

Relevant Official Plan Policies and Zoning Requirements

6.4 BUILDING HEIGHT RESTRICTIONS

The Town of Niagara-on-the-Lake consists of low-rise structures in a small town setting with a large number of historic buildings. Generally, the building height has not exceeded 11 metres (36 feet). For the most part this low-rise character should be maintained and the implementing zoning by-law should limit building height accordingly. Special provisions may also be included in the implementing zoning by-law limiting the building height to less than 11 metres (36 feet) in low density residential, and established residential areas where the majority of the buildings are one or 1 1/2 storeys in height.

SECTION 6A: GROWTH MANAGEMENT POLICIES

4. INTENSIFICATION

4.4 Intensification Objectives

Urban Design

...the following urban design guidelines apply to intensification proposals in... Old Town...

- a) *Infill and intensification sites should match the average preestablished 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...*
- 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

Compatibility and Appropriate Infrastructure

...intensification development within the Built-up Area should be compatible with surrounding existing and planned land uses...

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.*
- 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:*
 - *Building Setbacks*
 - *Privacy and over view*
 - *Lot grading and drainage*
 - *Parking*

Development Criteria - Residential Infill and Intensification in Old Town and Virgil

In considering an application for development approval on lands designated 'Low Density Residential', 'Medium Density Residential' and 'Established Residential', Council shall ensure infill and intensification development and redevelopment respects and reflects the existing pattern and character of adjacent development, by adhering to the development criteria outlined below, unless otherwise specified in a heritage conservation district plan:

- a) *the lot frontage(s) and lot area(s) of the proposed new lot(s) shall be consistent with the sizes of existing lots on both sides of the street on which the property is located;*
- b) *the proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street;*
- c) *front and rear yard setbacks for the new building(s) shall be consistent with the front and rear yards that exist on the same side of the street;*
- d) *the setback between new building(s) and the interior side lot line shall increase as the lot frontage increases;*
- e) *the new building(s) shall have a complementary relationship with existing buildings, while accommodating a diversity of building styles, materials and colours;*
- f) *existing trees and vegetation shall be retained and enhanced through new street tree planting and additional on-site landscaping;*

- h) new driveways and service connections shall be sited to minimize tree loss;*
- i) impacts on adjacent properties shall be minimized in relation to grading, drainage, access and circulation, privacy and microclimatic conditions such as shadowing;*
- j) the orientation and sizing of new lots shall not have a negative impact on significant public views and vistas that help define a residential neighbourhood;*

SECTION 10: COMMERCIAL

10.1 BACKGROUND

The commercial structure of the Town of Niagara-on-the-Lake consists of uses that serve the needs of local residents, tourists, the surrounding agricultural area and a recently approved location for Regional Commercial Use...

The Old Town of Niagara currently has the most extensive commercial area consisting of the downtown core along Queen Street from Gate Street to Wellington Street. This area serves primarily tourist needs with some local serving commercial uses. A second commercial area is identified along Mary Street from Nassau Street to Mississagua Street. This area is dominated by local serving commercial uses.

A third commercial area is identified along Regional Road 55 (Niagara Stone Road) at the intersection of Niven Road. This land is currently vacant but is intended as a commercial area serving primarily local needs. A fourth commercial area is primarily devoted to serving the needs of boaters and tourists and is located south of Byron Street, along part of Melville Street and Ricardo Street. There is also within the community existing hotels (Pillar & Post, Oban Inn and Kiley House) that do not form part of any commercial district but have been separately identified in the Plan.

...commercial areas form integral parts of the communities in which they exist as such this Plan supports the protection of these commercial areas as major components of the municipality and to this end policies in this Section are directed towards that protection.

Expansion proposals have been received from several of the commercial establishments in the area and more development pressures can be expected in the future on the existing vacant parcels. Residents have expressed concern about the amount of tourist traffic in the area and its negative effects on the neighborhood. Other issues in the area include access to the water and commercial/residential conflict.

10.2 GOALS AND OBJECTIVES

- (1) To provide for an orderly distribution of commercial areas within the Urban Boundaries of the Town to meet the shopping and service needs of residents and tourists.*
- (2) To adequately provide for local-serving commercial areas and, where necessary, to prevent their use for tourist serving uses.*

- (3) *To maintain in tourist-serving commercial areas, a character which is consistent with the historical importance of these areas and their surroundings.*
- (4) *To recognize the Queen-Picton Street area as the focus of tourist serving commercial uses in the Old Town of Niagara.*
- (5) *To encourage controlled and orderly growth within designated commercial areas*
- (6) *To minimize the impact of commercial development on adjacent land uses.*
- (7) *To minimize the impact of commercial development on the traffic carrying capacity of adjacent roads.*
- (8) *To prevent the intrusion of commercial uses into residential areas.*
- (9) *To promote compact forms of commercial development, and to discourage scattered forms of development.*
- (10) *To recognize the existing commercial structure of the Town as an important part of the municipality that should be protected from any significant impact from future proposals for major commercial development.*

10.3 LAND USE DESIGNATIONS

10.3.1 GENERAL COMMERCIAL

- (1) *Within the General Commercial designation shown on the Land Use Schedules the following uses shall be permitted:*

Main Uses:

- Retail Commercial Uses
- Business Offices

Secondary Use:

Uses permitted with a Main Use:

- accessory buildings and structures
- dwelling units

Uses permitted independent of a Main Use:

- Service Shops

- (2) *The implementing Zoning By-law may exclude specific uses or categories of uses which are considered to be incompatible with the goals, objectives and policies of the Plan, particularly in the Queen-Picton Heritage Conservation Area where the focus is on pedestrian-oriented shopping.*

- (3) *Certain existing large tourist-serving commercial establishments within Niagara/Old Town such as the Pillar and Post, Kiely House and Oban Inn have been designated General Commercial in this Plan even though they do not form part of a contiguous commercial area. These commercial uses may be zoned to allow hotels, restaurants and a small component of retail sales associated with a hotel, and may be allowed to expand within their present sites. However, it is not intended that these uses form nodes for expanded General Commercial activity.*
- (4) *To provide for a balance of commercial uses, Tourist commercial uses may be restricted in the implementing Zoning to specific locations, leaving other commercial areas devoted to serving other needs.*

10.4 COMMERCIAL POLICIES

The following policies apply to all commercial designations shown on the Land Use Schedules:

- (1) *The Commercial designation of land shall mean that the predominant use shall be the buying and selling of goods and services.*
- (2) *To provide for differing ranges of commercial use and differing forms of development, there are five Commercial designations:*

General Commercial: *intended to provide the residents of the municipality with a wide range of goods and services. Tourist uses are also permitted but may be restricted in the implementing zoning by-law to specific locations so as not to detract from providing for the needs of local residents.*

Service Commercial: *intended to provide goods and services to the residents of the municipality and the travelling public. Such uses are more land extensive and require locations in peripheral areas of the community.*

Marina: *intended to serve the boating public and tourists and permits uses of a marine nature.*

Marine Commercial: *intended to provide support services to Marina locations. Typical uses include hotels, restaurants and marine supplies.*

Niagara-on-the-Green Commercial: *intended to specifically apply to lands south of the Queen Elizabeth Highway within the “Niagara-on-the-Green” development.*

- (3) *The character of each individual commercial area, and the character of its surrounding uses, shall be considered in determining the zoning regulations to apply to that area, so that a cohesive character may be promoted which will be in keeping with adjoining areas. Zoning regulations will also take into consideration limiting the use of land at the fringe of a commercial area designation.*
- (4) *Adequate off-street parking shall be provided for all new commercial development. In existing developed commercial areas, where inadequate parking has been provided,*

and where additional off-street parking is difficult to achieve, or would negatively affect the pedestrian character of the area, Council may consider accepting payments of cash-in-lieu of parking spaces from new or intensified commercial development.

- (5) It is recognized that the downtown core in Old Town/Niagara lacks adequate parking arrangements. While there may be a sufficient supply of parking spaces their location and number in a particular area may not be appropriate or effective. The Council shall undertake to prepare a Municipal parking strategy for the Old Town.*
- (6) Off-street parking areas for commercial uses will be designed to facilitate the efficient offstreet movement of vehicles and not to negatively impact on abutting or near-by residential uses.*
- (7) Vehicular accesses for new commercial developments will be restricted, as necessary, to minimize the effect of turning movements on adjoining roadways. Wherever possible, joint accesses will be designed to serve multiple commercial uses.*
- (8) Requirements for building setbacks, minimum landscaped areas, buffer strips, maintenance of existing trees, privacy screening and other appropriate measures to enhance the "greening" of commercial areas and to protect adjoining residential areas from the effects of commercial activity shall be applied in all new commercial development or redevelopment.*
- (9) Every effort shall be made to preserve heritage resources if they are affected by an application for commercial development or redevelopment and an inventory of heritage features deemed by Town Council to be impacted by a development application shall be made before changes are undertaken and the conservation of such features shall be encouraged.*
- (10) Dwelling units permitted in any commercial designation may be restricted in the implementing Zoning By-law to the second and upper floors of a building or to only a single dwelling unit so as not to detract from the prime function of the commercial designation.*
- (11) In keeping with the desire to maintain the small town, small-scale character of Niagara/Old Town the intensification of commercial businesses in the "Queen and Picton Street" and "Dock Area" commercial district will be closely monitored and should monitoring indicate a negative impact in this regard the Council will consider imposing restrictions through the implementing zoning by-law.*
- (12) In considering an application to amend the Zoning By-law for new or expanded retail developments having a commercial floor area greater than 900 sq.m., the municipality shall require a market/impact study demonstrating that the proposed development is warranted, and that the planned function of the commercial structure of the Town and its communities will not be prejudiced over the lifetime of the Plan.*

(13) *Proposals to amend this Plan to permit major new or expanded retail developments outside the existing commercial designations shall be required to undergo market /impact studies in order to:*

- a) *identify the type and size of retail facilities that are warranted or will be warranted by a certain year;*
- b) *provide updated information on the performance of the Town's retail sector and identify the impact of the proposed development on other retail locations in the Town;*
- c) *satisfy Council the proposed development is warranted and appropriate from both the market and impact perspectives, and in particular that the planned function of the commercial areas within the municipality will not be prejudiced; and*
- d) *enable Council to identify the specific requirements and limitations, if any, which should be included in the amendment or otherwise made a condition of approval.*

The cost of market/impact studies and any other required supporting documentation shall be borne by the proponent. Cost incurred by the Municipality in engaging in peer review market, traffic and /or planning consultants to evaluate the proposal and supporting submissions shall be reimbursed by the proponent.

(14) *In order to provide an appropriate future distribution of food shopping facilities to serve existing and future residents of the Town, proposals for new supermarkets or major expansions of existing supermarkets shall be considered in the context of future residential growth areas, with particular attention to enhancing the availability of neighbourhood shopping facilities.*

SECTION 14: INSTITUTIONAL

14.1 BACKGROUND

The Institutional designation is to recognize significant institutions such as schools, government offices, and hospitals. The institutional designation applies only to urban areas.

Lands designated for Institutional use include the Town Offices, Fire Halls, Arena and sports fields and private institution such as the Niagara Institute in the Old Town of Niagara.

14.2 GOALS AND OBJECTIVES

- (1) *To provide for appropriately located public and private institutions that are accessible to the people they serve, while not having an adverse effect on residential or agricultural areas.*
- (2) *To recognize that major institutions have a significant role to play in the make-up of a municipality and to the extent possible these institutions should be planned for.*

14.3 LAND USE DESIGNATIONS

14.3.1 INSTITUTIONAL

Within the Institutional designation shown on the Land Use Schedules the following uses shall be permitted:

Main Uses:

Colleges, universities and secondary schools, hospitals, government offices,

Secondary Uses:

Uses permitted with a Main Use:

- arenas, dormitories, dining and banquet facilities, conference centres, associated parking areas, similarly related uses

- accessory buildings and structures

Uses permitted independent of a Main Use:

- any use permitted in an open space designation

14.4 INSTITUTIONAL GENERAL POLICIES

The following policies shall apply to all lands designated institutional:

(1) LOCATION CRITERIA

The establishment of new institutions shall be guided by the following principles as well as the other applicable policies of the Plan in determining the appropriateness of new locations:

- a) Such facilities must have direct or convenient access to arterial roads;*
- b) Such facilities should be adequately separated from low density and established neighborhoods by an appropriate distance separation or intervening land use without encouraging scattered or inefficient development;*
- c) Such facilities should be encouraged to locate close to significant open space areas or other topographic features where feasible;*
- d) Provided they are reasonably appropriate to the area major institutions may also be permitted in the First Capital Business Park, in General, Light and Prestige Industrial designations.*

7.8 GENERAL COMMERCIAL (GC) ZONE

In the Old Town Community Zoning District - General Commercial (GC) Zone, no land shall be used and no building or structure shall be used, altered or erected except in accordance with the following uses and provisions:

7.8.1 Permitted Uses:

- (a) accessory buildings and structures in accordance with Section 6.1*
- (b) art, craft or photography studio*

- (c) *automobile service station*
- (d) *bake shop*
- (e) *bank or financial institution*
- (f) *business or professional office*
- (g) *commercial recreation facility*
- (h) *convenience store*
- (i) *community centre*
- (j) *cottage rental (added by 4316AI-13, OMB PL130581, December 5, 2013)*
- (k) *funeral home or undertaking establishment*
- (l) *hotel*
- (m) *outdoor patio restaurant, as a secondary use to an existing restaurant in accordance with Section 6.36*
- (n) *personal service establishment (as amended by 4316J-11)*
- (o) *printing or binding establishment*
- (p) *private club*
- (q) *rental outlet*
- (r) *residential unit in accordance with Section 6.48*
- (s) *restaurant*
- (t) *retail store*
- (u) *service establishment*
- (v) *take-out restaurant*
- (w) *tavern*
- (x) *theatre*
- (y) *vacation apartment (added by 4316AI-13, OMB PL130581, December 5, 2013)*
- (z) *veterinarian clinic*
- (aa) *villa (added by 4316AI-13, OMB PL130581, December 5, 2013)*

7.8.2 Zone Requirements:

(a)	<i>Minimum lot frontage</i>	<i>15.0 m (49.2 ft)</i>
(b)	<i>Minimum lot area</i>	<i>464 m² (4994.62 ft²)</i>
(c)	<i>Maximum lot coverage</i>	<i>50%</i>
(d)	<i>Minimum landscaped open space</i>	<i>20%</i>
(e)	<i>Minimum front yard setback</i>	<i>4.5 m (14.76 ft)</i>
(f)	<i>Minimum interior side yard setback</i>	<i>1.2 m (3.94 ft)</i>

(g)	<i>Minimum exterior side yard setback</i>	<i>4.5 m (14.76 ft)</i>
(h)	<i>Minimum rear yard setback</i>	<i>7.5 m (24.6 ft)</i>
(i)	<i>Minimum building height</i>	<i>10.0 m (32.8 ft)</i>
(j)	<i>Maximum building height</i>	<i>10.5 m (34.45 ft)</i>
(k)	<i>Minimum accessory building yards setback (as amended by 4316Y-12)</i>	<i>1.2 m (3.94 ft)</i>
(l)	<i>Minimum accessory building exterior side yard setback (as amended by 4316Y-12)</i>	<i>4.5 m (14.76 ft)</i>

7.8.3 Buffer Strip:

Where the interior side yard or rear lot line of a lot zoned General Commercial (GC) abuts a residential zone, a strip of land adjacent to the adjoining lot line being a minimum of 3.0 m (9.84 ft) in width shall be used as a buffer strip in accordance with Section 6.6.