



# The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 228-04

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**BEING A BY-LAW TO AUTHORIZE THE EXECUTION  
OF A CONDOMINIUM ASSUMPTION AGREEMENT  
VILLAGE ON THE TRAIL  
PLAN OF CONDOMINIUM  
GREY FOREST HOMES LTD.**

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350303-0005/350307-0069

**WHEREAS** it is deemed desirable to enter into a Condominium Assumption Agreement for the Village on the Trail Plan of Condominium with the Niagara South Condominium Corporation, to be registered, and Grey Forest Homes Ltd., in order to control the development of lands as described in Box 6 of the Document General which is attached hereto and forms part of this by-law; and

**WHEREAS** Report No. CDS-142-2004 was approved at the Committee of the Whole meeting of December 5<sup>th</sup>, 2004, authorizing the Mayor to endorse the draft condominium plan as approved 20 days after the notice of Council's decision has been given provided that no appeals against the decision have been lodged; and

**WHEREAS** the Municipal Council of the Town of Fort Erie at its meeting of June 21<sup>st</sup>, 2004 passed Resolution No. 25 to establish a practice whereby the Standard Form of Agreement would not be attached to the By-law and circulated to each Member of Council in advance of the particular Council Meeting, although Council has been informed under Report No. CDS-142-2004 of the Conditions of Draft Plan Approval in the agreement, with the knowledge that the Clerk of the Town of Fort Erie is in possession of the full agreement at the subject Council Meeting;

**NOW THEREFORE** the Municipal Council of the Corporation of the Town of Fort Erie hereby enacts as follows:

- (1) **THAT** the entry into a Condominium Assumption Agreement with Niagara South Condominium Corporation, to be registered, and Grey Forest Homes Ltd., in the form of the Document General annexed to this by-law hereto attached as Schedule "A" and the Condominium Assumption Agreement, be and it is hereby authorized and approved.
- (2) **THAT** provided all the conditions of draft plan approval have been completed to the satisfaction of the Town, the Mayor and Clerk be and they are hereby authorized and directed to execute the Document General annexed to this by-law hereto attached as Schedule "A" in order to effect the Condominium Assumption Agreement with the Niagara South Condominium Corporation, to be registered, and Grey Forest Homes Ltd. for the lands described in Box 6 of the Document General.

- (3) THAT the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the by-law and schedule(s) as may be deemed necessary after the passage of this by-law.
- (4) THAT the Mayor and Clerk be and they are hereby authorized and directed to execute any and all documentation necessary to effect the terms and conditions of the Condominium Assumption Agreement including the documentation for the registration of the Village on the Trail Plan of Condominium, etc.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF DECEMBER, 2004.**

  
\_\_\_\_\_  
**MAYOR**

  
\_\_\_\_\_  
**CLERK**

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 228-04 of the said Town. Given under my hand and the seal of the said Corporation this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_



# Document General

Form 4 - Land Registration Reform Act

THE UYERHART CANADA DOCUMENT COMPANY  
1-877-4-LIC-DOCS www.uyedocs.net

**D**

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">FOR OFFICE USE ONLY</p> <p>New Property Identifiers</p> <p>Executions</p>	<p>(1) Registry <input type="checkbox"/> Land Titles <input checked="" type="checkbox"/></p>	<p>(2) Page 1 of 8 pages</p>	
	<p>(3) Property Identifier(s) _____ Block _____ Property _____</p> <p style="text-align: right;">Additional: See Schedule <input type="checkbox"/></p>		
	<p>(4) Nature of Document</p> <p style="text-align: center;"><b>Notice of Condominium Assumption Agreement</b></p>		
	<p>(5) Consideration</p> <p style="text-align: center;"><b>ONE</b></p> <p style="text-align: center;">----- 00/100 Dollars \$ <b>1.00</b></p>		
	<p>(6) Description</p> <p style="text-align: center;"><b>All the units and common elements comprising Niagara South Condominium Plan No. _____, in the Town of Fort Erie, Regional Municipality of Niagara.</b></p>		
	<p>Additional: See Schedule <input checked="" type="checkbox"/></p>	<p>(7) This Document Contains</p>	<p>(a) Redescription New Easement Plan/Sketch <input type="checkbox"/></p>

(8) This Document provides as follows:

**The Corporation of the Town of Fort Erie has an unregistered estate, right, interest or equity in the Lands described in Box 6 registered in the name of Grey Forest Homes Ltd. and hereby applies under Section 72 of the Land Titles Act for entry of a Notice of Condominium Assumption Agreement, in the register for the Lands described in Box 6.**

**The Condominium Assumption Agreement is attached.**

Continued on Schedule

(9) This Document relates to instrument number(s) **778205**

(10) Party(ies) (Set out Status or Interest)	Date of Signature
<p>Name(s) _____ Signature(s) _____</p> <p><b>The Corporation of the Town of Fort Erie</b> </p> <p><b>(We have the authority to bind the Corporation)</b></p>	<p>Y M D</p> <p>2004</p>
<p>_____ Signature(s) _____</p> <p>Carolyn Kett, Town Clerk</p>	<p>2004</p>

(11) Address for Service **Municipal Centre, 1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6**

(12) Party(ies) (Set out Status or Interest)	Date of Signature
<p>Name(s) _____ Signature(s) _____</p>	<p>Y M D</p>
<p>_____ Signature(s) _____</p>	

(13) Address for Service \_\_\_\_\_

<p>(14) Municipal Address of Property</p> <p><b>3730 Disher Street Fort Erie, Ontario</b></p>	<p>(15) Document Prepared by:</p> <p><b>Community Planning and Development Services Town of Fort Erie Municipal Centre, 1 Municipal Centre Dr. Fort Erie, Ontario L2A 2S6</b></p>	<p style="text-align: center;"><b>Fees and Tax</b></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%;">Registration Fee</td> <td style="width:20%;"></td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td style="text-align: right;">Total</td> <td> </td> </tr> </table>	Registration Fee								Total	
Registration Fee												
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THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2004 as authorized by By-Law No. \_\_\_\_\_ of The Corporation of The Town of Fort Erie (the "Agreement"),

BETWEEN:

**GREY FOREST HOMES LTD.**  
(Hereinafter called the "OWNER")

of the FIRST PART;

- and -

**THE CORPORATION OF THE TOWN OF FORT ERIE,**  
(Hereinafter called the "TOWN")

of the SECOND PART;

- and -

**NIAGARA SOUTH CONDOMINIUM CORPORATION NO. \_\_\_\_\_,**  
(Hereinafter called the "CONDOMINIUM CORPORATION")

of the THIRD PART;

**WHEREAS** Grey Forest Homes Ltd. represents that it is the owner of the lands described in Schedule "A" annexed hereto (hereinafter called the "Lands");

**AND WHEREAS** the Owner has applied to the Town for approval of a condominium development upon the Lands in accordance with drawings, plans, specifications and site plans, all of which have been approved by and filed with the Town;

**AND WHEREAS** by Agreement registered in the Land Registry Office for the Registry Division of Niagara South on November 10, 2003 as Instrument No. 778205, hereinafter called the "Site Plan Agreement", the Owner did covenant and agree with the Town to perform certain Works on the lands and premises therein described upon the terms and conditions therein contained;

**AND WHEREAS** in accordance with the terms and conditions of the said Site Plan Agreement, and in accordance with approved plot plans and elevations filed in the office of the Director of Public Works, a condominium development has been constructed on the said Lands;

**AND WHEREAS** by registration of a Declaration and Description on \_\_\_\_\_ as Instrument No. \_\_\_\_\_ in the Land Registry Office of the Land Titles Division of Niagara South, the Condominium was established;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants and agreements to be observed and performed by each of the Parties hereto, and in consideration of the sum of ONE (\$1.00) DOLLAR of lawful money of Canada now paid by each of the parties to the other, the receipt whereof is hereby acknowledged, the parties hereto hereby mutually covenant and agree as follows:

1. **Definitions**

In this Agreement:

- 1:1 "Council" shall mean the Council of The Corporation of the Town of Fort Erie.
- 1:2 "Director" shall mean the Director of Infrastructure Services of The Corporation of the Town of Fort Erie, or his designate.

- 1.3 "Owner" shall mean Grey Forest Homes Ltd. and each and every subsequent owner of a unit in Niagara South Condominium Plan. No. \_\_\_\_; and
- 1:4 "Treasurer" shall mean the Director of Corporate Services of The Corporation of the Town of Fort Erie, or his designate.
2. The Owner acknowledges that at the time of signing of this Agreement, there are certain works (hereinafter called the "Works") required in accordance with the Site Plan Agreement which are not completed. In order to secure the completion of the Works, the Owner has deposited or will deposit with the Treasurer certain cash deposit, Letter of Credit or other forms of security. The Owner agrees that such cash deposit, Letter of Credit or other forms of security shall be retained by the Town in accordance with the provisions of the Site Plan Agreement. Should the Owner fail to complete the Works within 15 days of receipt of a notice in writing from the Director to do so, the Town shall have the right to enter upon the Lands and to call upon the aforementioned cash deposit, Letter of Credit or other forms of security for the purpose of completing any and all outstanding Works.
3. The Owner agrees to convey title to the Town, free and clear of claims, liens or encumbrances, Parts 2 and 3 on Reference Plan 59R-12034 and Part 11 on Reference Plan 59R-\_\_\_\_\_ as shown on the undated preliminary Reference Plan (59R Plan) prepared by Matthews, Cameron, Heywood – Kerry T. Howe Surveying Ltd. under its File No. 2004-214A, L.L.N. 36238, at the Owner's expense. The Owner shall, at its own expense, obtain and register a partial discharge of any mortgage registered on title with respect to the lands being conveyed to the Town.
4. The Town agrees to release its Easements registered on March 22, 2000 as Instrument No. 768852 and on November 10, 2003 as Instrument No. 778210 and the Owner agrees to convey a replacement Easement in favour of the Town over, under and through Parts 3, 5 and 8 on Reference Plan 59R-\_\_\_\_\_ as shown on the undated preliminary Reference Plan (59R Plan) prepared by Matthews, Cameron, Heywood – Kerry T. Howe Surveying Ltd. under its File No. 2004-214A, L.L.N. 36238, at the Owner's expense. The Owner shall, at its own expense, obtain and register a postponement of any mortgage registered on title with respect to the lands on which the easement is being granted to the Town.
5. The Parties acknowledge and the Town agrees that when the aforesaid outstanding Works have been completed to the entire satisfaction of the Director and upon receipt of written application from the Owner, the Town may return to the Owner, the cash deposit, Letter of Credit or other forms of security posted.
6. The Condominium Corporation covenants, warrants, acknowledges and agrees that every covenant, condition, proviso and stipulation contained in the aforesaid Site Plan Agreement will apply to and bind the Condominium Corporation in the same manner and with the same effect as if the Condominium Corporation had been a party to the said Site Plan Agreement and the Condominium Corporation covenants and agrees with the Town to do, observe, keep and perform every such covenant, condition, proviso and stipulation.
7. The Condominium Corporation agrees to the following:
- a) To assume the maintenance and responsibilities outlined under the existing Site Plan Agreement (By-law No. 55-2003);
  - b) To comply with the Regional Municipality of Niagara's "Collection of Waste By-law of Entry on Private Property" (PW2.W07);
  - c) To enter into an Indemnity Agreement regarding waste with the Regional Municipality of Niagara;
  - d) To provide to the Town security deposits as necessary to ensure completion of all outstanding works; and
  - e) To place "No Parking" signage along the interior roadway and at the dead-end locations near Units 4, 5, 6, 12, 13 and 14.
8. The Owner and the Condominium Corporation jointly and severally warrant and acknowledge that title to the lands described in Schedule "A" annexed hereto is free and clear of all claims, liens and encumbrances save and except those set out in Schedule "B" annexed hereto.
9. The Owner and the Condominium Corporation acknowledge that they must fulfill all of the

Conditions of Draft Plan Approval in Schedule "C" herein at their own expense whether or not it is specifically mentioned or referred to in the body of the Agreement and further, the Owner and the Condominium Corporation acknowledge the right of the approval authority to change or amend or add to any or all of the Conditions of Draft Plan Approval at any time prior to final approval of the Plan of Condominium (including the addition of new conditions).

- 10. This agreement and everything herein contained shall extend to and bind and enure to the benefit of the parties hereto, all subsequent owners of units in the Condominium Plan and their respective successors, administrators and assigns.

**IN WITNESS WHEREOF** the Parties have hereunto caused their seals to be affixed and attested by their proper signing officers and the individual Parties have hereunto set their hands and seals, as of the date hereof.

SIGNED, SEALED and DELIVERED )  
in the Presence of: )

OWNER  
Per:

\_\_\_\_\_  
Rudy Sawatzky, President

I have the authority to bind the Corporation.

Date: \_\_\_\_\_

THE CORPORATION of the TOWN of FORT  
ERIE  
Per:

  
\_\_\_\_\_  
Wayne H. Redekop, Mayor

\_\_\_\_\_  
Carolyn Kett, Town Clerk

Date: \_\_\_\_\_

NIAGARA SOUTH CONDOMINIUM  
CORPORATION NO. \_\_\_\_  
Per:

\_\_\_\_\_  
Authorized Signing Officer & Position

I have the authority to bind the Corporation.

Date: \_\_\_\_\_

**SCHEDULE "A"**

**Description of Lands:**

In the Town of Fort Erie, Regional Municipality of Niagara being composed of Part of South Mill Street (closed by By-Law registered as Instrument No. RO768848) and Part of Lots 14, 15 & 16, East Side South Mill Street and Lots 14, 15 & Part of Lot 16, West Side South Mill Street on Registered Plan No. 227, Geographic Township of Bertie, now known as Plan 349, Lot 79, Registered Plan 57, Geographic Township of Bertie, now known as Plan 397 and Part of Lots 23 & 24, Concession 1, Lake Erie, Geographic Township of Bertie, designated as Parts 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 on Reference Plan 59R- \_\_\_\_\_,

**SUBJECT** to an easement over Parts 3 and 8 on Reference Plan 59R- \_\_\_\_\_ in favour of Canadian Niagara Power Company Limited as in RO768849;

**SUBJECT** to an easement over Parts 3 and 8 on Reference Plan 59R- \_\_\_\_\_ in favour of The Corporation of the Town of Fort Erie as in RO768852;

**SUBJECT** to an easement over Parts 3 and 8 on Reference Plan 59R- \_\_\_\_\_ in favour of Bell Canada as in RO768850.

(Now being all of the Units and Common Elements comprising Niagara South Standard Condominium Plan No. \_\_\_\_.)

**SCHEDULE "B"**

**List of Outstanding Claims, Liens or Encumbrances**

1. Easement in favour of Canadian Niagara Power Company Limited registered on March 22, 2000 as Instrument No. 768849.
2. Easement in favour of Bell Canada registered on March 22, 2000 as Instrument No. 768850.
3. Easement in favour of The Corporation of the Town of Fort Erie registered on March 22, 2000 as Instrument No. 768852.
4. Site Plan Agreement registered on November 10, 2003 as Instrument No. 778205.
5. Restrictive Covenant registered on November 10, 2003 as Instrument No. 778206.
6. Easement in favour of The Corporation of the Town of Fort Erie registered on November 10, 2003 as Instrument No. 778210.
7. Mortgage in favour of the Niagara Credit Union Limited registered on July 18, 2003 as Instrument No. 777626.

**SCHEDULE "C"**

**CONDITIONS OF DRAFT PLAN APPROVAL  
VILLAGE ON THE TRAIL**

The conditions of final approval and registration of the Village on the Trail Condominium by Grey Forest Homes Ltd. (File No. 26CD-15-0401) Town of Fort Erie are as follows:

1. That approval applies to the Village on the Trail Condominium Plan of Subdivision consisting of all of lot 79, Plan 397 & all of lot 14 & 15, part of 16, west side of Mill Street, part of lots 14, 15 & 16 east side of South Mill Street, part of South Mill Street (closed by By-law 204/99) plan 349, and part of lots 23 & 24, Concession 1 L.E., Township of Bertie prepared by Matthews, Cameron, Heywood, Kerry T. Howe Surveying Ltd. dated September 10<sup>th</sup>, 2004 showing 24 townhouse units and associated parking and driveway areas.
2. That the applicant/developer submit an undertaking that the Condominium Corporation will enter into an assumption agreement with the municipality, once the condominium plan has been registered, which requires the Condominium Corporation to assume the maintenance and responsibilities contained in the existing site plan agreement (By-law 55-2003) and that the Condominium Corporation will not object to the registration of the agreement
3. That immediately following the registration of the Condominium Plan the Condominium Corporation enter into an assumption agreement with the Municipality which requires the Condominium Corporation to:
  - a) Assume the maintenance and responsibilities outlined under the existing site plan control agreement (By-law 55-2003)
  - b) Comply with the Regional Municipality of Niagara's "Collection of Waste By-law of Entry on Private Property" (PW2.W07)
  - c) Enter into an Indemnity Agreement regarding waste collection with the Regional Municipality of Niagara
  - d) Provide to the Town security deposits as necessary to ensure completion of all outstanding works.
  - e) Place "No Parking" signage along the interior roadway and at the dead-end locations near Units 4, 5, 6, 12, 13 and 14.
4. That the applicant/developer submit an undertaking to the satisfaction of the Regional Public Works Department, that the Condominium Corporation agrees in the assumption agreement to:
  - a) Comply with the Regional Municipality of Niagara's "Collection of Waste By Way of Entry on Private Property" Policy (PW2.W07)
  - b) Enter into and Indemnity Agreement regarding waste collection with the Regional Municipality of Niagara
5. That prior to final approval all relevant conditions of the Site Plan Agreement related to the occupancy of the building are completed to the satisfaction of the Town including the construction of all common elements on the Condominium Plan of Subdivision.
6. That Parts 2 and 3 as shown on reference plan 59R-12034 as "other lands to be transferred to the municipality" be conveyed to the Town of Fort Erie as road widening and that the small triangle shown as part 11 on the draft reference plan received by the Town dated November 22, 2004 be deeded to the Town to improve pedestrian access to the Friendship Trail.

Niagara South Condominium Corporation No. \_\_\_\_

7. That the Condominium Corporation agrees to convey any easements required by the Town of Fort Erie for servicing or other infrastructure purposes.
8. That if final approval is not given to this plan within three (3) years of the approval date and no extensions have been granted, draft plan approval shall lapse. If the owner wishes to request an extension of draft plan approval, a written explanation with reasons why the extension is required together with a letter from the Region must be received by the Town prior to the lapsing date.