



The Municipal Corporation of the Town of Fort Erie

By-law 121-2023

**Being a By-law to Enact an Amendment to the Official Plan Adopted by
By-law 150-06 for The Town of Fort Erie Planning Area, Amendment 73,
Town-Wide, Town of Fort Erie (Applicant)**

The Municipal Council of The Corporation of the Town of Fort Erie in accordance with the provisions of Section 17 of the Planning Act, R.S.O. 1990, c. P.13 enacts as follows:

- 1. That** Amendment 73 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text and mapping is hereby adopted and approved.
- 2. That** this by-law shall come into force and take effect on the day of the final passing thereof.
- 3. That** the Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 24th day of July 2023.

Mayor

Deputy Clerk

AMENDMENT 73

TO THE

OFFICIAL PLAN

FOR THE

CORPORATION OF THE TOWN OF FORT ERIE

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PART "A" - THE PREAMBLE

SECTION 1

TITLE AND COMPONENTS

This document, when approved in accordance with Sections 17 and 21 of The Planning Act, 1990, shall be known as Amendment No. 73 to the Official Plan adopted by By-law No. 150-06 of the Fort Erie Planning Area.

Part "A", the Preamble does not constitute part of this amendment.

Part "B", the Amendment, consisting of the following text constitutes Amendment No. 73 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area.

Also attached is Part "C", the Appendices, which do not constitute part of this amendment. These Appendices (1 through 3 inclusive) contain the background data, planning considerations and public involvement associated with this amendment.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to provide a policy framework for addressing the recent legislative changes to the *Planning Act* as a result of Bill 109, the *More Homes for Everyone Act*, 2022.

SECTION 3

LOCATION OF THIS AMENDMENT

The proposed Amendment shall apply to the entirety for the Fort Erie Planning Area.

SECTION 4

BASIS OF THIS AMENDMENT

In light of Bill 109, the *More Homes for Everyone Act*, 2022, the proposed Amendment assists with simplifying, streamlining, and expediting the development approvals process, while improving the Municipality's ability to recover costs associated with the processing of development applications.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

The relevant policies of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area shall apply to the implementation and interpretation of this Amendment.

PART "B" - THE AMENDMENT

All of this part of the document entitled "Part "B" - "The Amendment" consisting of the following text changes constitutes Amendment No. 73 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area. Section 13 of the Official Plan, as adopted by By-law No. 150-06 for the Fort Erie Planning Area, is hereby amended to the following:

13. IMPLEMENTATION

13.1 GENERAL

- I. The designations shown on Schedule A to this Official Plan are to be interpreted in a general fashion and are not to be precisely scaled. Where roadway or natural features such as water courses identify a distinct separation between designations such boundaries shall be used to provide a distinct interpretation of the boundary of the designation. Minor refinements to the boundaries of the designations in association with development applications shall not require an amendment to this Plan Official Plan.
- II. This Official Plan is required to conform to the Region of Niagara Official Plan and Provincial Growth Plan and shall be "consistent with" the Provincial Policy Statement.
- III. The Urban Area Boundaries as delineated in the Region of Niagara Official Plan are fixed, and shall only be changed by Amendment to the Region of Niagara Official Plan.
- IV. This Official Plan will be implemented by means conferred upon Council by the Planning Act, R.S.O. 1990, the Municipal Act and such other statutes as may be applicable. In particular, this Plan shall be implemented by the Zoning By-law, neighbourhood plans, site plan control, subdivision and part- lot control, consents to severances, the property standards by-law, demolition control, provision of municipal services, public works, energy conservation and other legislation.
- V. In order to ensure that the policies of the Official Plan are being implemented, the following controls will be regularly reviewed:
 - a. The Zoning By-law;
 - b. Subdivision and Part-Lot Control;
 - c. Site Plan Control and Design Guidelines; and
 - d. All other practices and procedures involved in processing development applications.

13.2 THE ZONING BY-LAW

- I. Zoning By-laws pursuant to the Planning Act, R.S.O. 1990, will be used to regulate the use of land and the character, location and use of buildings and structures in accordance with the policies of this Plan.
- II. Following any amendment to this Plan approval of this Plan, it is intended that the existing comprehensive Zoning By-law will be amended to establish ~~standards~~ *development* regulations and provisions in conformity with the policies of the Official Plan.
- III. The main permitted uses in the land use designations on Schedule "A" will generally be permitted by the Zoning By-law, when appropriate.
- IV. Other permitted uses in the land use designations on Schedule "A" may generally be recognized by the Zoning By-law or by amendment to the By-law.
- V. Although it is intended that all lands will eventually be zoned in the Zoning By-law to conform with the main permitted uses on Schedule "A" it is not intended that all lands be zoned for their ultimate use immediately. Vacant lands designated for specific uses in the Plan, particularly those areas that may be the subject of a Neighbourhood Plan, may be zoned in an Implementing Zoning By-law in a 'Neighbourhood Development' zone as an interim measure. When such areas are deemed necessary for *development*, they will be rezoned to an appropriate category to permit the uses set forth in this Plan. Environmental Conservation area designations will be identified in the implementing zoning by-law with the use of either Holding zones or zones that limit the permitted uses to existing uses, conservation uses, forestry and wildlife management, as well as passive recreational pursuits. *Development* on lands adjacent to Environmental Conservation areas could be subject to Site Plan Control in accordance with Policy 13.4.II of this Section.
- VI. Detailed Zoning By-laws incorporating specific plans and conditions for medium and high density residential or non-residential uses may be adopted as an adjunct to Subdivision Agreements or Site Plan Agreements, to achieve good individual site and neighbourhood development and to help achieve the policy intent of this Plan.
- VII. The existing Zoning By-law will be reviewed and periodically consolidated. This review will recognize controls available through design guidelines and approval of site plans under the provisions of the Planning Act, R.S.O. 1990.

13.3 NEIGHBOURHOOD PLANS

- I. Neighbourhood Plans do not form part of the Official Plan but are considered Council policy as they are adopted by resolution of Council after consultation with neighbourhood residents and property owners as well as relevant technical agencies

and bodies having an interest.

Planning decisions contrary to the goals and objectives of the Plan should not be made without first modifying the Plan. The Neighbourhood Plan process will provide for review and comment of the Plan by relevant agencies to ensure the Plan adequately addresses any technical requirements and provincial policy objectives. Key land use elements of the Neighbourhood Plan will be incorporated by amendment into the Official Plan and implementing Zoning By-law where appropriate. Council will seek public and agency input prior to making any significant modifications to the Plan.

- II. Neighbourhood Plans will be prepared for areas of the Town to provide a basis for more detailed planning and to indicate how the goals and policies of the Official Plan are to be implemented prior to *development* proceeding. Neighbourhood Plans also form a basis for the maintenance of relevant statistical data.
- III. The Neighbourhood Plan policies of Section 5 of this Plan should be considered in implementing the policy objectives for Neighbourhood Plans.

13.4 SITE PLAN CONTROL

- I. All of the Town of Fort Erie, being the total area within this Plan, shall be a proposed Site Plan Control area. The actual areas and uses to which site plan control shall apply will be established by By-law in accordance with Section 41 of the Planning Act, R.S.O. 1990.
- II. The following uses will not be subject to Site Plan Control unless such control will assist in managing grading and drainage impacts and locating *development*, in accordance with Policies 8.1 and 8.3 to assist in conserving important Natural Areas:
 - a. Single detached or semi-detached dwellings, additions thereto, and buildings and structures accessory thereto in a Registered Plan of subdivision with an agreement;
 - b. Small scale agricultural buildings and structures except greenhouses, mushroom farms, agri-tourism uses, small scale commercial farm markets and larger livestock operations.
 - c. Any building or structure erected for the purpose of flood or erosion control by the Town, Regional Municipality of Niagara, or Niagara Peninsula Conservation Authority; and
 - d. Any building or structure exempted under the Planning Act, R.S.O. 1990
- III. The implementation of Site Plan Control shall ensure that a safe and attractive site environment is provided, by ensuring that Town and Regional standards are implemented and ensuring that any project is developed and maintained as approved.
- IV. It shall be the policy of the Town to establish uniform Site Plan Control policies which shall be applied to the *development* and *redevelopment* of land within the established

site plan control area.

- V. Approval of drawings within a Site Plan Control area is delegated to the Director of Planning and Development Services under By-law No. 36-13 and in accordance with the requirements of the Planning Act, R.S.O. 1990.
- VII. To ensure the provision of certain items and that development proceeds in accordance with the approved plans, site plan agreements shall be executed and may be registered on title. Agreements may include, but not be limited to, the following items:
- a) Access ramps, curbs and signage;
 - b) Parking, loading and driveway areas and their surface treatment;
 - c) Pedestrian walkways and ramps, including surface treatment lighting;
 - d) Walls, fences, landscaping and buffering;
 - e) Garbage storage facilities;
 - f) Easements for the construction and maintenance of public services and utilities;
 - g) Grading and site drainage;
 - h) Site servicing;
 - i) Road widenings;
 - j) Exterior design including, but not limited to, character, scale, appearance and design features of buildings and their sustainable design, unless prohibited by the Planning Act, R.S.O 1990;
 - k) Sustainable design elements on adjoining municipal roads such as, but not limited to, trees, shrubs, hedges, plantings, pavement, furniture, curb ramps, and bicycle parking facilities;
 - l) Facilities designed to have regard for accessibility for persons with disabilities;
 - m) Facilities for lighting, including floodlighting, of the land or any buildings or structures thereto;
 - n) Conveyance of part of the land to the municipality to the satisfaction of and at no expense to the Town for a public transit right of way, where such right of way is shown or is described in this Plan; and
 - o) Protection for natural heritage resources.

The Planning Act, R.S.O. 1990, as amended from time to time, may alter these requirements. Such changes shall not require an amendment to this Plan.

VIII. A building permit shall be processed in respect of any development in the site plan control area only where the required plans have been approved by the municipality and the required agreements ensuring the provision of certain items and ensuring that development proceeds in accordance with the approved plans are executed.

IX. The Director of Planning and Development Services may grant a conditional site plan approval by imposing one or more conditions. These conditions may include, but are not limited to, completion of certain studies and drawings, implementation of recommended measures in said studies and completion of recommended on and off-site works. Agreements detailing the conditions may specify deposits to secure necessary works, as well as expiry dates of conditions.

X. Draft Plan of Vacant Land and Common Element Condominiums are exempt from the Site Plan approval process, unless otherwise determined by the Director of Planning and Development Services.

13.5 SUBDIVISION AND CONDOMINIUM CONTROL

I. The Subdivision Plan approval process and Subdivision Agreements pursuant to the Planning Act, R.S.O. 1990, will be used by Council to ensure that the policies and land uses of the Official Plan and Secondary Plan are complied with and that a high standard of design is maintained in new development areas.

II. Council will only recommend approval for those Plans of Subdivision which conform with the following criteria:

- a. The Plan of Subdivision conforms with the policies of this Plan;
- b. Adequate servicing such as water supply, sewage disposal facilities, storm water drainage, solid waste collection and disposal, roads, pedestrian facilities and fire and police protection can be provided;
- c. The Town is able to provide necessary services without imposing undue increases in taxation on all residents; and
- d. The Plan of Subdivision is not deemed to be premature, and it is considered necessary in the public interest.

III. In accordance with Section 9(6) of the *Condominium Act*, Town Council may exempt a Plan of Condominium from the planning approval process in instances where a development proposal has previously undergone a complete evaluation through a previous planning approval process, and where no further conditions of approval are required by the municipality.

13.6 CONSENTS TO SEVER

- I. Consents in Urban Areas will only be granted when it is clearly not necessary in the public interest that a plan of subdivision be registered. If a plan of subdivision is not deemed necessary, regard shall be had to other policies of the Official Plan, to the matters set out in the Planning Act, R.S.O. 1990, and to the following criteria when considering an application for consent:
 - a. The proposed *development* should generally be infilling in nature and/or assist with, but not hinder, the efficient *development* of the area;
 - b. Approval of the conveyance and the development of the proposed and remnant lots should not be unduly detrimental to the financial status of the Town. Consents should be granted only in areas where the undue extension of any major service or facility, such as a road, would not be required;
 - c. The proposed *development* should be serviced by municipal water and sanitary sewer services; and
 - d. Regard should be had to the compatibility of the proposed use and lot size with uses and lot sizes in adjacent areas and the effect of such use and lot size on the surrounding area.
- II. Consents will be granted only when the land fronts on an existing public road that is of a reasonable standard of construction as determined by the Director of Infrastructure Services. Direct access from major roads should be restricted, and residential lots should, where possible, have access only from internal or minor roads. In no case should consent be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades.
- III. In no case should any parcel be created which does not conform with the provisions of the Zoning By-law. If a rezoning is required to permit a proposed use, it shall be a condition of approval that the By-law to amend the Zoning By-law be passed by council, and granted approval by the Ontario Land Tribunal if required, in accordance with the provisions of the Planning Act, R.S.O. 1990, prior to consent being given.
- IV. Consents to land severances may be permitted outside of the Town's Urban Areas where, in the opinion of the municipality, a plan of subdivision is not required, and provided that the consent complies with the other relevant policies of this plan.

13.7 AMENDMENTS TO THE LAND USE PLAN, SCHEDULE "A"

- I. An amendment to Schedule "A" is required to permit the establishment of areas for uses other than those included in the Land Use Plan, Schedule "A".
- II. Changes to the Urban Area Boundaries, Rural or Agricultural Designation will require the

approval of the Regional Municipality of Niagara and will require an amendment to the Region of Niagara Official Plan.

III. In considering an amendment to the Land Use Plan, Schedule “A” that would designate additional areas for a particular use or change the designated use of a particular area, or an amendment to the implementing Zoning By-law that would zone additional areas for a particular use or change the zoning of a particular area, the Council shall have due regard to the following criteria which are in addition to the policies and criteria specified elsewhere in this Plan:

- a. The need for the proposed use;
- b. The extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing *development*;
- c. The physical suitability of the land for such proposed use, and in the case of lands exhibiting or abutting a Natural Heritage feature, demonstration of compliance with the Natural Heritage policies of this plan;
- d. The location of the area under consideration with respect to:
 - i. the adequacy of the existing and proposed highway system in relation to the *development* of such proposed areas,
 - ii. the convenience and accessibility of the site for vehicular and pedestrian traffic and the traffic safety in relation thereto, and
 - iii. the adequacy of the potable water supply, sewage disposal facilities, and other municipal services in view of the policies contained in this Plan and in accordance with technical reports or recommendations of the Ministry of the Environment and the Regional Niagara Public Health Department and any other appropriate authority deemed advisable.
- e. The compatibility of the proposed use with uses in adjoining areas;
- f. The effects of such proposed use on the surrounding area in respect of the minimizing of any possible deprecating or deteriorating effect upon adjoining properties;
- g. The potential effect of the proposed use on the financial position of the municipality; and
- h. The potential effect of the proposed use in relation to the intent and implementing regulations of the Environmental Protection Act.

13.8 PUBLIC MEETINGS

From time to time it will be necessary to amend the Official Plan and Zoning By-law in order to reflect changing conditions, priorities and needs of the community, as well as conform with Provincial and Regional Policy requirements. Any amendments to either document will require that an opportunity be given to inform and obtain input from the public in order to

ensure that the Official Plan and the implementing Zoning By-law reflect the goals and objectives of the community.

13.8.1 OFFICIAL PLAN AMENDMENTS

- I. The procedures to be followed in amending the Fort Erie Official Plan shall include a minimum of 20 days advance notice for public meetings as required by the Planning Act, R.S.O. 1990 and shall include the following measures:
 - a. Adequate information shall be made available to the public, including all boards, commissions and agencies having an interest in the matter as required by the Planning Act, R.S.O. 1990, including the Regional Municipality of Niagara and any affected municipality;
 - b. At least one public meeting shall be held by the Council (or Committee of Council) to inform and obtain comments from the public. If no written objections to the proposed amendment are received prior to the public meeting and no verbal objections to the proposed amendment are made at the public meeting, this will be interpreted as no public interest; and
 - c. Where an amendment to the Official Plan is of a general nature affecting the whole municipality, a notice of this public meeting shall be placed in a local newspaper which, in the opinion of the Town Clerk, has a general circulation within the Town. Any parties who have requested notification of any meetings on this particular matter shall be notified by first class prepaid mail or personal service of the public meeting at least 20 days prior to the date of the meeting if the request is received prior to the date notices are issued. For any additional public meetings regarding such proposed amendment, the same notification procedures shall be used.
 - d. Where an amendment to the Official Plan is for a site-specific property, notice of a public meeting shall be given by:
 - i) Posting a sign on the subject property;
 - ii) First class mail to the property owners within 120 m of the subject property; and
 - iii) Posting a notice of public meeting on the Town's website and through the Town's social media platform(s)

13.8.2 ZONING BY-LAW AMENDMENTS

- I. The procedure to be followed in amending the Fort Erie Zoning By-law shall include a minimum of 20 days notice for public meetings as required by the Planning Act, R.S.O. 1990 and shall include the following measures:

- a. Adequate information shall be made available to the public, including all boards, commissions and agencies having an interest in the matter as required by the Planning Act, R.S.O. 1990;
- b. At least one public meeting shall be held by the Council or Committee of Council to inform and obtain input from the public regarding an application to amend the Zoning By-law;
- c. Where an amendment to the Zoning By-law is of a general nature affecting the whole municipality or multiple sites in various locations within the Town, a notice of the public meeting shall be placed in a local newspaper which, in the opinion of the Town Clerk, has a general circulation within the Town. In addition, any person who has requested notification of any meetings on a particular application to amend the Zoning By-law shall be notified of the public meeting by first class prepaid mail or personal service if the request is received prior to the date notices are issued. For any additional public meetings regarding such proposed amendment, the same notification procedures shall be used.
- d. Where an amendment to the Zoning By-law is for a site-specific property, notice of a public meeting shall be given by:
 - i) Posting a sign on the subject property;
 - ii) First class mail to the property owners within 120 m of the subject property; and
 - iii) Posting a notice of public meeting on the Town's website and through the Town's social media platform(s)

II. In all instances, Council decisions on any proposed Amendment to the Official Plan and/or Zoning By-law will take place in accordance with the prescribed deadlines of the Planning Act, R.S.O. 1990 or Ontario Regulation thereto.

13.9 LAND FOR PARK PURPOSES

Public Open Space shall generally be acquired through dedication, grants or the use of funds for park or other public recreational purposes pursuant to the Planning Act, R.S.O. 1990 based on the following criteria:

- I. As a condition of residential *development* or *redevelopment*, conveyance of land to the Town for park purposes shall be required at a rate of:
 - a. 5 percent of the land proposed for *development*; or
 - b. One hectare of land for each 300 dwelling units proposed
- II. As a condition of industrial or commercial *development* or *redevelopment* or

recommended condition of approval of a plan of subdivision, the conveyance of land to the Town for park purposes may be required at a rate of 2 percent of the land proposed for *development* or *redevelopment*.

- III. In lieu of the conveyance of land for park purposes, a cash payment equal to the value of any land required to be conveyed may be required.
- IV. Land to be dedicated for park purposes shall only be accepted when minimum site and location standards and site preparation are deemed acceptable by the Town.
- V. Council shall use the lands conveyed to the Town for public park or recreational uses, but may sell such lands at any time.
- VI. All monies received under provisions of Policies III and V of this Section shall be used for the sole purpose of public park or recreational uses in accordance with the Planning Act, R.S.O. 1990.
- VII. Council may utilize any monies identified in Policy VI to acquire or develop public park or recreational uses in any area of the Town it considers necessary.
- VIII. The Town shall endeavor to encourage the availability of land and facilities of other agencies and groups for the general use of all residents.
- IX. The Town may also acquire lands which are of particular value either because of their physical, or if appropriate social or environmental character, or because their location provides a link with other portions of the open space system.
- X. Public Recreational areas and parkland are deemed essential for the welfare of the residents, and the policy of this Plan is therefore to provide such areas at the rate of 4 hectares per 1,000 population.
- XI. The Tourism and Leisure Master Plan, prepared by the Town, shall be used as a guide to Council in its decisions regarding parks and recreational facilities.

13.10 SPECIAL ZONING MEASURES

13.10.1 HOLDING BY-LAWS

- I. Council may enact holding by-laws in accordance with the Planning Act, R.S.O. 1990 in order to limit or prevent the use of certain lands until such time as Council is satisfied that development is feasible within the ability of the Regional Municipality of Niagara and the Town of Fort Erie to provide the necessary services and such development satisfies the provisions of this Plan.
- II. Generally, holding by-laws will be applied to lands which are unserviced or undeveloped. In addition, a holding by-law may be applied to allow for the undertaking of one or more studies listed in Section 13.1.15 of this Plan, that has been identified as necessary through the processing of any development application.

- III. Holding by-laws will identify the ultimate use of these lands in accordance with this Plan and shall identify the holding restriction by affixing an “H” prefix to the land use zone applicable to the lands.
- IV. Council will place certain lands in holding zones in order that lands may be released for development when appropriate, by amendment to the Zoning By-law.
- V. Holding by-laws will specify uses (and any additional regulations applicable thereto) which will be permitted while the by-law is in effect, provided that such interim uses do not conflict with the ultimate designated use of the lands. Interim uses may include agricultural uses, one single- detached dwelling per lot, and uses existing at the date of adoption of this Plan.
- VI. Prior to enacting a by-law to delete the holding symbol in accordance with the Planning Act, R.S.O. 1990, Council shall be satisfied that:
 - a. Servicing capacity is available to, and servicing systems are adequate for the servicing of the subject lands;
 - b. All necessary financial and servicing requirements have been satisfied;
 - c. All necessary subdivision or development agreements have been entered into and the conditions of these agreements have been or will be met; and
 - d. Proposed development of the subject lands satisfies all other applicable policies of this Plan.
 - e. Completion of the requisite studies listed in Section 13.1.15 of this Plan and the implementation of any recommended measures through the appropriate development, subdivision, condominium or site plan agreement.

13.10.2 BONUS ZONING

- I. Council may pass a by-law in accordance with the Planning Act, R.S.O. 1990, to establish increases in the height and/or density of development in return for the provision of certain facilities, services or other matters. Such a by-law would identify areas or zone categories in which the bonus provisions would apply, and would specify the amount by which the height and/or density of development would be permitted to increase in exchange for development features which:
 - a. Provide for housing units which assist in meeting the housing targets established in the Municipal Housing Statement;

- b. Provide parkland dedication greater than the legislative requirement;
- c. Improve traffic and pedestrian movement;
- d. Provide hard servicing facilities that are more than are required to service the development;
- e. Increased buffering or landscaping beyond the requirements set out in the Zoning By-law;
- f. Use or re-use vacant land and buildings particularly in the urban area; and
- g. Improve the compatibility of existing land uses.
- h. The Town will require that the owner of the development involving bonus provisions enter into an agreement with the Town which details the bonusing exchange.

13.10.3 TEMPORARY USE BY-LAWS

- I. Council may enact temporary use by-laws in accordance with the Planning Act, R.S.O. 1990, to allow land and buildings to be zoned for uses which are allowed by the Official Plan. Such by-law will describe the specific area affect and establish an expiry date for the by-law which shall not be later than three years from the date of passing thereof.
- II. In general, temporary uses, buildings and structures that are not farm-related shall not be permitted in Agricultural areas. Temporary uses shall be compatible with existing and future agricultural uses, will not compromise the properties intended agricultural use and no non-farm buildings or structures are proposed.
- III. Despite Policy I hereof, Council may pass further temporary use by-laws to grant further three year periods.
- IV. Subsequent to the expiration of a by-law enacted in accordance with Policies I or III, the use permitted by that by-law shall cease with respect to the comprehensive Zoning By-law.
- V. In considering a temporary use by-law, Council shall be satisfied that:
 - a. The proposed development or redevelopment is consistent with the temporary nature of the use;

- b. The proposed use is compatible with adjacent uses and, where necessary, buffering is provided to ensure visual separation and compatibility between uses;
- c. The size of the lot and/or building is appropriate for the proposed use; and
- d. Adequate services are available.

VI. The temporary use by-law shall establish all necessary site regulations within the by-law, or by reference to the comprehensive Zoning By-law.

VII. Before passing a by-law under this section Council shall hold a public meeting as prescribed in the Planning Act, R.S.O. 1990 and subject to Sub-section 13.8.4.3 of this Plan.

13.10.4 CASH-IN-LIEU OF PARKING REQUIREMENTS

I. Cash in Lieu of Parking

- a. In accordance with the Planning Act, R.S.O. 1990, such an agreement may contain provisions requiring the landowner to make one or more payments to the municipality and establishing a schedule for such payment.
- b. The agreement shall be registered in the Registry Office.
- c. When all monies agreed upon have been paid to the Town, the landowner may request that the Town Clerk provide a certificate, in registerable form, certifying that all monies have been paid or that the agreement has been terminated.

II. Off-Site Parking

- a. The parking requirements for residential dwellings located in the downtown cores can be achieved through the provision of dedicated parking spaces or permit parking in a public parking lot or dedicated spaces in private parking lots located within a reasonable walking distance of the residential dwelling. Long term access to the parking spaces on private property must be secured through an easement in favour of the residential property owner.

(Amended by By-law 2017-013, OPA #33)

13.10.5 INTERIM CONTROL BY-LAW

- I. When Council has directed that a study or review of land use policies be undertaken for a defined area, Council may pass an interim control by-law in accordance with the Planning Act, R.S.O. 1990, to restrict the use of land, buildings or structures to those established in such a by-law.
- II. The effective period of an interim control by-law shall not exceed one year except that Council may amend the by-law to extend the period provided the total effective period of the by-law does not exceed two years from the date of passing of the original interim control by-law.
- III. When an interim control by-law ceases to be in effect, Council may not pass a further interim control by-law on the subject lands for a minimum period of three years.

13.11 MINIMUM STANDARDS OF MAINTENANCE AND OCCUPANCY BY-LAW

- I. This policy is intended to secure the health, safety, convenience and welfare of the present and future inhabitants of the Town. To this end Council has enacted a By-law 186-08, passed under the authority of Section 15.1.3 of the Building Code Act, to prescribe standards for the maintenance and occupancy of property. This By-law and any amendments thereto, will help to maintain a reasonable standard of building and property maintenance within the Town, and as a result, should assist in maintaining a satisfactory level of assessment and property taxes.

II. Content of the By-law

The Town's Maintenance and Occupancy Standards By-law, should have regard to the following matters and set the appropriate standards:

- a. The physical condition of yards and passageways, including the accumulation of debris and rubbish;
- b. The adequacy of sanitation, including drainage and garbage;
- c. The physical condition of accessory buildings; and
- d. The physical condition of the dwellings or dwelling units with particular regard to the following:
 - i. insects and vermin,
 - ii. structural standards,
 - iii. water-tight conditions,
 - iv. adequacy of light and ventilation,
 - v. condition of stairs,
 - vi. interior walls, ceilings and floors,

- vii. toilet facilities,
- viii. condition of chimneys,
- ix. general cleanliness,
- x. heating system,
- xi. adequacy of electrical services,
- xii. adequacy of food-preparation facilities,
- xiii. adequacy of access,
- xiv. standards dealing with minimum areas, heights, etc., and;
- xv. standards of occupancy.

III. Property Standards Officer and Committee

The Council of the Town of Fort Erie shall appoint a Property Standards Committee and shall name a Property Standards Officer. The Committee shall hear and decide on appeals pursuant to orders issued under the By-law by a Property Standards Officer. The Property Standards Officer shall be assigned the responsibility of administering the Maintenance and Occupancy By-law passed pursuant to Section 15.1.3 of the Building Code Act. Information concerning substandard property conditions, over-use of existing buildings, neglected yards or social problems will be collected by inspectors and other personnel of the municipal departments including the Fire Department, Building Department, the Regional Niagara Public Health Department and other agencies. It is intended that a close liaison will be maintained between the Property Standards Officer and aforementioned Departments to ensure that the administration of the By-law is accomplished effectively.

13.12 OTHER LEGISLATION

The Planning Act, R.S.O. 1990, the Municipal Act R.S.O. 2001, Building Code Act R.S.O. 1992 and other relevant statutes governing such uses as waste disposal sites, automobile wrecking yards, trailers and signs shall be reviewed. Where appropriate, present by-laws will be amended and new by-laws enacted to ensure that such uses are properly regulated and controlled according to the policies of this Plan.

Nothing in this plan shall be interpreted to mean that an undertaking which is subject to the Environmental Assessment Act may proceed except in compliance with the Act.

13.13 PUBLIC WORKS

Public works shall be undertaken in accordance with the policies of this Official Plan. A Capital Works programme will be prepared in conformity with this Plan and will be updated annually.

13.14 LAND ACQUISITION

In accordance with the Planning Act, R.S.O. 1990, and the Municipal Act R.S.O. 2001, it is deemed that this Plan contains provisions relating to the acquisition of land for the purpose of developing any feature of this Plan, and in particular the Council may acquire and hold

such land, or sell, lease or otherwise dispose of such land when it is no longer required, as follows:

- I. Land comprising a lot that is substandard in lot frontage and/or area according to the regulations in the implementing Zoning By-law;
- II. Land within a Community Improvement Project area in accordance with the provisions of the Planning Act, R.S.O. 1990;
- III. Land proposed for industrial development; and
- IV. Land for open space, parks, or other public recreational purposes, or conservation purposes.

13.15 COMPLETE APPLICATION REQUIREMENTS

- I. Pre-consultation between the applicant and the Town is required prior to the submission of application for an Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision/Condominium, a request for Minister's Zoning Order, consent or site plan control unless the Director of Planning and Development Services or their 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 Regional Municipality of Niagara, the Niagara Peninsula Conservation Authority, Provincial Ministries or other agencies that may have an interest in the application as determined by the Town.
- II. A By-law shall be approved by Council requiring pre-consultation. Pre-consultation shall be considered a requirement for the submission of a complete application. The By-law shall establish the following:
 - a) Expiry dates for Pre-consultation Agreements; and
 - b) Requirements for the resubmission of a pre-consultation request when substantial changes to a proposal are made
- III. Upon the submission of a formal development application, the Town will evaluate and review the studies, reports, information, and materials to determine if they are complete and meet the requirements stipulated in the Pre-consultation Agreement. Such review shall occur within the provisions of the Planning Act, R.S.O. 1990 for a complete application, and in accordance with Section 13.15.V. of this Plan.
- IV. To determine if a submission meets the requirements of a complete application, the Town may consult agencies that have an interest in an application, including but not limited to the Regional Municipality of Niagara, the Niagara Peninsula Conservation

Authority, Provincial Ministries, the Niagara Parks Commission, electric generation or transmission entities, and railways.

- V. Complete applications are those that contain all fees, studies, reports, information, and materials required by the Planning Act, R.S.O. 1990, any Provincial Plans, the Region of Niagara Official Plan, and this Plan. A complete application allows Council, the public, Town Staff, and commenting agencies to review all relevant information early on in the process, resulting in fewer delays, and providing Staff and Council with the required information to make informed recommendations and decisions. To ensure that all possible information is available, the prescribed information required under the Planning Act, R.S.O 1990 shall be provided along with additional information and/or reports that may be required, as determined through pre-consultation.
- VI. Information and/or reports shall be prepared by a qualified professional and submitted in an electronic format along with the required number of hard copies to the Town to make this information readily available to the public, internal departments and outside commenting agencies. Where the Town, the Regional Municipality of Niagara, the Niagara Peninsula Conservation Authority have requested additional information and/or reports, there may be a request for peer review of any information and/or report. The Applicant shall be responsible for the costs associated with obtaining a peer review, which shall be paid upon the submission of an invoice from the Town, the Regional Municipality of Niagara, or the Niagara Peninsula Conservation Authority.
- VII. The Director of Planning and Development Services 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 Regional Municipality of Niagara, the Niagara Peninsula Conservation Authority or any other public agency, the application may be deemed incomplete.
- VIII. The Director of Planning and Development Services or their designate may refuse any studies, reports, information and materials that are submitted as part of a complete application if the quality is deemed unsatisfactory and/or it is not completed in accordance with the applicable Terms of Reference or guidelines.
- IX. Required Studies:

The Director of Planning and Development Services or their designate will determine any or all studies and/or reports which are to be submitted as part of a complete application.

Information Requirement	Application/Development Scenario
Planning Background/Justification Report	Any proposal for <i>development</i> or site alteration should demonstrate that it meets the goals, objectives and policies of Provincial plans and policy statements, the Region of Niagara Official Plan, and the Town's Official Plan and provide an indication of whether it conforms to applicable Provincial Plans and policies.
Land Use/Market Needs	Any proposal for major commercial or residential proposal should consider the existing supply of available land and future land use needs in the Town of Fort Erie and in the Regional Municipality of Niagara.
Archaeology and Cultural Heritage Assessment	Any <i>development</i> or site alteration proposed in proximity to lands that contain known archaeological resources or areas of archeological potential.
Heritage Impact Analysis	Any <i>development</i> or site alteration proposed on or adjacent to lands, structures or buildings designated under the <u>Ontario Heritage Act</u> or listed on an approved heritage resource inventory.
Environmental Impact Study or Species at Risk Study	Any proposal for <i>development</i> or site alteration within or adjacent to any natural heritage feature or natural hazard identified on Schedule C1, C2, or C3 of the Region of Niagara Official Plan or within Chapter 3 of the Region of Niagara Official Plan, the regulated area of the Niagara Peninsula Conservation Authority or the Town's 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> .

Tree Preservation Plan	Any <i>development</i> or site alteration that may have adverse effects on a significant tree or group of trees, including a woodland as defined by the Regional Woodland 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 cultural heritage landscape.
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Floodplain and Hazard Land Analysis	Any <i>development</i> or site alteration proposed near floodplain or hazard lands identified by regulations of the Niagara Peninsula Conservation Authority.
Geotechnical and Slope Stability Report	Any <i>development</i> or site alteration proposed near valleylands identified by regulations of the Niagara Peninsula Conservation Authority.
Environmental Site Assessment	Any <i>development</i> or site alteration on lands or adjacent lands 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/ 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 and for any <i>development</i> that could generate air quality/noise/ vibration issues which could impact abutting sensitive land uses.
Wind Study (Quantitative or Qualitative)	To determine the wind impact of a development in and around the development at various times of the year and how the impacts will be mitigated.
Photometric analysis	To determine how the impacts of floodlighting on surrounding streets and properties will be mitigated.

Agricultural Impact Assessment	Any proposed <i>development</i> or site alteration for a non-agricultural use on lands situated outside of the Urban Area shall evaluate the capability of the site for agricultural use including soil, micro-climate and drainage conditions, the existing pattern of agricultural or non-agricultural activities, and any potential impacts on surrounding agricultural activities.
Farm Operation and Ownership Analysis	Any <i>development</i> or site alteration for a secondary use to agricultural or an application for consent on lands designated for agricultural purposes.

Alternative Site Analysis 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 Urban Areas, Rural Areas or on lower priority agricultural land in the Town.
Minimum Distance Separation Formula I & II Analysis	Any non-agricultural use is proposed within 300 metres of an active or potential livestock facility shall include a review of these facilities and calculations to determine conformity with MDS requirements.
Land Use Compatibility Study	In accordance with Provincial regulations and guidelines, including D Series guidelines, to address the impacts of industrial uses on residential uses and other similar sensitive uses.
Mineral Aggregate and /or Petroleum Resources Impact Study	Where <i>development</i> or site alteration is proposed on lands within or adjacent to an area of known mineral aggregate resources, 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 on the existing municipal services and facilities.
Functional Servicing Report	To outline the servicing needs of the proposed construction on site, and verify the information being provided in the Municipal Servicing Study.

Stormwater Management Plans	Any major <i>development</i> or site alteration proposed should address how stormwater runoff will be handled in terms of water quality and quantity, lot grading and drainage controls, and erosion and sedimentation measures.
Traffic/Parking Impact Analysis	Any <i>development</i> or site alteration that may have a significant impact on vehicular, cycling and pedestrian traffic flow and safety, which may include an analysis of parking standards.
Parking Demand Analysis	To address parking requirement reductions and to determine an appropriate parking supply
Sight Line Analysis	To evaluate entrances and exits into a site. May be required as part of a Traffic Impact Study
Construction Impact Mitigation Study	To address the mitigation of impacts on surrounding properties, including but not limited to construction traffic management, vibration mitigation and haul routes
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 and groundwater conditions, cumulative long term impacts, an evaluation of the ability of the site to accommodate 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.
Social Impact Assessment	To determine what kinds of social impacts are likely to occur; to assess the significance of these impacts; and to identify measures that may help avoid or minimize adverse effects.
Area Design Plan	Where the Neighbourhood Plan is not being followed an Area/Neighbourhood Design Plan must be submitted.
Housing Issues Report	To address the potential impact of a proposed Condominium Conversion on the existing rental housing market in the Town.

Sun/Shadow Study	A technical document to address the impact of shadows at various times of the day cast by a proposed <i>development</i> on adjacent streets, parks and properties.
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- X. Any studies, reports, information and/or materials shall be prepared in accordance with requirements of the Planning Act, R.S.O. 1990 and any Provincial policy statements or plans that are in effect, as well as Terms of Reference approved through a pre-consultation process and the requirements and guidelines adopted by the Town and other agencies who may have an interest in the application. The Town reserves the right to have any studies, reports, information and /or materials peer reviewed at the Applicant's expense.
- XI. The Director of Planning and Development Services or their designate shall determine if revision requests made subsequent to the submission of a complete application meet the intent of the original application. Substantial changes to an application may require a new pre-consultation and the filing of a new application. Revisions made to an application in response to Town or agency comments, or in response to public comments, shall not require the filing of a new application.

13.16 OFFICIAL PLAN REVIEW

- I. Council will determine the need to carry out a comprehensive review of this Plan by the holding of a special public meeting and through agency consultation not less frequently than every five years. The purpose of this review will be to measure the performance of the Plan's policies against its goals, and to revise goals, policies or means of implementation where deemed necessary. In addition, during this review, this Plan will be amended to conform with amendments to the Region of Niagara Official Plan, Provincial Growth Plan, Provincial Policy Statement and Planning Act, R.S.O. 1990. As a result of this review process, this Plan may be amended from time to time.
- II. Housekeeping amendments shall be carried out as required to address changes in legislation or where there is a demonstrated need for policy revisions on certain issues. These revisions shall be processed as amendments under the Planning Act, R.S.O. 1990.
- III. Amendments to this Plan shall not be required for Office Consolidations of the Plan, changes such as typographical, editorial, or formatting corrections to text or Schedules, which do not change the intent of the Plan.

PART “C” - THE APPENDICES

- Appendix 1 - Notice of Public Meeting
- Appendix 2 - Public Meeting Minutes
- Appendix 3 - Circulation comments