;
- f) providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;
- h) providing opportunities for economic activities in prime agricultural areas, in accordance with policy 4.3.

2.8 Employment

2.8.1 Supporting a Modern Economy

1. Planning authorities shall promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- d) encouraging intensification of employment uses and compatible, compact, mixed-use development to support the achievement of complete communities; and

4.3 Agriculture

4.3.1 General Policies for Agriculture

1. Planning authorities are required to use an agricultural system approach, based on provincial guidance, to maintain and enhance a geographically continuous agricultural land base and support and foster the long-term economic prosperity and productive capacity of the agri-food network.

2. As part of the agricultural land base, prime agricultural areas, including specialty crop areas, shall be designated and protected for long-term use for agriculture.

3. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

4.3.2 Permitted Uses

1. In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses based on provincial guidance. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on provincial guidance or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

2. In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

3. New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.

4.3.5 Non-Agricultural Uses in Prime Agricultural Areas

2. Impacts from any new or expanding non-agricultural uses on the agricultural system are to be avoided, or where avoidance is not possible, minimized and mitigated as determined through an agricultural impact assessment or equivalent analysis, based on provincial guidance.

4.3.6 Supporting Local Food and the Agri-food Network

1. Planning authorities are encouraged to support local food, facilitate near-urban and urban agriculture, and foster a robust agri-food network.

4.6 Cultural Heritage and Archaeology

2. Planning authorities shall not permit development and site alteration on lands containing archaeological resources or areas of archaeological potential unless the significant archaeological resources have been conserved.

6.2 Coordination

3. Planning authorities are encouraged to engage the public and stakeholders early in local efforts to implement the Provincial Planning Statement, and to provide the necessary information to ensure the informed involvement of local citizens, including equity-deserving groups.

Greenbelt Plan, 2017

1.2.2 Protected Countryside Goals

1. Agricultural Viability and Protection

- a) Protection of the specialty crop area land base while allowing agriculture-supportive infrastructure and value-added uses necessary for sustainable agricultural uses and activities;
- c) Protection of prime agricultural areas by preventing further fragmentation and loss of the agricultural land base caused by lot creation and the redesignation of prime agricultural areas;
- d) Provision of the appropriate flexibility to allow for agricultural, agriculture-related and on-farm diversified uses, normal farm practices and an evolving agricultural and rural economy;
- e) Increasing certainty for the agricultural sector to foster long-term investment in the agri-food network and improvement to and management of the agricultural land base; and
- f) Enhancing the strengths of the Agricultural System, including through consideration for the impacts of development on agriculture and planning for local food and near-urban agriculture.

3 Geographic-Specific Policies in the Protected Countryside

3.1.2 Specialty Crop Area Policies

For lands falling within specialty crop areas of the Protected Countryside, the following policies shall apply:

1. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations.
2. Lands shall not be redesignated in official plans for non-agricultural uses. Non-agricultural uses may be permitted subject to the policies of sections 4.2 to 4.6. These non-agricultural uses are generally discouraged in specialty crop areas and may only be permitted after the completion of an agricultural impact assessment.
5. 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, based on provincial guidance. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed.

6. The geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network shall be maintained and enhanced.

3.1.5 Agri-food Network

1. Integrated planning for growth management, including goods movement and transportation planning, shall consider opportunities to support and enhance the Agricultural System.
2. Municipalities are encouraged to implement regional agri-food strategies and other approaches to sustain and enhance the Agricultural System and the long-term economic prosperity and viability of the agri-food sector, including the maintenance and improvement of the agri-food network, by:
 - a) Providing opportunities to support access to healthy, local, and affordable food, urban and near-urban agriculture, food system planning and promoting the sustainability of agricultural, agri-food and agri-product businesses while protecting agricultural resources and minimizing land use conflicts;
 - b) Protecting, enhancing or supporting opportunities for infrastructure, services and assets. Where negative impacts on the agri-food network are unavoidable, they shall be assessed, minimized and mitigated to the extent feasible; and

4.5 Existing Uses

For lands falling within the Protected Countryside, the following policies shall apply:

1. All existing uses are permitted
4. Expansions to existing buildings and structures, accessory structures 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, 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

Niagara Official Plan, 2022

4.1.1 Region's Agricultural Land Base

4.1.1.2 Prime agricultural areas and specialty crop areas, as shown on Schedule F, shall be protected for long-term use for agriculture.

Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through seven lands within the prime agricultural area, in this order of priority.

4.1.2 Specialty Crop Areas and Prime Agricultural Areas

4.1.2.1 Specialty crop areas shall not be redesignated in official plans for non-agricultural uses. Non-agricultural uses may be permitted subject to Policies 4.2 to 4.6 of the Greenbelt Plan and Section 4.1.3 of this Plan.

4.1.2.2 In specialty crop areas, all existing uses lawfully used for such purpose prior to December 16, 2004 are permitted. In specialty crop areas, single detached dwellings and accessory structures are permitted on existing lots of record, provided they were zoned for such or permitted through other regulation as of December 16, 2004.

4.1.2.3 In specialty crop areas and prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted.

4.1.7 A Resilient Agricultural Economy

4.1.7.3 Agricultural uses, agriculture-related uses and on-farm diversified uses are permitted in the following areas:

- a. specialty crop areas;
- b. prime agricultural areas; and
- c. rural lands

Table 4-1 Agricultural Uses, Agricultural-Related Uses and On-Farm Diversified Uses

Type of Use	Agricultural Uses	Agriculture-Related Uses	On-Farm Diversified Uses
Description	Growing of crops or raising of livestock; raising of other animals for food, fur or fibre; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures	May or may not be on a farm; farm-related commercial or industrial use; compatible with surrounding agricultural operations; directly related to farms in the area; supports agriculture, provides products or services to farms; benefits from proximity to farms	On a farm; secondary use; limited in area; includes, but is not limited to, home occupations, home industries, <i>agri-tourism uses</i> and value-added uses; compatible with surrounding agricultural operations
Examples include, but are not limited to	a. cropland b. pastureland c. barns and other associated buildings and structures	a. processing of agricultural products b. farm equipment repair shop c. agriculture research centre	a. <i>agri-tourism uses</i> b. pick-your-own operation c. home occupations

4.1.7.4 Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations.

4.1.7.5 Agriculture-related uses and on-farm diversified uses shall be consistent with the provisions of the Provincial Policy Statement, and conform to the Growth Plan, Greenbelt Plan, and Niagara Escarpment Plan.

4.1.7.7 The appropriate scale for on-farm diversified uses may vary depending on the type of use and whether the activities are located in the specialty crop area or in other prime agricultural areas. The following criteria shall be considered when reviewing applications for proposed agriculture-related uses:

- a. whether the proposed activity is more appropriately located in a nearby

settlement area or on rural lands;

- b. whether the use is required for or in close proximity to the agricultural operation for it to support and complement the agricultural activity;
- c. the extent to which the use is compatible with the existing farming operation and surrounding farming operations;
- d. whether the scale of the activity is appropriate to the site and farming operation;
- e. whether the use is consistent with and maintains the character of the agricultural area;
- f. the use does not generate potentially conflicting off-site impacts;
- g. the activity does not include a new residential use;
- h. the use is limited to low water and low effluent producing uses and the site is capable of accommodating the use on private water and private sewage treatment systems;
- i. the use does not require significant improvements to infrastructure; and
- j. the use complies with all other applicable provisions of this Plan.

4.1.7.9 Local Area Municipalities are encouraged to utilize site plan control to regulate the impact of agriculture-related uses and on-farm diversified uses, in relation to entrances, parking and loading facilities, signage, grading and storm water drainage, buffering and landscaping, and landscape protection.

6.4.2 Conservation in Accordance with Provincial Requirements

6.4.2.1 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 or the land has been investigated and cleared or mitigated following clearance from the Province.

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

6. General Development Policies

6.1 ARCHAEOLOGICAL SURVEY

As a condition of a planning application for the development or redevelopment of land, the municipality in consultation with the authority having jurisdiction may require the proponent to undertake an Archaeological Survey for the purposes of determining whether prehistoric or historic archaeological resources exist on site and determining an appropriate course of action should these resources be found. Detailed requirements

are contained in SECTION 18: HERITAGE CONSERVATION

6.21 Parking and Loading Facilities

Off-street parking areas and loading facilities shall be provided for the applicable uses as required by the implementing Zoning By-law. Access points to parking areas and loading areas shall be limited in number and designed in a manner which will minimize the danger to pedestrian and vehicular traffic in the immediate area and compatible with abutting properties.

6.25 Private Water Supply and Private Sewage Disposal

Where development is to take place on individual well and sewage disposal systems, the following policies for private systems shall be complied with before any such development will be permitted:

- a) The lot area shall comply with requirements of the authority having jurisdiction for the type of development proposed and the type of private system to be used.
- e) Each private sewage disposal system shall require approval by the authority having jurisdiction. Generally, the provision of private systems shall be restricted to residential development. If, in the opinion of the authority having jurisdiction any area appears questionable for the proper operation of a private sewage disposal system, an evaluation of the subject lands by a competent authority, shall be required before development is allowed to proceed.
- f) The improvement of existing substandard private systems shall be encouraged by all means available to the municipality.

6.28 Requirements for Development

Before any development is approved, the municipality shall be satisfied that necessary utilities, fire protection and police protection are adequate. In all cases approval will be given only in locations where such services are economically feasible to provide and maintain without creating an undue financial burden on the municipality or existing residents.

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
- (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

In the agricultural designation the following uses shall be permitted:

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.
- retirement lots

7.4 GENERAL AGRICULTURE POLICIES

(3) SECONDARY USE POLICIES

a) The following development policies shall apply to all secondary uses permitted in the agricultural designation.

- (i) Such uses shall avoid wherever reasonably practical Good Tender Fruit/Good Grape land as shown in the Regional Policy Plan.

(ii) Such uses shall be encouraged wherever reasonably practical to locate on a relatively self-contained or isolated area separated from other agricultural lands by woodland, roads, railways or ravines.

(iii) The location of the facility or use imposes no operating constraints or results in no reduction of the efficiency of any existing farms.

(iv) An adequate and potable water supply shall be available and it shall be the responsibility of the applicant to provide a report on the adequacy of the water supply, if required by the Town or the authority having jurisdiction.

(v) Soils shall be suitable or made suitable to support an individual waste disposal systems subject to the approval of the authority having jurisdiction.

(vi) Adequate drainage and outlets shall be available for storm water run-off. Approval of drainage provisions may be required from the Town, the Region, the Ministry of Transportation and/or the Niagara Peninsula Conservation Authority and/or the Niagara Parks Commission.

(vii) Adequate entrances and exits to roads shall be so located as to minimize travel hazards. Ribbon development along roadways shall be discouraged.

(viii) Adequate off-street loading, parking spaces and access points shall be provided for all commercial and industrial development. Access points shall be clearly defined by pavement breaks, landscaping, curbing or other acceptable means. Outside storage may be limited.

(ix) The municipality may impose appropriate controls through available legislation to ensure that the hours of operation of any secondary use does not conflict with adjacent land uses.

(x) The lands shall be appropriately zoned and, where necessary, a Development Agreement be entered into.

(xi) Development on treed areas, steep slopes, ravines, watercourses and any other natural or cultural resource shall be avoided.