

PART 9 ADMINISTRATION

9.1. REGIONAL OFFICIAL PLAN

In accordance with the Planning Act it is intended that this Plan and subsequent implementing procedures will comply with the Official Plan of the Regional Municipality of Niagara. The Town shall not approve amendments to this Plan, Secondary Plans or any By-laws, which do not comply with the Regional Official Plan.

The Regional Official Plan prevails over this Plan where conflicts occur between them. Town policies in this Plan that are more rigorous or restrictive than the Regional Official Plan are not to be considered in conflict with the Regional Official Plan and continue to apply.

The Town will also have regard for guidelines adopted by Regional Council.

9.2. ZONING BY-LAW

- (a) The implementing Zoning By-law establishes regulations for the use of land and *development* standards within the Town. Following the adoption of this Plan, a review and update of the Town implementing Zoning By-law shall be undertaken to ensure that it implements the policies of this Plan. Any application to amend the Zoning By-law shall be in conformity with the provisions of this Plan.
- (b) In areas where the existing use is in conformity with this Plan or where a future use can be anticipated in accordance with the relevant provisions of this Plan, then such use may be appropriately zoned in the implementing Zoning By-law.
- (c) Within the Niagara Escarpment Plan Areas of Development Control, development (as defined in the Niagara Escarpment Plan and Development Act) are regulated by the Niagara Escarpment Commission through the issuance of a Development Permit, and not through zoning mechanism.

9.3. DEVELOPMENT PERMIT SYSTEM

- (a) The Town may, through a By-law passed pursuant to Section 70.2 of the Planning Act, and Ontario Regulation 608/06 establish a Development Permit system for one or more specific areas of the Town.
- (b) Upon authorization of a Development Permit System, the Town may implement this Plan, as it applies to the designated development permit areas by the use of a development permit process independent of supplemental to its powers of implementation described in this Plan.

9.4. CONDITIONAL ZONING

- (a) Section 34 of the Planning Act authorizes municipalities to implement Conditional Zoning. However at the time this Plan was prepared, the required Ontario Regulation had not been brought into effect by the Province.
- (b) The Town may in a Zoning By-law, permit a use of land or the erection, location or the use of buildings or structures subject to one or more prescribed conditions relating to the erection, location or the use of buildings or structures.
- (c) Where a condition is imposed pursuant to Section 9.4(b), the Town may require the owner of the land to which the by-law applies to enter into an agreement with the Town relating to the conditions. The agreement may be registered on title against the lands to which the agreement applies and the Town may enforce the agreement against the owner and subject to the Registry Act and the land Titles Act, many and all subsequent owners of land.
- (d) Subsequent to the enactment of the applicable Regulation, this policy shall enable the Town to implement Conditional Zoning to facilitate and regulate *site alteration* and *development* within the adjacent land or minimum vegetation protection zones proximate to the natural heritage features located with the Natural Environment Area designation in this Plan.

9.5. HOLDING BY-LAW

- (a) In situations where the ultimate use of land is precisely known, but where The Town wishes to delay *development* until all related issues have been addressed, a Holding Provision may be applied by using the Symbol "H" in conjunction with a land use zoning category. It is the intent that Holding provisions be used under the following circumstances:
 - (i) To ensure that *development* occurs in the proper sequence;
 - (ii) To ensure that adequate provisions for water, sanitary and storm sewers and road access is available to serve the *development*;
 - (iii) When land assembly is required to permit orderly *development* or *redevelopment*;
 - (iv) When *development* or *redevelopment* is anticipated in accordance with the provisions of this Plan, but where the details, including site plans, of such *development* have not been determined;
 - (v) Ensure that appropriate studies have been undertaken to prevent undue impact to existing uses;
 - (vi) The entering into of agreements such as subdivision or site plan agreements; and/or
 - (vii) To provide for other conditions as deemed by Council prior to proceeding.
- (b) Where a holding designation is in effect, the lands shall be limited to existing uses or uses which will not prejudice the future *development* of the lands. In addition, no building or structure may be erected on the site until an application has been approved by Council to remove the "H" symbol. The holding symbol shall not apply to minor accessory buildings and structures such as sheds, garages or pools.

9.6. INTERIM CONTROL BY-LAW

- (a) In areas where The Town wishes to review the existing land uses or establish new policies, and where a study of land use planning policies for the area has been directed, The Town may adopt an Interim Control By-law. The Interim Control By-law restricts the land use to its present use until the required studies are completed, at which time the Zoning By-law may be amended to reflect the desired use. Timing and extensions for such a by-law will be subject to the provisions of The Planning Act, 1990.

9.7. TEMPORARY USE BY-LAWS AND GARDEN SUITES

9.7.1. Temporary Use By-laws

The Town may, in a by-law passed under the Planning Act, authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning By-law. Such a by-law may be in effect for a maximum period of three years for all temporary uses, except *garden suites*. *Garden suites* may have by-laws passed to be in effect for up to twenty (20) years from the date of passage. For uses other than *garden suites*, The Town may extend the three year time period, by by-law, for a maximum additional three (3) year term.

The Town shall satisfy itself that the proposed use is temporary, and will not create detrimental effects on the surrounding area. Temporary uses not allowed by the applicable policies of this Plan will not be permitted. Temporary uses, buildings and structures that are not farm-related shall not be permitted in the Specialty Crop or *Prime Agricultural Areas*.

Upon expiry of a Temporary Use By-law, uses permitted by that By-law must cease and cannot be considered as non-conforming uses. The type of uses envisaged by The Town as requiring a temporary use by-law include, but shall not be limited to: temporary use of a mobile home as a dwelling unit, or the existence of two homes on one lot while one of the homes is under construction.

9.7.2. Garden Suites

- (a) A *garden suite* in the form of a mobile home or a similarly mobile modular unit may be permitted as a second dwelling on a lot containing a single detached dwelling to facilitate common living. Where a need is demonstrated for a separate housing unit in close proximity to the existing housing unit, The Town may consider the passage of a by-law for the temporary use. The Town may require the Owner of the *garden suite* or any other person to enter into an agreement with the Municipality for the use and removal of the unit pursuant to Section 39 of the Planning Act.
- (b) In considering such proposals for a *garden suite*, the following shall be considered:
 - (i) The unit shall only be used on a temporary basis in conjunction with an existing dwelling on the same lot;

- (ii) The unit shall only be used on a temporary basis for as long as common living is maintained;
- (iii) The housing unit proposed is portable and thus readily removable from the site;
- (iv) The unit is not placed in the front yard of the lot or the required front yard required by the Zoning By-law;
- (v) No additional access is provided to the lot from a public road;
- (vi) Placement of the unit is not exclusively removed from the existing dwelling;
- (vii) The proposed site is capable of accommodating *sustainable private services* and a water supply system as determined by the Regional Public Health Department; and
- (viii) The location of such unit shall be in accordance with the *Minimum Distance Separation Formulas* where the use is proposed near any livestock operation.

9.8. COMMUNITY BENEFITS

- (a) The Town may consider the requirement to provide community benefits pursuant to Section 37 of the Planning Act in exchange for increases in height and/or density of *development* beyond those permitted in the Zoning By-law.
- (b) The policies of Section 9.8 apply to the areas designated Urban on the Schedule 'A' Land Use Plan.
- (c) Prior to the enactment of an amendment to the Zoning By-law pursuant to an application submitted under Section 34 of the Planning Act, The Town shall be satisfied that the proposal represents good planning including good urban design principles outlined in Section 8 of this Plan and is in conformity with the provisions of the this Plan. In this regard, The Town may permit increases in height and/or density that exceed the maximum height and/or density definitions of this Plan, without further amendment to this Plan where The Town is satisfied that the proposed by-law would otherwise be in conformity with all other aspects of this Plan and The Town is satisfied that the proposal represents good planning including good urban design principles outlined in Section 8 of this Plan.
- (d) Pursuant to the provisions of Section 37 of the Planning Act, The Town may seek to secure community benefits including but not limited to the following matters:
 - (i) Provision of public access, pedestrian and vehicular, to public facilities and sites;
 - (ii) Walkways and public space and connections to external walkways and trail systems;
 - (iii) Preservation of natural areas and woodlots, beyond open space dedication requirements;
 - (iv) Provision of parkland requirements beyond dedication requirements;
 - (v) Provision for various housing types including housing for *special needs*, assisted or *affordable* housing, in accordance with the Official Plan;
 - (vi) Provision of public parking;

- (vii) Provision of underground parking resulting in opportunities for housing *intensification* or *affordable* housing on the lands no longer required for surface parking;
 - (viii) Conservation of buildings and sites of architectural, archaeological or historic importance;
 - (ix) Provision of community and open space facilities, such as cultural, community and recreational facilities or municipal facilities;
 - (x) The provision of any public work, initiative or matter in conformity with this Plan;
 - (xi) The provision of public art.
- (e) In the consideration of the enactment of a Zoning By-law Amendment to permit the increased height and/or density of *development*, The Town shall be satisfied that the benefit sought to be secured is demonstrably connected to the increase in height and/or density of *development*.
- (f) Prior to the enactment of a Zoning By-law Amendment pursuant to an application submitted under Section 34 of the Planning Act, The Town shall require the owner seeking the increase in height and/or density of *development* in exchange for community benefit, to enter into one or more agreements dealing with the provision of facilities, services or matters including the timing of conveyances or payments for community benefits to the municipality. The agreement shall be registered against the land to which it applies.

9.9. SUBDIVISION CONTROL

- (a) The Town will approve only those draft plans of subdivision which comply with the policies and land use designations of this Plan and appropriate Secondary Plan(s) and which, to the satisfaction of The Town, can be supplied with adequate services and maintain a sound municipal financial position, according to the policies of this Plan.
- (b) The Town shall require that approvals of draft plans of subdivisions include a lapsing date in accordance with Section 51(32) of the Planning Act. If approval of a Draft Plan of Subdivision lapses, the growth management objectives of this Plan shall be considered as a key component of the development review process.
- (c) Only one extension to a lapsing draft plan of subdivision shall be approved by Council for a period of up to two years unless the draft plan meets the growth management and environmental policies of the Regional and local Plans.
- (d) If a Plan of Subdivision or part thereof has been registered for eight years or more and no installation of *infrastructure* or construction has occurred and the subdivision does not meet the growth management policies of this Plan and the Regional Official Plan, the Town of Lincoln shall use its authority under Section 50(4) of the Planning Act to deem it not be a registered plan of subdivision.
- (e) The Town shall ensure that all new *development* areas provide a high standard of design, compatible with adjacent existing planned *development*. The Urban Design Guidelines of Part 8 of this Plan shall be utilized to assist in achieving high design standards.

- (f) The Town shall, when reviewing and considering *development* applications, attempt to implement the trail and bikeway network set out in Schedules 'D2', 'D3', 'D4' and 'D5', and contained in the Multi-Use Trail and Bikeway System Master Plan.
- (g) Land severances shall be in accordance with the specific land severance policies of each land use designation of Parts 2 and 3 of this Plan and the following general provisions:
 - (i) Where five (5) or more new residential lots are being created, or where a new road or road extension is necessary, The Town will require *development* by registered plans of subdivision pursuant to Section 51 of the Planning Act, as amended, rather than by individual land severances by consent.
 - (ii) No severance shall be granted unless the application complies with the policies of this Official Plan and the requirements of the Planning Act. Prior to the issuance of the Committee of Adjustment certificate, the consent must comply with the provisions of the Zoning By-law.
 - (iii) Any lot or remnant parcel created must have frontage on a publicly maintained road that is of an adequate standard of construction to provide access for the intended use.
 - (iv) No land severance shall create a traffic hazard.
 - (v) Access to a Provincial Highway, a Regional Road or a local road shall be in accordance with the access provisions of the appropriate road authority.
 - (vi) No land severance shall be granted unless a municipal sanitary sewer and municipal water supply is available within an urban area or an approved private water supply and sewage disposal system within the balance of the Municipality to the satisfaction of the Regional Public Health Department.
 - (vii) Consents for minor boundary adjustments and easements shall be permitted provided a separate lot or parcel is not created. Consents shall also be permitted to increase the area of an undersized lot.
 - (viii) No land severance shall be permitted in any hazardous area that is subject to flooding, erosion or steep slopes except for a severance, which meets the satisfaction of the Niagara Peninsula Conservation Authority.

9.10. SITE PLAN CONTROL

The Official Plan may be implemented through the use of Site Plan Control. All areas of the Town are designated as Site Plan Control areas under the provisions of the Planning Act. Specific uses subject to site plan control are identified in the Town Site Plan Control By-law passed under the provisions of the Planning Act. The following uses will not be subject to site plan control provided they are subject to the Town Zoning By-law regulations.

- (a) Any one or two unit dwelling, not including the following:
 - (i) Farm helphouse.
 - (ii) Any one or two unit dwelling being developed within a block type *development* such as a plan or condominium or a leasehold type *development*; and
 - (iii) *Development* identified in this Plan as requiring Site Plan Approval.
- (b) Any alteration or addition to a one unit or two unit dwelling.

- (c) Any building or structure accessory to the uses stated in (a) and (b) above.
- (d) Swimming pools.
- (e) Any agricultural building with the exception of *agri-tourism uses*, *farm diversification uses*, commercial farm markets, permanent or mobile farm helphouses, greenhouses, farm wineries, estate wineries and micro-breweries.

9.10.2 Greenhouses are subject to site plan control, and shall also be subject to the following criteria:

- (a) Roof water run-off shall be retained on the land by way of ponds or cisterns or detention ponds and controlled outlets shall be employed. Parking areas and the unbuilt portion of the lands shall be graded and sloped to swales or existing ditches;
- (b) Where under drainage is installed in a greenhouse, an inspection manhole shall be provided intercepting the drain line near the property line or other location approved by the Town;
- (c) Where a greenhouse operation receives permission to use municipal water, storage shall be sized based on the ratio of one gallon of storage facility for every square foot of greenhouse area, unless a water conservation plan can prove that this ratio provides an over capacity. Water shall only be drawn from the municipal system in off-peak hours. The use of municipal water for greenhouse shall also be subject to the servicing policies of Section 7.1.10;
- (d) Paving shall be provided at entrances to the property based on the size of the greenhouse facility and based on the anticipated vehicular traffic; Unpaved areas shall be maintained in such a manner as to avoid excessive *development* of dust;
- (e) Landscaping, fencing or screening may be required in cases where the greenhouse facility is located in areas adjacent to existing residential uses;
- (f) Lighting required for the illumination of the building, parking, loading areas and driveways or required for security reasons, shall be directed in such a manner as to light up the immediate adjacent area for which it is intended; and
- (g) Collection areas and enclosures for the storage of garbage and other waste materials shall be constructed in a manner as to avoid the spilling of liquids or blowing of materials onto *adjacent lands*.

9.10.3 Prior to development or site alteration, the Town may require the owner of any lands to submit for the Town approval the plans and drawings specified in Section 41(2) of The Planning Act, 1990.

9.10.4 All development subject to Site Plan approval shall conform to the Urban Design Policies in Section 8.6 of this Plan.

9.10.5 As a condition to the approval of the plans and drawings referred to in Section 9.10.3 and Section 41(7) of The Planning Act, the Town may require the owner of the land to:

- (a) Provide to the satisfaction of and at no expense to the Town any or all of the following:
 - (i) Road widenings.
 - (ii) Location of vehicular access points.
 - (iii) Loading and parking facilities, driveways, including driveways for emergency vehicles and the surfacing of such areas.
 - (iv) The location and design of walkways, walkway ramps and all other means of pedestrian access.
 - (v) The location, massing and design of any buildings or structures.
 - (vi) Exterior design including *character*, scale, appearance and design features of buildings and their sustainable design.
 - (vii) The location and type of lighting of the land or of any buildings or structures thereon.
 - (viii) The location and type of landscaping.
 - (ix) The location and type of garbage storage.
 - (x) The location and type of easements to be conveyed to the Town.
 - (xi) The grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and wastewater from the land and from any buildings or structures thereon.
 - (xii) The location of snow removal facilities.
 - (xiii) Sustainable design elements on any adjoining highway including trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities.
 - (xiv) Facilities designed to have regard for accessibility for persons with disabilities.
- (b) The owner shall maintain to the satisfaction of the Municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in Items (ii) through (xiv) above, including the removal of snow from access ramps and driveways, parking and loading areas and walkways.
- (c) The owner shall enter into one or more agreements with the Municipality dealing with any or all of the facilities, works or matters mentioned above including financial requirements acceptable to the Town to guarantee the above.

9.10.6 No building permit shall be issued in respect of any development in the Site Plan Control Area until the plans required have been approved by the Corporation of the Town and any agreements required to be entered into have been executed by the Town and the Owners of the land.

9.10.7 Site plan control may be utilized to formalize and/or implement the recommendations of an Environmental Impact Study prepared in support of *site alteration* or *development* within or adjacent to natural heritage features identified in this Plan.

9.11. GROUP HOMES

9.11.1 Group Homes are administered by Provincial legislation and are permitted within the Agricultural designation, any Residential designation and the Rural Settlement designation.

- (a) The following types of Group Homes administered under Provincial legislation shall be permitted to establish in any residential zone or residence:
 - (i) Approved Homes;
 - (ii) Homes for individuals who have physical disabilities when the Province licenses, funds or approves such a group home program
 - (iii) Homes for Special Care;
 - (iv) Satellite Residence for Seniors;
 - (v) Supportive Housing Programs
 - (vi) Accommodation for adult mental Health programs;
 - (vii) Accommodation services for individuals with a developmental disability; and
 - (viii) Transitional housing for individuals who are socially disadvantaged and community resource centre will require a rezoning.
- (b) Other types of Group Homes may be permitted subject to an amendment to the implementing Zoning By-law on the merits of the application.

9.12. HOME OCCUPATIONS

9.12.1. Home Occupations

- (a) Home occupation uses in the Agricultural designation, Residential designations and the Rural Settlement designation may be permitted by the implementing Zoning By-law, based on but not limited to, the following policies:
 - (i) It is wholly located within a dwelling unit and shall not be located in a detached accessory building;
 - (ii) It is clearly secondary and a minor use of the dwelling unit, in terms of floor space utilization and is compatible with surrounding residential uses;
 - (iii) In the agricultural designations it is secondary to the principal *agricultural use* of the property, is compatible with and does not hinder the surrounding agricultural operations;
 - (iv) It is located in the principal residence of the person conducting the home occupation;
 - (v) No outside storage of good, materials, equipment or service vehicles other than cars, vans and light trucks related to the home occupation is permitted;

- (vi) Adequate on-site parking is provided for the home occupation and such parking is provided in locations compatible with the surrounding residential uses;
 - (vii) The home occupation and the traffic associated with the home occupation shall not be such that it will detract from the *character* of the area;
 - (viii) The home occupation will be regulated from the aspect of signage.
- (b) The implementing Zoning By-law shall further detail the conditions under which a home occupation may be permitted.

9.12.2. Home Industries

- (a) Home industries may be permitted in the Agricultural and the Rural Settlement designations by the implementing Zoning By-law based on but not limited to the following policies:
- (i) Be carried out in an accessory building;
 - (ii) Be clearly accessory to the dwelling unit in the Rural Settlement designation, or secondary to the principal *agricultural use* of the property in the Agricultural designations;
 - (iii) Be operated by the residents of the dwelling on the parcel of land;
 - (iv) The building housing the home industry shall be located within the existing cluster of buildings on the lands;
 - (v) Be compatible with and not hinder surrounding uses or agricultural operations;
 - (vi) In the agricultural area, all of the property remains designated and zoned agricultural and no new uses will be permitted where they are incompatible with *agricultural uses*;
 - (vii) No outside storage of good, materials, equipment or service vehicles other than cars, vans and light trucks related to the home industry is permitted;
 - (viii) Adequate on-site parking is provided for the home industry and such parking is provided in locations compatible with the surrounding uses;
 - (ix) A home industry shall be regulated from the aspect of signage, parking, loading areas, scope and scale of operation and number of employees;
 - (x) A home industry shall be subject to the site plan control provisions of Section 41 of the Planning Act, 1990;
 - (xi) The home industry must comply with all other policies of this Plan; and
 - (xii) The severance of a Home Industry from the principal use of the property in the agricultural area is not permitted.
- (b) The implementing Zoning By-law shall further detail the conditions under which a home industry may be permitted.

9.13. BED AND BREAKFAST

- (a) Bed and Breakfast establishments in the Agricultural designation, Residential designations and the Rural Settlement designation may be permitted by the implementing Zoning By-law, based on but not limited to, the following policies:

- (i) The use is clearly secondary to the primary use of the dwelling unit as a residence;
 - (ii) The bed and breakfast establishment must be the principal residence of the owner and operator;
 - (iii) The *character* of the dwelling unit as a private residence is maintained;
 - (iv) Adequate parking is available on the lot for the proposed bed and breakfast establishment;
 - (v) A Bed and Breakfast establishment shall be located in areas where there is convenient access to a major street;
 - (vi) Where a bed and breakfast establishment is located outside of an Urban Area, the proposed use must be able to be serviced with an appropriate water supply and an appropriate means of sewage disposal as required by the Region of Niagara Public Works Department; and
 - (vii) The bed and breakfast establishment will be regulated from the aspect of signage.
- (b) The implementing Zoning By-law shall further detail the conditions under which a bed and breakfast establishment may be permitted.
 - (c) Within any Agricultural designation a maximum of 6 guest rooms is permitted.

9.14. NON-CONFORMING STANDARDS OF DEVELOPMENT AND NON-CONFORMING USES

9.14.1. General

It shall be a policy of this Plan to differentiate between non-conforming standards of *development* and non-conforming uses of land. In this regard, the policies of Sections 9.14.2 and 9.14.3 below apply.

9.14.2. Non-Conforming Standards of Development

- (a) The extension or enlargement of any building or structure, the use of which is in compliance with this Official Plan and the implementing Zoning By-law, but which does not comply with the standards of *development* (i.e. lot area, setbacks, parking, landscaping) shall not be considered a non-conforming use under Section 9.14.3 below or Section 34(10) of The Planning Act, 1990.
- (b) Relief from current standards of *development* as set out in the implementing Zoning By-law shall be based on the merits of each application and may be by amendment to the Zoning By-law or by Minor Variance through the Committee of Adjustment.

9.14.3. Non-Conforming Uses

- (a) A land use which is lawfully in existence prior to the passage of the implementing Zoning By-law and which continues to be utilized for such purpose may continue as a legal non-conforming use or may be deemed to conform to the intent of the Plan for the purpose of the By-law. In the latter case, such uses may be zoned in accordance with their present use and performance standards provided:

- (i) The zoning does not permit any significant change of use or performance standards that will result in or aggravate any situation detrimental to adjoining land uses;
 - (ii) The use does not constitute a danger to surrounding uses by its hazardous nature or the traffic which it generates;
 - (iii) The criteria of Section (b) are satisfied; and
 - (iv) The lands shall be subject to the site plan control provisions of Section 41 of The Planning Act, 1990.
- (b) In accordance with Section 34(10) of The Planning Act, 1990, The Town may amend a By-law passed under Section 34 to permit the extension or enlargement of any land; building or structure prohibited by the Zoning By-law provided the following requirements are met. The Committee of Adjustment will be similarly guided in considering applications under Section 45 of the Planning Act, 1990:
- (i) It is not possible to relocate such a use to a place where it will conform to the By-law;
 - (ii) The proposed extension or enlargement will not unduly aggravate the situation already created by the existence of the use and should, if possible, be designed to alleviate *adverse effects* of the use such as outside storage;
 - (iii) The abutting uses will be afforded reasonable protection by the provision of appropriate buffering and setbacks;
 - (iv) The proposed extension or enlargement should be in appropriate proportion to the size of the non-conforming use;
 - (v) Adequate provision will be made for safe access and adequate off- street parking and loading facilities;
 - (vi) All services, including private sewage disposal and water supply systems, shall be or can be made adequate; and
 - (vii) The expansion is not detrimental to the neighbourhood in consideration of the following:
 - History of complaints;
 - Effect on the *character* of the neighbourhood;
 - Amount and type of signage;
 - Unnecessary noise, odours, traffic or parking problems;
 - Compliance with the *Minimum Distance Separation Formulas* and;
 - The quality of the agricultural land including soils, climate, and the nature of the agricultural activity in the area.

9.15. COMMITTEE OF ADJUSTMENT

It is the intent of The Town pursuant to Sections 44 and 53 of The Planning Act, 1990, to appoint a Committee of Adjustment to assist in the administration of the Zoning By-law. The function of the Committee of Adjustment is to process applications relating to Consents and Minor Variances to the Zoning By-law, or applications regarding extensions or enlargements of non-conforming uses, pursuant to Section 45 of The Planning Act, 1990. The Committee of Adjustment shall

consider the policies and general intent of this Plan and the implementing Zoning By-law when dealing with such applications.

9.16. COMPLETE APPLICATION POLICIES

- 9.16.1** Pre-consultation between the applicant and the Town is required prior to the submission of an application for an official plan amendment, zoning by-law amendment, draft plan of subdivision, draft plan of condominium, consent or site plan control unless the Director of Planning and Development or designate determines that pre-consultation is not necessary based on the scale of *development* or the complexity of planning issues associated with the proposed application. Pre-consultation will determine what is required to be submitted for a complete application and will provide the opportunity to discuss the nature of the application; *development* and planning issues; the need for additional information and/or reports to be submitted with the application; and the planning and approval process including the appropriateness of concurrent applications, where applicable. Pre-consultation may also involve the Region, the Niagara Peninsula Conservation Authority, the Niagara Escarpment Commission or other agencies that may have an interest in the application as determined by the Town. A by-law shall be approved by The Town requiring pre-consultation. Pre-consultation shall be considered a requirement for the submission of a complete application.
- 9.16.2** In order to ensure that all possible information is available to the Town, the public and agencies involved in reviewing an application under the Planning Act, the prescribed information required under the Planning Act shall be provided along with additional information and/or reports that may be required, as determined through pre-consultation, such as but not limited to the matters outlined in Section 9.16.5.
- 9.16.3** Information and/or reports shall be prepared by a qualified professional and submitted in an electronic format along with a hard copy to the Town to make this information readily available to the public and commenting agencies including the Region, the Niagara Peninsula Conservation Authority and the Niagara Escarpment Commission. Where the Town, the Region, the Niagara Peninsula Conservation Authority or the Niagara Escarpment Commission has requested additional information and/or reports, there may be a request for a peer review of any information and/or reports. The applicant shall be responsible for all costs for a peer review which shall be payable upon submission of an invoice from the Town, the Region, the Niagara Peninsula Conservation Authority or the Niagara Escarpment Commission.
- 9.16.4** The Director of Planning and Development or their designate shall be responsible for determining whether a planning application is complete. If an application is submitted without pre-consultation, adequate supporting information and/or reports, and any application review fees required by the Town, the Region, the Niagara Peninsula Conservation Authority, the Niagara Escarpment Commission or any other public agency, the application shall be deemed to be incomplete.

9.16.5 Requirements for Complete Application

Information Requirement	Application/Development Scenario
Planning Justification Report	Any proposal for <i>development</i> or <i>site alteration</i> should demonstrate that it meets goals, objectives and policies of Provincial plans and policy statements, the Regional Official Plan and the Town Official Plan and provide an indication of whether it conforms to applicable Provincial plans and policies.
Land Use/Market Impact Study	Any proposal for major commercial or residential proposals should consider the existing supply of available land and future land use needs in the Town and in the Region.
Urban Design/Landscape Plans	Any proposal for infill <i>development</i> , <i>redevelopment</i> or <i>intensification</i> or where a site plan agreement is required should include plans illustrating how the proposal will be compatible with the <i>character</i> of adjacent uses and the surrounding neighbourhood. These plans and related descriptive details may include building elevations, shadow/wind impacts and streetscaping.
Archaeological Assessment	Any <i>development</i> or <i>site alteration</i> proposed in proximity to lands that contain known <i>archaeological resources</i> or <i>areas of archaeological potential</i> .
Heritage Impact Assessment	Any <i>development</i> or <i>site alteration</i> proposed on or adjacent to lands, structures or buildings designated under the Ontario Heritage Act or listed on an approved heritage resource inventory.
Environmental Impact Study	Any proposal for <i>development</i> or <i>site alteration</i> within or adjacent to any natural heritage feature or natural hazard identified on the Region's Core Natural Heritage Map, the regulated area of the Niagara Peninsula Conservation Authority or the Town Official Plan shall provide an inventory and assessment of ecological features and functions to determine areas to be protected and any mitigation measures necessary.
Environmental Planning Study or Sub-Watershed Study	Any proposal for a secondary plan or an urban boundary expansion shall address the guidelines and terms of reference of any relevant watershed plans and shall include an environmental inventory and assessment with recommendations on where <i>development</i> may take place, features to be protected, appropriate policies for planning documents, and an environmental management plan to maintain, enhance, restore and monitor environmental conditions both during and after <i>development</i> .

Information Requirement	Application/Development Scenario
Tree Preservation Plan	Any <i>development</i> or <i>site alteration</i> that may have <i>adverse effects</i> on a significant tree or group of trees, including a woodland as defined by the Regional Tree and Forest Conservation By-law. A significant tree may be one that because of its size, age or species it is considered to be of significance to the neighbourhood, streetscape or <i>cultural heritage landscape</i> .
Floodplain and Hazard Lands	Any <i>development</i> or <i>site alteration</i> proposed near floodplains or hazard lands identified by the regulations of the Niagara Peninsula Conservation Authority.
Geotechnical and Slope Stability Report	Any <i>development</i> or <i>site alteration</i> proposed near <i>valleylands</i> identified by regulations of the Niagara Peninsula Conservation Authority.
Environmental Site Assessment	Any <i>development</i> or <i>site alteration</i> on lands or <i>adjacent lands</i> that were previously used for a purpose that may have caused contamination of the property should be accompanied by one or more reports to assess existing conditions and address the need for any further environmental testing or remediation necessary in accordance with Provincial regulations and guidelines.
Air Quality/Noise and Vibration Study	Any <i>development</i> for a sensitive land use that is located near a major facility such as a transportation corridor, industrial use, sewage or water treatment facility, pumping station or landfill operation.
Agricultural Impact Assessment	Any proposed <i>development</i> or <i>site alteration</i> for a non-agricultural use on lands situated outside of the Urban Area shall evaluate the capability of the site for <i>agricultural use</i> including soil, micro-climate and drainage conditions, the existing pattern of agricultural or non-agricultural activities, and any potential impacts on surrounding agricultural land and operations, ways to mitigate these impacts, and potential net impacts.

Information Requirement	Application/Development Scenario
Farm Operation and Ownership	Any <i>development</i> or <i>site alteration</i> for a secondary use to agriculture or an application for consent on lands designated for agricultural purposes.
Alternative Sites for Non-Agricultural Uses	Where a non-agricultural use is proposed in an agricultural area it must be demonstrated that there are no reasonable alternative locations available in Settlement Areas, Rural Areas or on lower priority agricultural land in the Region.
Minimum Distance Separation I and II	Any non-agricultural use proposed within 1000 metres of an existing livestock facility shall include a review of these facilities and calculations to determine conformity with Minimum Distance Separation I requirements. If other livestock facilities may be reasonably expected to be impacted by the non-agricultural use, or if a proposed first or expanded livestock facility may impact other land uses, MDS I and II separation distances will be determined, respectively.
Mineral Aggregate Resources	Where <i>development</i> or <i>site alteration</i> is proposed on lands within or adjacent to an area of known <i>mineral aggregate resources</i> , it shall be demonstrated that the resource use will not be hindered in the future, that the resource use is not feasible, that the proposed <i>development</i> or use serves a greater long term public interest, and that other impacts are evaluated.
Municipal Servicing Study	Any plan of subdivision or major <i>development</i> proposal should address the availability of adequate municipal services and impacts to existing municipal services and facilities.
Stormwater Management Plans	Any major <i>development</i> or <i>site alteration</i> proposed should address how stormwater runoff will be accommodated in terms of water quality and quantity, site grading, assessment of legal and adequate drainage outlets and erosion and sedimentation control measures.
Traffic/Parking Impact Analysis	Any <i>development</i> or <i>site alteration</i> that may have an impact on traffic flow and safety which may also include an analysis of parking standards.

Information Requirement	Application/Development Scenario
Hydrogeological Study and Private Servicing Plans	Any <i>development</i> outside of the Urban Area where private sewage disposal and water systems are proposed should provide an assessment of soil conditions, an evaluation of the ability of the site to accommodate sustainable private services and a plan illustrating the location of services, drainage and lot grading.
Financial Impact Assessment	To address financial implications of a proposed <i>development</i> on the provision of municipal services and utilities that may cause a financial, environmental or economic hardship for the Town and the Region.

9.17. PUBLIC PARTICIPATION AND NOTIFICATION

The Town intends that the public be involved in the formulation and implementation of planning policies. To this end, The Town shall notify and seek the views and participation of the public prior to making decisions regarding the Official Plan, the Zoning By-law and amendments thereto, Plans of Subdivision, Plans of Condominium, Consents and Minor Variances.

To meet these objectives while eliminating any undue delays in processing amendment proposals, a minimum of one Public Meeting shall be held and, depending on the nature or complexity of the proposal, open houses, public displays, workshops or other appropriate forums may also be added.

9.17.1 Notice of public meetings shall be in accordance with the regulations of the Planning Act.

- (a) A notice of Public Meeting shall contain the following information:
 - (i) Date, time and place of meeting;
 - (ii) A map showing the location of the subject lands, if applicable; and
 - (iii) A description of the proposal or description of the matters, which may be addressed in the application, in the event that the application is approved.

9.17.2 The Town may forego public notification and public meeting(s) in connection with a technical official plan amendment or zoning by-law amendment if such will not affect the provisions and intent of the Official Plan, the Zoning By-law, or amendments thereto, in any material way, and may include the following matters:

- (a) Altering the number and arrangement of any provision;
- (b) Correcting punctuation or altering language to obtain a uniform mode of expression;
- (c) Correcting clerical, grammatical, dimensioning or typographical errors;
- (d) Effecting changes in format;

- (e) Consolidating previous amendments into the parent document.

9.17.3 The Town will engage, consult, and partner, as appropriate with First Nations and Metis Nation communities when considering planning matters and planning applications that may affect their interests.

9.18. MONITORING, PLAN REVIEW, AND AMENDMENTS

- (a) The Town will monitor the effectiveness with which the Official Plan policies are dealing with development pressures in the Town and responding to provincial plans and policies.
- (b) The Town will consider the need for a major review of this Plan at five-year intervals commencing from the date of approval of this Plan. The Plan will be reviewed on an ongoing basis as deemed necessary by the Town to incorporate amendments and new information as it becomes available. It is not the intent of The Town to frequently amend this Plan. However, certain circumstances will arise that require an amendment to this Plan. This Plan may be amended whenever Provincial or Regional policies are revised in such a way that directly affects the Town. An amendment to this Plan will be required when a proposed change in land use designation or major public work does not comply with the policies of this Plan.
- (c) The Town will undertake annual monitoring of greenfield densities, *intensification* targets to ensure the goals of this Plan are achieved.

9.19. INTERPRETATION

Boundaries of land use designations, as shown on Schedule 'A' are intended to be general and approximate, unless they coincide with a road, lot or concession line, railway, *watercourse* or prominent physical feature. Minor adjustments to the approximate location of land use boundaries and implementing Zoning By-law boundaries may be permitted provided the integrity of this Plan is maintained. Similarly, minor adjustments may be made in the location of streets identified in Neighbourhood Secondary Plans provided the intent and integrity of this Secondary Plan is maintained. Urban boundaries as shown on the Land Use Schedules to this Plan shall not be considered flexible and any changes require an amendment to this Plan and the Official Plan. Whenever an objective or policy of this Plan is changed, added or deleted, an amendment to this Plan shall be required.