

CHAPTER D – RURAL SYSTEMS, DESIGNATIONS AND RESOURCES

Rural Hamilton combines diverse geographies, communities, economies, resources, and land uses. *Rural Hamilton's* primary land use function is resource related. It provides opportunities for agriculture, non-renewable and natural heritage resources. At the same time it is home to a large number of residents who have opted to live in a rural setting and are not directly involved in any resource related activities. The diverse and occasionally conflicting nature of these land uses and resources provides the context for the following policies.

The policies of this Plan identify and protect all rural resources, as well as recognize Rural Settlement Areas, provide opportunities for *resource-based* commercial and industrial uses, as well as *resource-based* recreational uses.

Right-to-Farm

Agricultural uses are the primary long-term land use in *Rural Hamilton*. *Normal farm practices* create odour, noise, dust, flies, smoke, light and vibration associated with livestock, cultivation, farm maintenance and heavy machinery, and include early morning and late evening activities, especially during planting and harvesting periods.

The main purpose of the designations applying to *Rural Hamilton* is to provide a secure land base for agricultural activities. Other uses, particularly non-farm residential, are attracted to this area by lower land prices, and by the image of quiet, peaceful open space and may be adversely impacted by *normal farm practices*. The City supports the right-to-farm concept, and when applying the policies of this Plan, *agricultural uses* will be given priority in *Rural Hamilton*.

Non-Renewable Resources

Mineral aggregate resources and gas and petroleum resources are non-renewable resources found in *Rural Hamilton*. *Mineral aggregate resources*, in particular, provide significant building materials for our communities and infrastructure, and the availability of aggregates close to market is important both for economic and environmental reasons.

Access to both *mineral aggregate resources* and gas and petroleum resources can be precluded or hindered by nearby incompatible land uses, and mineral aggregate extraction can have negative impacts on neighbours, natural heritage systems and features, and infrastructure. The purposes of the policies of this Plan are to protect *mineral aggregate resources* and make them available for extraction while minimizing impacts on the natural environment, residents, neighbouring land uses, and the wider City.

- * **The deferral of “Appendix/Schedule C” applies to both the substantive content of “Appendix/Schedule C” and whether the appropriate title of “C” is “Appendix” or “Schedule”.**

D.1.0 GOALS

The following goals apply to the Rural systems land use designations and resources as detailed in Schedule D – Rural Land Use Designations and on (Appendix/Schedule C – Non renewable resources – deferred – until the deferral is resolved Map No. 5 of the Region of Hamilton-Wentworth Official Plan shall apply)*, of this Plan.

- 1.1** Reinforce and support the significant contribution agriculture makes to the lifestyle, environment and economy of the City.
- 1.2** Maintain and promote the right-to-farm throughout *Rural Hamilton*.
- 1.3** Preserve and enhance *prime agricultural areas* and *specialty crop areas* for farming.
- 1.4** Encourage all lands used for *agricultural uses* to remain in *agricultural uses*.
- 1.5** Direct non-farm, rural-oriented *development* to Rural Settlement Areas and *Rural Areas*.
- 1.6** Recognize the diverse and innovative nature of agriculture by providing opportunities for on-farm diversification.
- 1.7** Recognize the important economic and societal benefits of *mineral aggregate resources* both locally and throughout the GTA region.
- 1.8** Protect potential *mineral aggregate resource* areas from incompatible *development* in recognition of the non-renewable nature and importance of the resource.
- 1.9** Make as much of the *mineral aggregate resource* as is realistically possible available for extraction.
- 1.10** Recognize and protect *petroleum resources*.

D.2.0 AGRICULTURE DESIGNATION

The Agriculture designation applies to lands designated Agriculture on Schedule D – Rural Land Use Designations. The primary intent of the Agriculture designation is to protect the *prime agricultural areas* for *agricultural use* over the life of this Plan.

These policies provide for a wide range of farm types while preventing further conflicts of use, and ensuring the sustainability of the Natural Heritage System.

2.1 Permitted Uses

Uses permitted in the Agriculture designation are limited to *agricultural uses*, *agricultural-related* commercial and *agricultural-related* industrial uses and on-farm *secondary uses* as set out in the following policies.

Agricultural Uses

2.1.1 *Agricultural uses* are permitted subject to the policies of this Plan.

2.1.1.1 Mushroom operations, including the growing, harvesting, cleaning, packaging and shipping of mushrooms produced on the site and any other uses directly related to mushroom production including the creation of compost are permitted. The establishment of a new mushroom operation or the expansion of an *existing* operation shall be subject to Site Plan approval to address the appropriate building location, drainage, and any other matters.

2.1.1.2 Tree farms are permitted, provided that any goods and materials offered for sale are limited to *small scale* retailing of agricultural products grown and produced primarily on-site in accordance with the policies of Section D.2.1.3.2 c) of this Plan for on-farm *secondary uses*.

2.1.1.3 Farm greenhouses are greenhouses used primarily for the growing of crops for off-site wholesale. Farm greenhouses may be permitted provided the following conditions are met: (OPA 5)

a) Site Plan approval shall be required to address appropriate building location, storm water management and drainage; and

b) Any goods or materials offered for sale shall be limited to *small scale* retailing of products grown and produced primarily on site in accordance with the policies of Section D.2.1.3.2 c) of this Plan for on-farm *secondary uses*.

2.1.1.4 *Cannabis growing and harvesting facilities* are permitted in accordance with the regulations set out in the Zoning By-law and provided that the following conditions are met: (OPA 9) (OPA 21)

a) a *cannabis growing and harvesting facility* is permitted in buildings existing at the date of the passing of the Zoning By-law;

b) The gross floor area for a new *cannabis growing and harvesting facility* shall not exceed 2000 square metres;

- c) The testing, packaging, and shipping of cannabis shall be accessory to the *cannabis production growing and harvesting facility*;
- d) An appropriate setback between a *cannabis production growing and harvesting facility* and a sensitive land use shall be established in the Zoning By-law;
- e) No retail sales are permitted;
- f) No outdoor storage is permitted; and
- g) In accordance with Section F.1.19 – Complete Application Requirements and Formal Consultation, the following studies shall be submitted as part of an official plan amendment, zoning by-law amendment and site plan applications:
 - i) Odour and Dust Impact Assessment;
 - ii) Light Impact Assessment;
 - iii) Transportation Impact Study;
 - iv) Hydrogeological studies; and,
 - v) any other appropriate studies, identified as part of the complete application and formal consultation process; and,
- h) The establishment of a new *cannabis production growing and harvesting facility* or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building location, setbacks, drainage, sustainable private services, odour/dust, traffic and any other matters.

2.1.1.5 Aquaponics facilities may be permitted provided the following conditions are met: (OPA 9)

- a) Site Plan approval shall be required to address appropriate building location, storm water management and drainage; and
- b) Any goods or materials offered for sale shall be limited to *small scale* retailing of products grown and produced primarily on site in accordance with the policies of Section D.2.1.3.2 c) of this Plan for on-farm secondary uses.

2.1.1.6 A *farm labour residence* may be permitted on the same lot as the primary farm use provided all the following conditions are met:

- a) The size and nature of the *farm operation* requires additional on-site employment for regular and extended periods of time in the annual production process such that additional accommodation is required for the viability and effective operation of the farm, as shown in a justification report deemed acceptable by the City; (OPA 5)
- b) A maximum of one *farm labour residence* may be permitted without an amendment to the Zoning By-Law, in the form of an accessory apartment attached to and forming part of the principal farm residence, or an

accessory detached temporary dwelling, such as a mobile home or bunk house provided: (OPA 9)

- i) The second unit shall be serviced by the same private sewer and water systems used by the principal farm residence and be in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services policies of this Plan.
- ii) Where a temporary dwelling is used as a *farm labour residence*, the owner shall remove the temporary dwelling from the subject farm if, in the opinion of the City, it is no longer required or used as a *farm labour residence*.

2.1.1.7 The severance of a lot for a *farm labour residence* shall not be permitted.

Agricultural-Related Uses

2.1.2 *Agricultural-related uses* are farm-related commercial and farm-related industrial uses that are *small scale*, producing products and services, wholly and directly related to a farming operation and which are required in close proximity to an *agricultural use*. They are uses necessary to support *agricultural uses* and are permitted provided the following conditions are met:

- a) The use must produce products or services directly related to a *farming operation*, and requires a location in close proximity to a *farm operation*. Permitted uses shall be limited to grain dryers, feed mills, grain and seed storage facilities, primary farm produce bulk storage and agricultural processing facilities, farm product supply dealers, livestock assembly points, agricultural research operations, and veterinary services for farm animals; (OPA 9)
- b) The use shall be located to minimize the amount of land removed from agricultural production;
- c) The use shall be located where access is by a road capable of handling the traffic generated. Access to the site shall not create a traffic hazard due to inadequate sight lines or any other traffic hazard;
- d) The use shall not negatively affect environmental features in accordance with Section C.2.0, Natural Heritage System of this Plan; and
- e) *Agricultural-related uses* shall be subject to Site Plan approval to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matter.

2.1.2.1 Appropriate *development* standards shall be established in the Zoning By-law regarding the maximum floor area for such uses, access, parking, outside storage, and any other appropriate requirements.

2.1.2.2 The severance of a lot for agricultural-related uses shall be in accordance with Section F.1.14.2, Lot Creation policies of this Plan. Where private services are required, the lot severed for the *agricultural-related use* shall be in accordance

with Section C.5.1, Sustainable Private Water and Wastewater Services policies of this Plan. (OPA 5)

On-Farm Secondary Uses

2.1.3 To encourage on-farm economic diversification as a means of reinforcing the agricultural economy, limited *secondary uses* are permitted. On-farm *secondary uses* are secondary to the primary *agricultural use* and are limited to *agri-tourism uses, farm vacation homes, home industries, kennels, small scale retailing of agricultural products, and an agricultural alcohol production facility*. On-farm *secondary uses* shall be permitted provided the following conditions are met in all cases: (OPA 33)

- a) The use shall be clearly secondary to the primary *agricultural use* maintained on the lot;
- b) Any buildings or *structures* associated with an on-farm *secondary use* shall allow for ease of conversion to a future *agricultural use* and be located to form an integral part of the primary *farm cluster*;
- c) Appropriate *development* standards shall be established in the Zoning By-law regarding the maximum floor area for such uses, access, parking, outside storage, and any other requirements; and
- d) Site Plan approval may be required.

2.1.3.1 In addition to the above policies, on-farm *secondary uses* shall be subject to the following conditions:

- a) A *farm vacation home* within an existing dwelling may be permitted subject to the following conditions:
 - i) The scale of the establishment is clearly secondary to the main *agricultural use*;
 - ii) Limitations on the number of guest rooms as well as other aspects of the use shall be established in the Zoning By-law; and
 - iii) A maximum of one *farm vacation home* is permitted on a lot.
- b) A *home industry* is limited to an *agricultural-related use* such as *small scale manufacturing processing and assembly use, or a craftsperson shop*, conducted in whole or in part in an existing on-farm building provided the following conditions are met:
 - i) A *home industry* shall only be permitted on lots greater than 5.0 hectares in size;
 - ii) The *home industry* must be operated by a resident of the property;
 - iii) To ensure that the scale of the *home industry* is clearly secondary to the main *agricultural use*, limitations on the number of employees, the gross

floor area, outside storage and the permitted activities, as well as other aspects of a *home industry*, shall be established in the Zoning By-law; and (OPA 5)

- iv) A maximum of one *home industry* may be permitted on a lot.
- c) *Small scale* retailing of agricultural products grown primarily on the site may be permitted, subject to the following conditions:
 - i) To ensure that the use is clearly accessory to the main *agricultural use*, limitations on the area of the site and/or building floor area that may be used for retail purposes, as well as other aspects of the use shall be established in the Zoning By-law; and
 - ii) No retailing shall be permitted within the principal farm residence or any other dwelling such as a *farm labour residence*.
- d) Agri-tourism uses and facilities associated with seasonal farm-related attractions, and farm tours may be permitted, subject to a Zoning By-law amendment for any new buildings and *structures* for the agri-tourism use.
- e) A kennel may be permitted. To ensure that the use is clearly accessory to the main *agricultural use* and will not impact adjacent land uses, limitations on the area of the site and/or building floor area used for a kennel, required setbacks from adjacent sensitive land uses and minimum separation distances between kennels, as well as other aspects of the use shall be established in the Zoning By-law.
- f) A *small scale agricultural alcohol production facility* may be permitted secondary to a permitted agricultural use in the Agriculture designation in accordance with the Zoning By-law and provided the following conditions are met: (OPA 9) (OPA 33)
 - i) A *small scale agricultural alcohol production facility* shall only be permitted as an accessory use to an agricultural use on lots 4 hectares (10 acres) or greater;
 - ii) Site Plan approval shall be required to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters;
 - iii) A minimum of 2 hectares (5 acres) of the agricultural use parcel shall be used for the production of grapes, fruits, hops or other produce directly associated with on-site beer, cider, wine or spirit production;
 - iv) A *small scale agricultural alcohol production facility* shall be located where access is provided by an appropriate road capable of accommodating the traffic generated. A transportation impact study may be required;
 - v) The maximum building area devoted to an *agricultural alcohol production facility* is restricted to 500 square metres of gross floor area not including the basement or cellar;

- vi) The display, retail sale and/or tasting of wine, beer, cider, spirits and related products produced on the farm parcel and accessory retail sale may be permitted, as provided for by the Zoning By-law; and
 - vii) Restaurants, banquet halls, hotels, motels, hostels, schools, residences, and conference facilities shall not be permitted.
- g) Landscape Contracting is permitted secondary only to a Nursery and subject to the following conditions and in accordance with the Zoning By-law: (OPA 9)
- i) Landscape Contracting shall only be permitted on lots greater than 5.0hectares in size;
 - ii) The majority of the land is to be farmed either in field crops or horticultural products;
 - iii) The area farmed in horticultural products shall be no less than 3 hectares; and,
 - iv) To ensure the scale of the landscape contracting business is clearly secondary to the main agricultural use, the Zoning By-law shall include the following regulations:
 - 1. The size of buildings and area for outside storage;
 - 2. Minimum land area used for growing of horticultural products as part of a nursery operation based on the size of the property; and,
 - 3. Parking and screening of parking areas.

2.2 Other Provisions

- 2.2.1 Lands designated Agriculture shall not be redesignated for non-agricultural uses, except for expansions to the *urban boundary* through a municipal comprehensive review in accordance with the Growth Plan for the Greater Golden Horseshoe. (OPA 34, Mod. 2)
- 2.2.2 ~~Lands designated Agriculture shall not be redesignated for non-agricultural uses, with the exception of uses permitted by Section C.3.1, Rural Area General Provisions of this Plan and areas identified in Volume 3 of this Plan.~~ **Lands designated Agriculture shall not be redesignated for non-agricultural uses. [Mod 24] Policy D.2.2.1 still under appeal – Multiple Parties.**
- 2.2.3 *Development* proposed within a provincial plan area identified on Schedule A – Provincial Plans shall comply with Section C.1.0, Provincial Plans, of this Plan.
- 2.2.4 In areas adjacent to or within lands identified as Potential *Mineral Aggregate Resource Areas*, as shown in (Appendix/Schedule C – Non renewable resources

– deferred – until the deferral is resolved Map No. 5 of the Region of Hamilton-Wentworth Official Plan shall apply)* or within 300 metres of an existing pit or 500 metres of an existing quarry, *development* that would preclude or hinder the establishment of new or expanded operations, or access to the resource shall not be permitted unless:

- a) Mineral Aggregate Resource use is proven not to be feasible; or
- b) The proposed land uses or *development* serves a greater long term public interest; and
- c) Any public health, safety and environmental impacts of *existing*, expanding, or new *mineral aggregate operations* on the proposed land uses can be addressed.

2.2.5 Where an Official Plan amendment or Zoning By-law amendment is required by the policies of this Plan for *sensitive land uses* within 300 metres of an existing pit or 500 metres of an existing quarry, the applicants shall be required to submit information that assesses the compatibility of the proposed land use, the potential impacts on the *mineral aggregate resources* extraction operation and mitigation measures that would eliminate or reduce the potential for land use conflicts.

2.3 Prohibited Uses (OPA 9)

2.3.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G – Source Protection – Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) storage, treatment and discharge of mine tailings;
 - ii) land farming of petroleum refining waste;
 - iii) storage of polychlorinated biphenyl (PCB) waste;
 - iv) storage of hazardous waste;
 - v) application of untreated septage to land; and
 - vi) injection of liquid waste into a well.
- b) hazardous waste management facility;
- c) waste management facility;
- d) salt storage facility that can accommodate 5,000 tonnes and greater;
- e) snow storage facility on sites greater than 1 ha in size;
- f) motor vehicle service station; and
- g) motor vehicle collision repair establishment.

2.3.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G – Source Protection – Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) the injection of liquid waste into a well; and
 - ii) application of untreated septage to land.
- b) Waste disposal facility.

2.3.3 The following uses shall be prohibited on properties identified as Vulnerable Area 3 on Schedule G – Source Protection – Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the application of untreated septage to land.

* ***The deferral of “Appendix/Schedule C” applies to both the substantive content of “Appendix/Schedule C” and whether the appropriate title of “C” is “Appendix” or “Schedule”.***

D.3.0 SPECIALTY CROP DESIGNATION

The Specialty Crop designation applies to lands designated on Schedule D – Rural Land Use Designations. These areas are identified as having unique growing potential for crops, such as vinifera grapes and tender fruits due to the unique climate. The intent of the Specialty Crop designation is to protect the “Tender Fruit and Grape” areas identified by the Greenbelt Plan.

3.1 Permitted Uses

Uses permitted within the Specialty Crop designation are limited to *agricultural uses*, *agricultural-related uses*, and *secondary uses*, subject to all policies of Section D.2.0, Agricultural Designation of this Plan.

- 3.1.1** Appropriate *development* standards shall be established in the Zoning By-law regarding the maximum floor area including floor area devoted to retailing, access, parking, outside storage, and any other appropriate requirements.

3.2 Other Provisions

- 3.2.1** Lands designated Specialty Crop shall not be redesignated for *non-agricultural uses*, except for to the *urban boundary* through a municipal comprehensive review in accordance with the Growth Plan for the Greater Golden Horseshoe. (OPA 34, Mod. 3)
- 3.2.2** *Development* proposed within a provincial plan area identified on Schedule A – Provincial Plans, shall comply with Section C.1.0, Provincial Plans of this Plan.
- 3.2.3** *Development* shall comply with Sections D.2.2.3 and D.2.2.4 of this Plan.

D.4.0 RURAL DESIGNATION

The Rural designation applies to lands designated Rural on Schedule D – Rural Land Use Designations. While these lands are characterized as having lower capability for agriculture due to a range of factors, the intent of this Plan is to protect and maintain *agricultural uses* as the primary and predominant land use and to protect *farm operations* from incompatible forms of *development* so as to preserve these lands for *agricultural use*.

4.1 Permitted Uses

Uses permitted in the Rural designation are limited to the uses permitted in Section D.2.0, Agriculture Designation of this Plan, other *resource-based* rural uses and institutional uses serving the rural community as follows:

4.1.1 Resource-Based Commercial and Resource-Based Industrial Uses are permitted provided the following conditions are met:

- a) The use must be directly related to and require a location on or in close proximity to a rural resource. Permitted *resource-based* commercial and *resource-based* industrial uses shall include kennels, commercial tree farms, retail greenhouses and nurseries, cement/concrete production, commercial water-taking, and sawmills; (OPA 5)
- b) The use shall not adversely impact surrounding *agricultural uses* or existing *farm operations*. Where *non-farm development* is proposed on lands used for agriculture it must be demonstrated, to the satisfaction of the City, that no reasonable alternative exists and the need and demand for the use at the proposed location is justified for the amount of land proposed based on *existing* undeveloped lands available for *development* in Rural Settlement Areas designation and the Urban Area;
- c) Any new or expanded use proposed within 500 metres of a designated Rural Settlement Area or an estate residential *development* recognized as a site-specific policy area by this Plan shall provide evidence to the satisfaction of the City that there are no negative effects on the Rural Settlement Area or the estate residential *development* with respect to noise, vibration, lighting, traffic, and ground water;
- d) The *development* shall be compatible with surrounding land uses and the rural landscape; and
- e) A Zoning By-law amendment and Site Plan approval shall be required to permit the use and address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters.

4.1.1.1 The severance of a lot for existing *resource-based* commercial and *existing resource-based* industrial uses may be considered in accordance with Section F.1.14.2, Lot Creation policies of this Plan. (OPA 5)

4.1.1.2 In addition to the above policies, specific *resource-based* uses shall be subject to added criteria as set out below, (OPA 5)

- a) Commercial water-taking for bottling and bulk transport uses, requiring the issuance of a Permit to Take Water under provincial statute that involve the taking of water in excess of 50,000 litres per day for commercial sale, shall require hydrogeological studies to ensure the quality and quantity of ground and surface water available to other users of the aquifer are maintained and to address any impacts on natural heritage system features and functions prior to approval of a Zoning By-law amendment for the size and location of buildings and other facilities associated with the use.
- b) *Resource-based* recreation and tourism uses including campgrounds, golf courses, trailer parks, and similar seasonal or tourism-based accommodations, and recreational/open space uses shall only be considered in the Rural designation by amendment to this Plan to obtain an appropriate land use designation permitting the proposed use, and subject to the criteria of Section D.4.1.1 b) to e).
- c) Where a tree farm or nursery proposes the sale of goods and materials that are not grown and produced on site, and do not conform to the criteria for *small scale* retailing of agricultural products set out in Section D.2.1.3.2 c) of the Agriculture designation, a Zoning By-law amendment and a Site Plan approval shall be required to place the subject property in a site-specific zone that specifically regulates the type of retail uses permitted, including the area of the site and buildings that may be used for retail/display purposes, appropriate setbacks, building size and location, parking, loading, road access, lighting, drainage, buffering, screening and landscaping, and any other matters.
- d) Retail greenhouses and retail nurseries are uses that involve the sale of plants, goods and materials that may or may not be grown and produced on site, and do not conform to the criteria for *small scale* retailing of agricultural products set out in Section D.2.1.3.2 c) of the Agriculture designation. Retail greenhouses and retail nurseries may be permitted provided the retail use shall be located on the same lot and operated in conjunction with an *agricultural use* and shall be subject to the following conditions:
 - i) A Zoning By-law amendment shall be required to place the subject property in a site-specific zone that specifically identifies the type of retail facility permitted, including the area of the site and buildings that may be used for retail/display purposes, and to address any other matters;
 - ii) Site Plan approval shall be required to address appropriate building location, parking, road access, lighting, drainage, buffering, screening and landscaping, and any other matters; and
 - iii) On-site storm water management shall be required as a condition of *development*.

e) A kennel may be permitted provided the use will not impact adjacent land uses. The following requirements shall be established in the Zoning By-law:

- i) Limitations on the area of the site and/or building floor area;
- ii) Minimum setbacks from adjacent sensitive land uses; and,
- iii) Other aspects of the kennel use.

4.1.2 *Agriculture-Related Uses* may serve more than one on farm operation in accordance with the Zoning By-law regulations provided for the various uses. (OPA 9)

4.1.3 Institutional uses serving the rural community are permitted provided the following conditions are met:

a) The institutional use must be primarily related to and directly serving the needs of the rural population. Permitted rural institutional uses shall be limited to schools, school bus depots, *small scale* places of worship, rural community centres, and residential care facilities; and

b) The use shall be subject to the policies of Section D.4.1.1 b) to e).

4.1.4 Aside from the *agricultural-related uses* permitted in Section D.2.1.2, an agricultural fairground may also be permitted provided the conditions of Section D.4.1.1 c) to e) are met.

4.2 Other Provisions

4.2.1 Lands designated Rural shall not be redesignated for uses not permitted by the policies of this Plan, except for expansions to the *urban boundary* through a municipal comprehensive review in accordance with the Growth Plan for the Greater Golden Horseshoe. (OPA 34, Mod. 4)

4.2.2 *Development* proposed within a provincial plan area identified on Schedule A – Provincial Plans, shall comply with Section C.1.0, Provincial Plans, of this Plan.

4.2.3 *Development* shall comply with Sections D.2.2.3 and D.2.2.4 of this Plan.

4.3 Prohibited Uses (OPA 9)

4.3.1 The following uses shall be prohibited on properties identified as Vulnerable Area 1 on Schedule G – Source Protection – Vulnerable Areas:

a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:

- i) Storage, treatment and discharge of mine tailings;
- ii) Land farming of petroleum refining waste;
- iii) Storage of polychlorinated biphenyl (PCB) waste;

- iv) Storage of hazardous waste;
 - v) Application of untreated septage to land; and
 - vi) Injection of liquid waste into a well.
- b) Hazardous waste management facility;
 - c) Waste management facility;
 - d) Salt storage facility that can accommodate 5,000 tonnes and greater;
 - e) Snow storage facility greater than 1 ha in size;
 - f) Motor vehicle service station; and
 - g) Motor vehicle collision repair establishment.

4.3.2 The following uses shall be prohibited on properties identified as Vulnerable Area 2 on Schedule G – Source Protection – Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the following activities:
 - i) The injection of liquid waste into a well; and
 - ii) Application of untreated septage to land.
- b) waste disposal facility.

4.3.3 The following uses shall be prohibited on properties identified as Vulnerable Area 3 on Schedule G – Source Protection – Vulnerable Areas:

- a) Waste Disposal sites under Part V of Environmental Protection Act that include the application of untreated septage to land.

D.5.0 RURAL SETTLEMENT AREAS

The Rural Settlement Area designation on Schedule D – Rural Land Use Designations, designates those areas where a variety of land uses and *developments* have clustered together on a *small scale* outside the designated Urban Area. These areas are intended to be residential and service centres that serve the immediate community and the surrounding rural area. Nineteen (19) Rural Settlement Areas have been identified and designated on Schedule D – Rural Land Use Designations.

Lands designated Rural Settlement Area shall be subject to Rural Settlement Area general policies and Secondary Plan policies for each Rural Settlement Area set out in Volume 2 of this Plan.

5.1 Other Provisions

5.1.1 *Development* proposed within a provincial plan area identified on Schedule A – Provincial Plans shall comply with Section C.1.0, Provincial Plans, of this Plan.

- * **The deferral of “Appendix/Schedule C” applies to both the substantive content of “Appendix/Schedule C” and whether the appropriate title of “C” is “Appendix” or “Schedule”.**

D.6.0 MINERAL AGGREGATE RESOURCE EXTRACTION AREAS

Mineral aggregate resources are materials such as sand, gravel, stone, shale, limestone, rock or other material used for the purposes of construction, industrial, manufacturing, maintenance and landscaping. The Aggregate Resources Act (ARA) is the primary legislation that regulates the operation and rehabilitation of pits, quarries, and wayside pits and quarries.

The *Provincial Policy Statement* requires municipalities to protect *mineral aggregate resources* for long term use, ensuring that as much of the resource is made available as close to markets as possible. The municipal interest, expressed through an Official Plan is to ensure that mineral aggregate operations are located, designed and rehabilitated to address the community's planning goals.

- 6.1** *Mineral Aggregate Resource Areas* where there is a high potential for resource extraction are identified as *Potential Mineral Aggregate Resource Areas* on (Appendix/Schedule C – Non renewable resources – deferred – until the deferral is resolved Map No. 5 of the Region of Hamilton-Wentworth Official Plan shall apply)*, to this Plan.
- 6.2** All existing licensed *mineral aggregate operations* are designated *Mineral Aggregate Resource Extraction Areas* on Schedule D – Rural Land Use Designations to this Plan.
- 6.3** *Mineral aggregate operations* within the Niagara Escarpment Plan area, as shown on Schedule A – Provincial Plans, shall meet the requirements of this Plan and Niagara Escarpment Plan. Where there is discrepancy between this Plan and the Niagara Escarpment Plan, the most restrictive policies will prevail.

Permitted Uses

- 6.4** The following uses are permitted on lands designated on Schedule D – Rural Land Use Designations as *Mineral Aggregate Resource Extraction Areas* subject to other applicable policies of this Plan, the Niagara Escarpment Plan, applicable Zoning By-laws, conditions of the license and the Aggregate Resources Act:
- a) The extraction of *mineral aggregate resources*, prescribed under the Aggregate Resources Act from licensed sand and gravel pits, quarries, and *wayside pits and quarries*; and
 - b) Accessory uses related to extraction, such as aggregate storing, *aggregate recycling facilities*, crushing and screening, washing, stockpiling, concrete batching plants, storage of vehicles, vehicle maintenance, repair and fuelling facilities, parking and office facilities, subject to Aggregate Resources Act licensing.

- 6.5** The *development* of a new asphalt plant or production of secondary related products in conjunction with a *mineral aggregate operation*, shall require a Zoning By-law amendment in accordance with Section D.6.19.
- 6.6** In addition to the uses identified in Sections D.6.4 and D.6.5 the following shall also be permitted provided they do not interfere with or detract from the permitted uses:
- a) Archaeological activities;
 - b) Agriculture and agricultural operations;
 - c) a *cannabis production growing and harvesting facility*, in accordance with the regulations in Policy D.2.1.1.4.
 - d) Forest, fisheries and wildlife management;
 - e) *Watershed* and source water management, flood or erosion control facilities and uses carried out or supervised by a public authority;
 - f) Utility facilities; and
 - g) Activities associated with uses prescribed by the Aggregate Resources Act for rehabilitation of extracted areas.

Wayside Pits and Quarries, Portable Asphalt Plants and Portable Concrete Plants

- 6.7** *Wayside pits and quarries, portable asphalt plants and portable concrete plants* shall not be permitted within the Specialty Crop designation located between Lake Ontario and the Niagara Escarpment Plan Area.
- 6.8** *Wayside pits and quarries, portable asphalt plants and portable concrete plants* used by or for public road authority contracts shall be permitted, in all other areas, except Rural Settlement Areas or in the Natural Heritage System where environmental sensitivity has been determined by an Environmental Impact Statement to be incompatible with extraction and its associated activities.
- 6.9** The separation distance between *wayside pits and quarries, portable asphalt plants and portable concrete plants* and the nearest *existing* or proposed *sensitive land use* shall be consistent with the requirements of any Certificate of Approval that may be required for processing equipment.
- 6.10** Where a *wayside pit or quarry* is established in an Agriculture or Rural designation, rehabilitation of the site for agricultural production and the restoration of substantially the same acreage and capability of the land for agriculture shall be required.
- 6.11** The City shall encourage the use of *existing* and former mineral aggregate extraction areas, and *existing* and former *wayside pits and quarries* for future *wayside pits and quarries, portable asphalt plants and portable concrete plants*

in order to minimize the need for other lands to be disturbed by these operations and promote further site rehabilitation.

New or Expanded Pits or Quarries

- 6.12** Applications for new or expanded aggregate operations are subject to the requirements of the Aggregate Resources Act.
- 6.13** The establishment of a new *mineral aggregate operation* or extensions to existing operations requiring license approval under the Aggregate Resources Act will require an amendment to this Plan and the Zoning By-law and the Niagara Escarpment Plan, where applicable.
- 6.14** A new *mineral aggregate operation* or any ancillary or accessory use thereto shall not be permitted on lands in the Specialty Crop designation located between Lake Ontario and the Niagara Escarpment Plan Area.
- 6.15** Prior to the submission of an application for a new aggregate operation or expansion to an existing operation, the City shall require a pre-submission consultation with the applicant, the Province, Conservation Authorities and other relevant agencies to identify the content of studies and information to be provided to support the application, to scope or focus study requirements where appropriate, and to determine a process and an agreement of evaluation and peer review.
- 6.16** The City shall consider an amendment to this Plan to redesignate lands for a new *mineral aggregate operation* or the expansion to an existing operation when the applicant has submitted all site plans and studies required under the Aggregate Resources Act as well as the following:
- a) All Environmental Impact Studies required by this Plan in accordance with Section F.3.2.1, Environmental Impact Statements and Section C.2.6, Natural Heritage System – Mineral Aggregate Operations. In the event of a conflict Section C.2.6 shall prevail;
 - b) A hydrogeological study;
 - c) A transportation and haul route study; and
 - d) Noise, vibration, and air quality studies.

Design and Operational Policies for Aggregate Operations

- 6.17** The City shall work with adjacent municipalities, agencies, the Province, the aggregate industry and other stakeholders to encourage the best design and operational practices in licensed aggregate extraction operations.
- 6.18** To preserve the scenic beauty and amenity of *Rural Hamilton*, the City shall encourage and cooperate with owners of existing licensed aggregate extraction operations to implement the following measures:
- a) Landscaping, screening and buffering forming an integral part of *development*;

- b) Adequate off-street parking facilities are provided and access points limited in number and designed in a manner that will minimize the danger to both vehicular and pedestrian traffic; and
- c) Creation of variable berms and *vegetative screens* which includes a combination of mature and young plantings. These features should incorporate the natural topography and vegetation of the area and should maintain existing vegetation, where possible.

6.19 Prior to the submission of an application for a Zoning By-law amendment for an asphalt plant or a facility for the production of secondary products related to a *mineral aggregate operation*, the City shall require a pre-submission consultation with the applicant, the Province, Conservation Authorities and other relevant agencies to identify the content of studies and information to be provided to support the application, to scope or focus study requirements where appropriate to ensure the proposed use: (OPA 26)

- a) does not pose a threat to air quality and water quality and quantity; and
- b) can be operated in a manner that is consistent with other goals and objectives of this Plan.

6.20 The City shall coordinate with the Province, the Niagara Escarpment Commission and Conservation Authorities, to ensure that all appropriate conditions resulting from the review of studies required under the Aggregate Resources Act are imposed and enforced as:

- a) Conditions of the license or notes on the Site Plan in accordance with the Aggregate Resources Act; and/or
- b) Conditions of *development* approval under the Niagara Escarpment Planning and Development Act and other applicable legislation.

Rehabilitation

6.21 Rehabilitation of all *mineral aggregate operations*, including *wayside pits and quarries* shall be undertaken in accordance with the site plans approved under the Aggregate Resources Act and be compatible with and have minimal impact upon the surrounding natural and visual environment and *existing* uses.

6.22 Within the Specialty Crop designation, an application for Official Plan and Zoning By-law amendments for the establishment of a *mineral aggregate operation*, or the expansion of an existing operation on lands not prohibited by Sections C.2.6.3 a) and D.6.14 shall be accompanied by the information identified in the Aggregates Resources Act and the provisions of the Greenbelt Plan to demonstrate:

- a) The physical characteristics of the proposed site allow for the rehabilitation of the property for the same range and productivity of specialty crops

common in the area, and that the microclimate of the site and surrounding area will be maintained for specialty crop production; or

- b) If the physical characteristics of the site will not allow for rehabilitation of the property back to agricultural condition in accordance with Section D.6.22 a), alternative locations for the *mineral aggregate operation* have been considered and evaluated to justify the proposed location; and
- c) Where alternative locations for the *mineral aggregate operation* are considered in accordance with Section D.6.22 b) and found unsuitable by the applicant, and where complete agricultural rehabilitation in the *Specialty Crop Area* is not possible due to the depth of planned extraction or a substantial aggregate deposit below the water table warranting extraction, agricultural rehabilitation shall be maximized for the remaining licensed area to allow production of specialty crops.

6.23 In the Agriculture designation, on *prime agricultural land*, extraction of *mineral aggregate resources* is permitted as an interim use provided the rehabilitation of the site will be carried out to substantially the same area and average soil quality for agriculture.

On *prime agricultural lands*, complete agricultural rehabilitation is not required if:

- a) A substantial quantity of *mineral aggregate resources* below the water table warranting extraction, or the depth of planned extraction in a quarry makes restoration of pre-extraction agricultural capability unfeasible;
- b) Alternative locations have been considered by the applicant and found unsuitable. The consideration of other alternatives shall include resources in areas of Canada Land Inventory Class 4 to 7 soils, resources identified in *designated growth areas*, and resources on *prime agricultural land* where rehabilitation is feasible. Where no other alternatives are found, prime agricultural lands shall be protected in this order of priority: Specialty Crop Areas, and Canada Land Inventory Class 1, 2 and 3 lands; and
- c) Agricultural rehabilitation in remaining areas is maximized.

6.24 Applications for Official Plan or Zoning By-law amendments for establishment or expansion of a *mineral aggregate operation* within the Protected Countryside shall be accompanied by information which demonstrates that rehabilitation will be carried out as follows:

- a) The *disturbed area* of a site shall be rehabilitated to a state of equal or greater *ecological value*, and the long-term ecological integrity of the entire site will be maintained or restored, and to the extent possible improved;
- b) If there are *key natural heritage features* or *key hydrologic features* or if such features existed on the site at the time of application:
 - i) The health, diversity and size of these *key natural heritage features* and *key hydrologic features* will be maintained or restored and, to the extent possible, improved so as to promote a net gain of ecological health; and

- ii) Any permitted extraction of mineral aggregates that occurs in a feature will be completed, and the area will be rehabilitated, as early as possible in the life of the operation; and
- c) Aquatic areas remaining after extraction are to be rehabilitated to enhance aquatic areas which shall be representative of the natural ecosystem suitable for the eco-district, so that the combined terrestrial and aquatic rehabilitation in remaining areas shall meet the intent of Section D.6.24 b).

6.25 Within the Greenbelt Plan Natural Heritage System, the following provisions also apply to final rehabilitation:

- a) Where there is no underwater extraction, an amount of land equal to that under natural vegetated cover prior to extraction or no less than 35% of each license is to be rehabilitated to a forest cover representative of the natural ecosystem in that particular eco-district; or
- b) Where there is underwater extraction, no less than 35% of the lands not subject to extraction below the water table of each license is to be rehabilitated to forest cover, which shall be representative of the natural ecosystem in that particular or eco-district; and,
- c) Rehabilitation shall be implemented so that the *connectivity* of the *key natural heritage features* and *key hydrologic features* on the sites and on adjacent lands will be restored or maintained, and to the extent possible improved.

6.26 Operators shall be encouraged to consider and plan to provide for public access to former aggregate sites upon final rehabilitation.

6.27 For lands that are currently designated *Mineral Aggregate Resource* Extraction Area on Schedule D – Rural Land Use Designation, and where a *mineral aggregate operation* has ceased and a license issued pursuant the Aggregate Resources Act has been surrendered, only the uses in Section D.6.6 shall be permitted.

Other Provisions

6.28 At the time of an Official Plan Review, where a *mineral aggregate operation* has ceased and a license issued pursuant the Aggregate Resources Act has been surrendered, the City shall:

- a) redesignate the lands from Mineral Aggregate Resource Extraction Area to an appropriate land use designation as set out on Schedule D – Rural Land Use Designations; and,
- b) rezone the lands to an appropriate Rural area zone.

6.29 The development of Mineral Aggregate Resource Extraction Areas shall not adversely impact *significant cultural heritage resources* either directly or indirectly unless suitably conserved or mitigated by the proponent to the

satisfaction of the City and in accordance with studies required under the Aggregate Resources Act. (OPA 5)

6.30 The rehabilitation of areas impacted by *mineral aggregate operations* shall reflect and conserve elements of the pre-extraction character of the *significant cultural heritage resources* where possible. (OPA 5)(OPA 26)

6.31 Where possible, public or private rehabilitation of lands impacted by *mineral aggregate resource* extraction shall reflect and represent the pre-extraction land uses and character of the *significant cultural heritage resources*. The reflection and representation of these *significant* cultural heritage elements shall not preclude the rehabilitation of natural heritage features and ecological function, but shall ensure that the cultural history of the lands is appropriately represented in the rehabilitated site. (OPA 5)

Prohibited Uses (OPA 9)

6.32 Prohibited Uses shall include:

- a) A snow storage facility below the water table that is greater than 0.01 ha in size; and
- b) A snow storage facility greater than 1 ha in size.

D.7.0 GAS AND PETROLEUM RESOURCES

Throughout *Rural Hamilton* there is a potential for discovery, exploration and production of gas and *petroleum resources/deposits*. A number of known deposits and petroleum production facilities currently exist in the south-central portion of the Rural Area as identified in Appendix C-1 – Non-Renewable Resources-Gas and Petroleum Wells. While activities associated with gas and petroleum production rarely involve Planning Act approvals, the policies of this plan seek to address issues of new *development* encroaching on known deposits and production wells.

7.1 New *development* subject to approval under this Plan and located on or adjacent to facilities used for gas and petroleum production is permitted, subject to the following:

- a) No new *development* shall be located within 75 metres of any active gas or petroleum well or an inactive well that has not been decommissioned in accordance with the operating standards of the Oil, Gas and Salt Resources Act.
- b) *Development* on or adjacent to lands formerly used for gas or petroleum operations, may be permitted only if rehabilitation measures have been identified and are underway, or, have been completed to address and mitigate any known or suspected hazards associated with those former operations;
- c) Abandoned petroleum resource well sites, suspected sites and related areas of contamination discovered during the planning or construction of a *development* proposal will be mitigated or rehabilitated as necessary.
- d) Contaminated soil associated with gas and petroleum deposits or production discovered during the review of any *development* application will be assessed and mitigated as necessary prior to any *development* approval.

7.2 Gas and petroleum well and facility rehabilitation shall be conducted according to the Oil, Gas and Salt Resources Act and its regulations and standards. All activities in or on a gas or petroleum well site shall be conducted in accordance with a license from the Ministry of Natural Resources.

7.3 The Province shall be consulted where *existing* or future land use designations and zoning are found to conflict with gas and *petroleum resources* and well-site use or rehabilitation measures.