



The Corporation of the Town of Fort Erie

By-law 000-2026

Being a By-law to establish a policy for Parkland Dedication or Payment-in-Lieu as a condition of development or redevelopment and subdivision of land

Whereas section 42 of the *Planning Act* provides that for the Development or Redevelopment of land, the council of a local municipality may, by by-law, require that land in an amount not exceeding, in the case of land proposed for Development or Redevelopment for Commercial or Industrial purposes 2 per cent, and in all other cases 5 per cent, be conveyed to the municipality for park or other public recreational purposes; and

Whereas section 51.1 of the *Planning Act* provides that an approval authority may impose, as a condition of the approval of a plan of subdivision, that land be conveyed to the local municipality for park or other public recreational purposes, such land not to exceed, in the case of a subdivision proposed for Commercial or Industrial purposes 2 per cent, and in all other cases 5 per cent; and

Whereas section 53 of the *Planning Act* provides that section 51.1 of the *Planning Act* also applies to the granting of consents; and

Whereas a Parks Plan was prepared in consultation with the local school boards and other persons or public bodies the municipality considered appropriate, and made publicly available on December 16, 2024; and

Whereas the Council of the Town of Fort Erie wishes to use the provisions of the *Planning Act* for the purposes of acquiring and providing parkland for the use and enjoyment of the residents of the Town of Fort Erie; and

Whereas it is deemed desirable to adopt a Parkland Dedication By-law.

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

Part 1: Interpretation Definitions

1. In this by-law:

- (a) **“Act”** means the *Planning Act*, R.S.O. 1990, c.P.13, as amended, unless otherwise specified;
- (b) **“Affordable Residential Unit”** means a residential unit that meets the criteria set out in subsection 4.1(2) or 4.1(3) of the *Development Charges Act, 1997*, SO 1997, c 27;
- (c) **“Appraisal”** means a fair market valuation of land prepared by an accredited Appraiser;
- (d) **“Appraiser”** means a member in good standing of the Appraisal Institute of Canada, holding an Accredited Appraiser Canadian Institute or Canadian Residential Appraiser designation as appropriate;
- (e) **“Board of Education”** has the same meaning as “board”, as defined in the *Education Act*, R.S.O. 1990, c.E.2, as amended;
- (f) **“Commercial”** means a use of land, buildings, or structures that is not industrial, and which is used in connection with:
 - i. the selling of commodities to the general public;
 - ii. the supply of services to the general public; or

- iii. office or administrative facilities.
- (g) **“Council”** means the Council for the Town of Fort Erie;
- (h) **“Development”** means the construction, erection, or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof;
- (i) **“Encumbered Land”** means land that is subject to easements, rights-of-way, or other legal or physical constraints that may limit its use, but which may still be capable of contributing to park or recreational purposes, subject to the approval of the Town;
- (j) **“Fort Erie”** means Town of Fort Erie;
- (k) **“Gross Floor Area”** means the total floor area, measured between the outside of exterior walls, virtual walls or between the outside of exterior walls or virtual walls and the centre line of party walls dividing the building from another building, of all floors and mezzanines, above and below the average level of finished ground adjoining the building at its exterior walls;
- (l) **“Inclusionary Residential Unit”** means a residential unit that is an affordable housing unit required to be included in a development or redevelopment pursuant to a by-law passed under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to give effect to the policies described in subsection 16 (4) of that Act.
- (m) **“Industrial”** means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly of raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;
- (n) **“Institutional”** means the use of land, buildings, or structures for hospitals, correctional institutions and associated facilities, municipal facilities, elementary and secondary schools, colleges, universities, places of worship and ancillary uses, military and cultural buildings, daycare centres, residential care facilities for more than ten persons and long-term care centres;
- (o) **“Local board”** means a local board as defined in section 1 of the *Municipal Affairs Act* other than a board as defined in subsection 1 (1) of the *Education Act*.
- (p) **“Mixed Use”** means the physical integration of two or more of the following uses within a building or structure or separate buildings or structures on the lands proposed for Development or Redevelopment: Commercial; Industrial; Institutional; Residential; or any other use not noted herein;
- (q) **“Net Residential Density”** means the number of dwelling units per net residential hectare on a lot or block basis. “Net residential hectare” includes all of the lands comprising the principal and accessory residential uses, and includes all of the buildings, structures, driveways, parking areas and other amenities for these uses. “Net residential hectare” excludes public lands comprised of streets, parkland and other open space and natural heritage features, and storm water management facilities.
- (r) **“Non-profit housing development”** means development of a building or structure intended for use as residential premises by:
 - i. a corporation without share capital to which the *Corporations Act*, RSO 1990, c C.38 applies, that is in good standing under that Act and whose primary object is to provide housing;

- ii. a corporation without share capital to which the *Not-for-profit Corporations Act, 2010*, S.O. 2010, c. 15 applies, that is in good standing under that Act and whose primary object is to provide housing; or
 - iii. a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, RSO 1990, c C.35 or any successor legislation.
- (s) **“Official Plan”** means the Town’s Official Plan, as amended;
- (t) **“PIL”** means payment-in-lieu of parkland otherwise required to be conveyed;
- (u) **“Planning Act”** means the *Planning Act*, R.S.O. 1990, c.P.13, as amended;
- (v) **“POPS Agreement”** means an agreement registered on title, to the satisfaction of the Town, securing public access, maintenance, operation, and design requirements for a Privately-Owned Publicly Accessible Space.
- (w) **“Private school”** means an educational institution, excluding any dormitory or residence accessory to such private school, that is used primarily for the instruction of students in courses of study approved or authorized by the Minister of Education;
- (x) **“Privately-Owned Publicly Accessible Space”** or **“POPS”** means land or space that is privately owned and secured through agreement with the Town for public access and use, and which meets any design, access, visibility, and maintenance criteria established by the Town.
- (y) **“Redevelopment”** means the removal of a building or structure from land and the further Development of the land or, the expansion or renovation of a building or structure which results in a change in the character or density of the use in connection therewith;
- (z) **“Residential”** means the use of land, buildings, or structures for human habitation;
- (aa) **“Residential Unit”** means one or more habitable rooms, each of which is accessible from the others and which function as an independent and separate housekeeping unit in which separate kitchen and sanitary facilities are provided for the use of the occupants, with a private entrance from outside the building or from a common hallway or stairway inside the building;
- (bb) **“Urban Area”** means those areas designated as being within a settlement area by the Official Plan;
- (cc) **“Shared Use Agreement”** means an agreement between a Board of Education and the Town for the sharing of buildings and/or property;
- (dd) **“Town”** means the Corporation of the Town of Fort Erie; and
- (ee) **“Zoning By-law”** means the by-law passed pursuant to section 34 of the *Planning Act*.

Rules of Interpretation

- 2. The following rules of interpretation shall be applied to interpretation of this by-law:
 - (a) References to items in the plural include the singular, as applicable.
 - (b) The words "include", "including" and "includes" are not to be read as limiting the phrases or descriptions that precede them. Any examples provided are intended to be representative examples and not intended to be an exhaustive list.
 - (c) Headings are inserted for ease of reference only and are not to be used as interpretation aids.

- (d) References to density shall mean net residential density, unless specifically stated otherwise.
- (e) Specific references to laws or by-laws are meant to refer to the current laws applicable at the time that this by-law was enacted and shall be interpreted to include amendments, restatements and successor legislation.
- (f) The obligations imposed by this by-law are in addition to obligations otherwise imposed by law or contract.
- (g) Where this by-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements may be provided but are of no force or effect. The abbreviation "mm" stands for millimeters and "m" stands for metres.
- (h) Terms with capitals shall be read with the meaning in Part 1 and other words shall be given their ordinary meaning.
- (i) If any court of competent jurisdiction finds any provision of this by-law is illegal or *ultra vires* of the jurisdiction of the Town, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of this by-law.
- (j) Nothing in this by-law relieves any person from complying with any provision of any federal or provincial legislation or any other by-law of the Town.
- (k) Where a provision of this by-law conflicts with the provisions of another by-law in force in the Town, the more restrictive by-law shall prevail.

Application

- 3. The provisions of this by-law apply to the entire geographic area of the Town.

Exemptions

- 4. Development or Redevelopment described in the subsections 4(a) through to and including 4(u) shall be exempt from the obligations to convey parkland or make a PIL under Parts 2 and 3 of this by-law:
 - (a) Development or Redevelopment of land, buildings or structures owned by and used for the purposes of the Town of Fort Erie or a local board thereof;
 - (b) The replacement of any building that is a direct result of destruction due to accidental fire or other accidental cause, provided that no intensification or change of use is proposed, including but not limited to an increase in total Residential Units count or Gross Floor Area;
 - (c) The enlargement of an existing Residential Unit, provided that the enlargement does not result in additional Residential Units;
 - (d) The enlargement of an existing commercial or industrial building or structure shall be exempt from parkland dedication requirements where the Gross Floor Area (GFA) of the building or structure is increased by 20 percent or less.

For the purposes of this subsection, the Gross Floor Area of the existing building or structure shall be determined based on the GFA authorized by the first building permit issued in respect of the building or structure for which the exemption is sought.

Where the Gross Floor Area is enlarged by more than 20 percent, the parkland dedication requirement applicable to the enlargement shall be reduced proportionally, and shall be calculated as follows:

- i. Determine the amount by which the enlargement exceeds 20 percent of the Gross Floor Area of the building or structure prior to the enlargement;
 - ii. Divide that amount by the total Gross Floor Area of the enlargement; and
 - iii. Multiply the resulting fraction by the parkland dedication otherwise required for the enlargement.
- (e) Development or Redevelopment of land, buildings or structures for temporary construction uses as defined in the Town's Zoning By-law;
- (f) Affordable Residential Units or Attainable Residential Units or Inclusionary Residential Units, and
- (g) Development or Redevelopment or location of:
 - i. a second Residential Unit in a detached house, semi-detached house or rowhouse on a parcel of land on which Residential use, other than ancillary Residential use, is permitted, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one Residential Unit;
 - ii. a third Residential Unit in a detached house, semi-detached house or rowhouse on a parcel of land on which Residential use, other than ancillary Residential use, is permitted, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any Residential Units; or
 - iii. one Residential Unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban Residential land, if the detached house, semi-detached house or rowhouse contains no more than two Residential Units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any Residential Units.
- (h) Development or Redevelopment of that component of land, buildings, or structures intended for use as a long-term care home as defined under the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8;
- (i) Development or Redevelopment of that component of land, buildings, or structures intended for use as a retirement home as defined under the *Retirement Homes Act, 2010*, S.O. 2010, c. 11;
- (j) Development or Redevelopment of that component of land, buildings, or structures intended for use as a daycare as defined under the *Child Care and Early Years Act, 2014*, S.O. 2014, c. 11, Sched. 1;
- (k) Development or Redevelopment of that component of land, buildings, or intended for use by any of the following post-secondary institutions for the objects of the institution:
 - i. a university in Ontario that receives direct, regular and ongoing operating funding from the Government of Ontario;
 - ii. a college or university federated or affiliated with a university described in subparagraph (i); or
 - iii. an Indigenous Institute prescribed for the purposes of section 6 of the *Indigenous Institutes Act, 2017*, S.O. 2017, c. 34, Sched. 20.
- (l) Development or Redevelopment of that component of land, buildings, or structures intended for use as a memorial home, clubhouse or athletic grounds by an Ontario branch of the Royal Canadian Legion;
- (m) Development or Redevelopment of that component of land, buildings, or structures intended for use as a hospice to provide end of life care;

- (n) Development or Redevelopment of that portion of land, buildings, or structures intended for Residential use by any of the following entities:
 - i. a corporation to which the *Not-for-Profit Corporations Act*, 2010, S.O. 2010, c. 15 applies, that is in good standing under that Act and whose primary objective is to provide housing;
 - ii. a corporation without share capital to which the *Not-for-profit Corporations Act*, 2010, S.O. 2010, c. 15 applies, that is in good standing under that Act and whose primary object is to provide housing; or
 - iii. a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, R.S.O. 1990, c. C.35.
- (o) Development or Redevelopment of land, buildings, or structures owned or leased by and used for the purposes of the Regional Municipality of Niagara or a local board thereof;
- (p) Development or Redevelopment of land, buildings, or structures owned or leased by and used for the purposes of the Niagara Parks Commission;
- (q) Development or Redevelopment of land, buildings, or structures owned or leased by and used for the purposes of the Niagara Peninsula Conservation Authority;
- (r) Development or Redevelopment of land, buildings or structures owned by and used for school uses by a Board of Education, subject to the entering into of a Shared Use Agreement;
- (s) Non-profit housing Development, as defined in subsection 4.2(1) of the *Development Charges Act*, 1997, SO 1997, c 27.
- (t) Where the total PIL payable for Development or Redevelopment is less than \$100.
- (u) Such other land uses, projects or specific Development or Redevelopment as may be exempted by resolution of Council.

Part 2: Conveyance of Land for Park Purposes

- 5. Land shall be required to be conveyed to Town for park purposes or other recreational purposes as a condition of Development or Redevelopment of land in an amount to be determined in accordance with subsections 5(a) through to and including 5(d).
 - (a) In the case of lands proposed for Residential uses, the greater of the following:
 - i. if the density of the Development is 30 units per hectare or less, at a rate of five per cent (5%) of the land being developed or redeveloped, or
 - ii. if the density of the Development is greater than 30 units per hectare, at a rate of one (1) hectare for each six hundred (600) net Residential Units proposed.
 - I. With respect to land proposed for Development or Redevelopment that will include Affordable Residential Units and/or Attainable Residential Units and/or Inclusionary Residential Units, the amount of land that may be required to be conveyed under subsection (1) shall not exceed five per cent (5%) of the land multiplied by the ratio of A to B where:
 - 1) “A” is the number of residential units that are part of the Development or Redevelopment but are not Affordable Residential Units or Attainable Residential Units or Inclusionary Residential Units; and
 - 2) “B” is the number of residential units that are part of the Development or Redevelopment.

- (b) In the case of lands proposed for commercial or industrial uses, land in the amount of two per cent (2%) of the land to be developed or redeveloped.
- (c) In the case of a Mixed-Use Development or Redevelopment, land in the aggregate, calculated as follows:
 - i. the residential component, if any, as determined by town, of the lands being developed or redeveloped, shall require the conveyance of land as determined in accordance with subsection (a) of this by-law; plus
 - ii. the Commercial or Industrial component of the lands being developed or redeveloped, if any as determined by the Town, shall require the conveyance of land as determined in accordance with subsection (b) of this by-law; plus
 - iii. the component of the lands proposed for any use other than Residential, Commercial or Industrial if any as determined by the Town, shall require the conveyance of land as determined in accordance with subsection (d) of this by-law.
- (d) In the case of lands proposed for Development or Redevelopment for a use other than those referred to in subsections (a), (b) and (c) of this section, land in the amount of five per cent (5%) of the land to be developed or redeveloped.

Location of Conveyance and Condition of Title

- 6. Subject to restrictions in the *Planning Act*, the location and configuration of land required to be conveyed pursuant to this by-law shall be as determined by the Town and all such lands shall be free of encumbrances, except where such encumbrances are accepted by the Town in accordance with this By-law, including but not limited to Encumbered Lands and Privately-Owned Publicly Accessible Spaces. All such lands shall be free of any contamination, including but not limited to any toxic, noxious or dangerous contaminants, and shall otherwise be in a condition satisfactory to the Town.
- 7. The Town may require that a Record of Site Condition be filed in respect of the property prior to accepting the conveyance of a portion of the Land for Parkland required under this By-law.
- 8. The following shall not be accepted by the Town in satisfaction of a requirement to convey a portion of the Land for Parkland under this By-law:
 - (a) Areas of Land that are identified as part of the Town's Natural Heritage System in the Town's Official Plan, an approved Secondary Plan, or through an environmental impact study accepted by the Town
 - (b) Areas of Land that are susceptible to flooding, have poor drainage, erosion issues, extreme slopes or other environmental or physical conditions that would interfere with their potential use as a public park;
 - (c) Areas of Land that are required to accommodate stormwater management facilities;
 - (d) Areas of Land that are deemed to be contaminated in any way, subject to acceptance by the Town
 - (e) Areas of Land that are used or proposed to be used for utility corridors or other infrastructure incompatible with their use as a public park; and,
 - (f) Lands that are encumbered by easements or other instruments that would unduly restrict or prohibit public use shall not be accepted, except where such lands qualify as Encumbered Lands or Privately-Owned Publicly Accessible Spaces in accordance with this By-law and are approved by the Town. Lands for trails or active transportation purposes.

9. Any costs associated with a conveyance of a portion of Land for Parkland purposes required under this By-law shall, including but not limited to costs related to the preparation and registration of documents, surveys or reference plans, and any applicable taxes shall be borne by the person seeking to Develop or Redevelop the Land at no cost to the Town.
10. The Town will require the payment of cash in lieu of parkland dedication by the applicant under the following circumstances:
 - (a) Where the required parkland dedication fails to provide an area of suitable shape, size or location for Development of public parkland. A parcel of land may be considered to be of unsuitable size if its area is less than 0.5 hectares.
 - (b) Where, using the guidelines established in the Parks and Open Space Master Plan, it is determined that the geographical area is well serviced with existing park and recreational facilities that are clearly adequate to serve the projected increase in population and no additional land requirements are needed.
 - (c) Where, using the guidelines established in the Parks and Open Space Master Plan, funds are required to upgrade or expand existing parks or recreational facilities in the Neighbourhood Planning Area to meet the needs of the projected increase in population.
11. All lands conveyed to the Town for park or other public recreational purposes pursuant to this by-law shall be used for such purpose, but the Town may sell such lands at any time.
12. The Town may utilize any monies paid pursuant to section 8 of this by-law to acquire or develop land for park or other public recreational purposes in any area of the Town, which Council considers necessary or desirable.

Natural Heritage Lands

13. As part of Development or Redevelopment, any valley land or watercourse corridors, woodlands, natural heritage system lands and associated buffers, easements, vista blocks and storm water management ponds, as those terms are defined in the Official Plan or any secondary plan adopted under the Official Plan, shall not be considered to be a conveyance of land for park purposes in satisfaction of a requirement under this by-law.
14. The Town, where appropriate and in compliance with the parkland dedication policies of the Parks and Open Space Master Plan, may consider Natural Heritage Lands as defined in the Official Plan for parkland dedication where sufficient active parkland is already provided for the neighbourhood and/or community and where the lands are of particular value either because of their physical, social or environmental character, or because their location provides a link with other portions of the open space system.
15. Where undevelopable or Natural Heritage Lands are to be conveyed to the Town, the parkland dedication shall be calculated based upon the net area of developable lands.
16. As part of the Town's commitment to environmental stewardship in the greater public interest, the Town may seek the gratuitous conveyance of waterfront lands that are designated as Environmental Protection Areas in the Official Plan through the development approval process. The Town will not accept these lands as parkland dedication, nor will the Town include such lands in the calculation thereof.
17. Notwithstanding the foregoing, the Town may consider portions of Natural Heritage Lands or associated buffers as Encumbered Lands for partial credit where such lands:
 - (a) provide passive recreational opportunities;
 - (b) contribute to connectivity within the open space system; and
 - (c) meet any criteria established by the Town.

Timing of Conveyance

18. Where land is required to be conveyed in accordance with this by-law, the lands shall be conveyed as follows:
- (a) in the case of Development or Redevelopment to be approved pursuant to sections 51.1 or 53 of the *Planning Act*, the conveyance of land may be required as a condition of approval, and said lands shall be conveyed to the Town either prior to or immediately upon registration of the plan of subdivision or upon the consent being given, as determined by the Town; and
 - (b) in the case of Development or Redevelopment where land has not been conveyed or has not been required pursuant to sections 51.1 or 53 of the *Planning Act*, the Town shall require the conveyance of land as a condition of Development or Redevelopment prior to building permit issuance in accordance with section 42 of the *Planning Act*.

Part 3: Privately-Owned Publicly Accessible Spaces and Encumbered Lands

19. The Town may, at its sole discretion, permit the provision of a Privately-Owned Publicly Accessible Space (POPS) or Encumbered Land to satisfy all or a portion of the parkland dedication or payment-in-lieu requirements of this By-law.
20. Any POPS or Encumbered Land proposed for credit shall:
- (a) be located and designed to provide a meaningful public benefit;
 - (b) be accessible to the public on a continuous and unrestricted basis;
 - (c) will be accessible by all users directly from municipal or other publicly-owned land;
 - (d) be secured through a registered agreement to the satisfaction of the Town;
 - (e) meet any design, programming, accessibility, and maintenance standards established by the Town;
 - (f) be free of hazards, contamination, or conditions that would limit safe public use; and
 - (g) be of a size and shape acceptable to the Town.
21. The Town shall determine:
- (a) whether a POPS or Encumbered Land is eligible for credit;
 - (b) the amount of credit to be applied; and
 - (c) any conditions of approval.
22. The value or credit assigned to a POPS or Encumbered Land shall not exceed the parkland dedication or payment-in-lieu otherwise required.
23. The Town may refuse to accept a POPS or Encumbered Land where:
- (a) the space does not provide a comparable public benefit to municipally owned parkland;
 - (b) the encumbrances significantly restrict functionality, programming, or long-term usability; or
 - (c) the space does not align with the Town's Parks and Open Space Master Plan.
24. Where a POPS or Encumbered Land is accepted, the Town may require a combination of land conveyance, POPS provision, and/or payment-in-lieu to satisfy the full parkland dedication requirement.

25. Where a Privately-Owned Publicly Accessible Space or Encumbered Land is accepted in lieu of all or a portion of the required parkland dedication, the Town shall determine the equivalent value or credit based on:
- (a) the appraised value of the land;
 - (b) the extent to which the space is publicly accessible and usable;
 - (c) any design or functional limitations; and
 - (d) any applicable policies of the Town.
26. The Town may apply a reduction factor to reflect any limitations associated with private ownership, encumbrances, or restricted functionality.
27. Any POPS shall be secured through a POPS Agreement registered on title, which shall include provisions respecting:
- (a) public access rights;
 - (b) hours of operation, if applicable;
 - (c) maintenance and capital repair obligations;
 - (d) liability and insurance;
 - (e) signage and visibility; and
 - (f) enforcement and remedies in the event of non-compliance.

Part 4: Payment-in-Lieu of Parkland

28. In lieu of requiring the conveyance of land required by Part 2 of this by-law, the Town may require the payment of the value of the lands otherwise required to be conveyed, calculated in accordance with the following:
- (a) For all other Development or Redevelopment, the PIL shall be calculated as the equivalent value of the land required based on a property appraisal provided by the applicant, as follows:
 - i. in the case of lands proposed for Residential, the greater of the following:
 - I. if the density of the Development is 50 units per hectare or less, at a rate of five per cent (5%) of the value of land being developed or redeveloped, or
 - II. If the density of the Development is greater than 50 units per hectares, at a rate of the value of one (1) hectare of land for each one thousand (1,000) net residential units proposed.
 - With respect to land proposed for Development or Redevelopment that will include Affordable Residential Units and/or Attainable Residential Units and/or Inclusionary Residential Units, the PIL that may be required shall not exceed five per cent (5%) of the value of the land multiplied by the ratio of A to B where:
 - “A” is the number of residential units that are part of the Development or Redevelopment but are not Affordable Residential Units or Attainable Residential Units or Inclusionary Residential Units; and
 - “B” is the number of residential units that are part of the Development or Redevelopment; or

- ii. in the case of lands proposed for Commercial or Industrial uses, the value of two per cent (2%) of the land to be developed or redeveloped;
- iii. in the case of a Mixed-Use Development or Redevelopment, the value of the land in the aggregate, calculated as follows:
 - I. the Residential component, if any as determined by the Town, of the lands being developed or redeveloped, shall require the PIL of the value of land as determined in accordance with paragraph (i) of this subsection; plus
 - II. the Commercial or Industrial component of the lands being developed or redeveloped, if any as determined by the town, shall require the conveyance of land as determined in accordance with paragraph (ii) of this subsection; plus
 - III. the component of the lands proposed for any use other than Residential, Commercial or Industrial if any as determined by the Town, shall require the conveyance of land as determined in accordance with paragraph (iii) of this subsection; and
- iv. in the case of lands proposed for Development or Redevelopment for a use other than those referred to in paragraphs (i), (ii) and (iii) of this subsection, the value of five per cent (5%) of the land to be developed or redeveloped.

Timing of PIL Payment and Determination of Value

29. PIL shall be paid as follows:

- (a) For Development or Redevelopment where the payment of PIL is required as a condition of an approval or a consent, pursuant to either sections 51.1 or 53 of the *Planning Act*, the PIL shall be paid prior in full to the Town's satisfaction before the relevant condition will be cleared. The value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision or the approval of the provisional consent to sever.
- (b) For all other Development or Redevelopment where the payment of PIL is required, the PIL shall be paid prior to the issuance of the building permit in respect of the Development or Redevelopment in accordance with section 42 of the *Planning Act*. The value of the land shall be determined as of the day before the day the building permit is issued in respect of the Development or Redevelopment or, if more than one building permit is required for the Development or Redevelopment, as of the day before the day the first permit is issued.

Part 5: Other Previous or Required Conveyances

30. Notwithstanding Parts 2, 3 and 4 of this by-law, if land has been conveyed or is required to be conveyed to the Town for park or other public recreational purposes or PIL has been received by the Town or is owing to it pursuant to a condition imposed pursuant to sections 42, 51.1 or 53 of the *Planning Act*, no additional conveyance or payment in respect of the lands subject to the earlier conveyance or payment will be required by the Town in respect of subsequent Development or Redevelopment unless:
- (a) There is a change in the proposed Development or Redevelopment which would increase the density of the Development; or
 - (b) Land originally proposed for Development or Redevelopment for Commercial or Industrial uses is now proposed for Development or Redevelopment for other uses.

- 31. Where there is a claim of previous conveyance or PIL payment, it is the applicant’s/owner’s responsibility to provide suitable evidence of such previous conveyance or PIL payment, to the Town’s satisfaction.
- 32. Land or PIL required to be conveyed or paid to the Town for park or other public recreation purposes pursuant to Parts 2, 3 and 4 of this by-law shall be reduced by the amount of land or PIL previously received by the Town pursuant to sections 42, 51.1 or 53 of the *Planning Act* in respect of the lands being developed or redeveloped.

Phased Development

- 33. Where approvals are issued in phases for Development or Redevelopment, the Town shall calculate and require the conveyance of land for park purposes or the payment of PIL, in accordance with Parts 2 and 3 of this by-law, on a phase-by-phase basis.

Master Parkland Agreements

- 34. Notwithstanding any other provisions in this Parkland Dedication By-law, where before, or after the passing of this By-law, the Council of the Town of Fort Erie has approved or authorized an Agreement with respect to the dedication of parkland and/or the payment-in-lieu of parkland, the terms of that Agreement, including any subsequent amendments to that Agreement, shall remain binding between the parties, and any parkland dedication and/or payment-in-lieu of parkland shall be in accordance with the rates specified in the Agreement, rather than the rates provided for in this Parkland Dedication By-law.

Part 6: General

- 35. Where a determination is required to be made by the Town in this by-law, that determination shall be made by the Director, Planning and Development Services (the “**Decision**”). The Decision shall be final.
- 36. The Town’s preferred methodology for determining value is the Direct Comparison Approach to Value. Prior approval from the Town shall be required to use another methodology.
- 37. Appraisals submitted to or obtained by the Town for the purposes of this By-law shall be considered valid for a maximum period of one (1) year from the date the appraisal was completed, or such lesser time as may be specified in the appraisal.
- 38. This by-law shall be referred to as the “Parkland Dedication By-law”.
- 39. By-law 69-2008 and any amendments to the by-law are repealed. Policies made prior the adoption of By-law XXX-2026 respecting conveyance of land for park purposes and payment in lieu of conveyance of land for park purposes are rescinded.
- 40. This by-law comes into force upon passage.

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 day of 2026.

Mayor

Clerk