The Municipal Corporation of the Town of Fort Erie

Council-in-Committee Meeting Agenda

Monday, May 17, 2021 - 6:00 PM

Council Chambers via Video Teleconference

Due to the COVID-19 Pandemic and the Closure of Town Hall
All electronic meetings can be viewed at:
Town's Website:
https://www.forterie.ca/pages/CouncilAgendasandMinutes
Town's YouTube Channel: www.youtube.com/townofforterie
or click on the YouTube icon on the home page of the Town's website (www.forterie.ca) or Cogeco TV

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1. Call to Order

2. Roll Call

3. Announcements/Addenda

4. Declarations of Pecuniary Interest

5. Notice of Upcoming Public Meetings

(a) Public Open House

Re: Crystal Beach Secondary Plan No. 3 - Tuesday, May 18, 2021 - 5:00 - 7:00 p.m. - Via Video Teleconference

To participate via audio/video, web or telephone, send an email to Mackenzie Ceci, Planning Technician at mceci@forterie.ca or 905-871-1600 ext. 2514 for information on joining the zoom meeting.

6. Public Meetings

(a) Proposed Combined Official Plan and Zoning By-law Amendment

Re: 0-5513 Dominion Road - Owner: Essential Capital Inc. (Frank Ianniello) - Agent - Planning Services Inc. (John Perry). An Official Plan Amendment is required as the proposed lot does not meet the infill policy to sever a lot in the Rural Area. The applicant is proposing to rezone from Rural (RU) Zone to a site-specific

Rural (RU) zone that contains provisions to permit the proposed lot areas of 0.68 ha and 1.77 ha and lot frontage of 54.79 m for one of the lots. *(Presentation by Daryl Vander Veen, Junior Planner)*

7. Consent Agenda Items

7.1 Request to Remove Consent Agenda Items

7.2 Consent Agenda Items for Approval

8 - 14 **IS-22-2021** Award of Tender for the 2021 Sidewalk Repair Program - Contract No. ISE-21T-SIDE21 to Neptune Security Inc.

Recommendation:

That: Council accepts and approves the tender submission from Neptune Security Services Inc. for the completion of the 2021 Sidewalk Repair Program, Contract No. ISE-21T-SIDE21 in the amount of $238,006.25 (including 13% HST); and further

That: Council amends the 2021 Capital Budget to supplement the 2021 Sidewalk Repair Program – Contract No. ISE-21T-SIDE21 by $40,000.00 with funding from the Road Refurbishing Reserve.
IS-22-2021 - 2021 Sidewalk Repair Program - Tender Award

15 - 23 **CAO-11/LC-06-2021** Land Matters: May 6, 2021 Land Committee Meeting Minutes

Recommendation:

That: Council receives the May 6, 2021 Land Committee meeting minutes attached as Appendix “1” to Report No. CAO-11/LC-06-2021, and further

That: Council approves the recommendations contained in Appendix “2”.
CAO-11-LC-06-2021 Land Committee minutes May 6, 2021

24 - 30 **CAO-12-2021** Age Friendly Initiative

Recommendation:

That: Council receives Administrative Report No. CAO-12-2021 for information purposes.

CAO-12-2021 Age-Friendly report

31 - 34 **CS-05-2021** Adjustments, Rebates, Under Section 357 and 358 for 2018, 2019 and 2020

Recommendation:

That: Council approves the cancellation, reduction or refund of taxes and penalties in the amount of $18,395.44 as per Appendix “1” to Report No. CS-05-2021 in accordance with Section 357 and 358 of the Municipal Act, 2001 and directs staff to submit a By-law to Council.
CS-05-2021 - Adjustments, Rebates Under 357 & 358 combined

Consent Agenda Recommendation

Recommendation:

That: Council approves the Consent Agenda Items as recommended.

7.3 Items Removed to be Dealt with Separately

8. Planning and Development Services

8.1 Presentations and Delegations

(a) Robert Laidlaw, Executive Director, Zoocheck Inc.

Re: Proposed Amendment to the Exotic Animal By-law (Report No. PDS-17-2021)

8.2 Reports

35 - 63 **PDS-38-2021** Proposed Combined Official Plan & Zoning By-law Amendment - 0-5513 Dominion Road - Essential Capital Inc. (Frank Ianniello) - Owner - Planning Services Inc. (John Perry) - Agent

Recommendation:

That: Council receives for information purposes Report No. PDS-38-2021 regarding a proposed Combined Official Plan and Zoning By-law Amendment for 0-5513 Dominion Road.
PDS-38-2021 0-5513 Dominion Road OPA-ZBA Information Report

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64 - 174 **PDS-17-2021** Animal Welfare, Protection and Control By-law Recommendation Report

Explanatory Notes:

The Report was postponed from the February 22, 2021, Regular Council Meeting and the March 22, 2021, Regular Council Meeting and further postponed from the May 10, 2021, Council-in-Committee Meeting.

Previously Moved by Councillor Butler, Seconded by Councillor McDermott as Resolution No. 7 on February 22, 2021

Option No. 3 was moved by Councillor Lubberts and seconded by Councillor McDermott and Carried as Resolution No. 3B on March 22, 2021

Resolution No. 3C was moved by Councillor Zanko and seconded by Councillor Butler, and Carried on March 22, 2021, as follows:

That: The draft by-law be amended throughout to provide that euthanasia only be performed by a Board registered Veterinary Technician, with the specific wording for the amendments to be provided by the Veterinarian retained by the Town.

Recommendation:

That: Council receives the draft Animal By-law attached as Appendix “1” to Report No. PDS-17-2021, and further

That: Council chooses Option No. 3 for the licensing of cats, and further

That: Council approves the draft Animal By-law attached as Appendix “1” to Report No. PDS-17-2021, subject to the revisions required to implement Council’s choice of Option No. 3 for the licensing of cats.

PDS-17-2021 Animal by-law
MEMO PDS-17-2021 Draft Animal By-law

175 - 183 **PDS-39-2021** 477 Ridge Road North - Update No. 2

Recommendation:

That: Council receives for information purposes Report No. PDS-39-2021 regarding 477 Ridge Road North.
PDS-39-2021 Information Update No. 2 - 477 Ridge Road North FINAL

8.3 New Business/Enquiries

184 - 185

8.4 Business Status Report

PDS BS-May17

9. Infrastructure Services

9.1 Presentations and Delegations

9.2 Reports

186 - 202

IS-18-2021 Erie Road On-Street Parking Changes to Accommodate Economic Development ***(Postponed from May 10, 2021, Council-in-Committee Meeting - Previously Moved by Councillor Zanko as Recommendation No. 9)***

Recommendation:

That: Council approves the changes to the on-street parking and road line painting regime on Erie Road between Ashwood and Cambridge Road West; and
further

That: Council directs that businesses wishing to occupy an on-street parking space reimburse the Town for the cost of providing concrete barriers for patron safety through the Temporary Outdoor Patio Regulations; and further

That: Council directs that By-law No. 2000-89 be amended to accommodate the following changes to the parking regime along Erie Road:

a) Remove all on-street parking on the south side of Erie Road from Cherrywood Avenue to Oxford Avenue and update Schedule C;
b) Install on-street parking on the north side of Erie Road from Cambridge Road West to Oakwood Avenue and update Schedule C;

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c) Designate the first parking space on Ashwood, Oakwood, Elmwood, Maplewood and Oxford Avenues and Cambridge Road West at the corner Erie Rd as 15-minute limit parking spaces to accommodate take-out restaurant opportunities in Schedule E; and further

That: Council directs that the crosswalk on Erie Road and Maplewood at the southeast corner be eliminated.

IS-18-2021 - Erie Road On-Street Parking Changes to Accommodate Economic Development

203 - 212

IS-21-2021 Fort Erie Public Transit Services - Award of Proposal for the Provision, Maintenance and Operation of On-Demand/Micro Transit

Recommendation:

That: Council accepts and approves the proposal from 1699225 Ontario Inc. o/a Regional Limousine for the Provision, Operation and Maintenance of the Fort Erie On-Demand Public Transit System, Request for Proposal No. ISE-21P-TRANSIT in the amount of $3,152,608.47 (including 13% HST) for a three (3) year term (October 1, 2021 to September 30, 2024), and further

That: Council directs staff to terminate the current contract with Tokmakjian Inc. in accordance with the terms of the contract to coincide with the start of the new contract with the successful proponent.

IS-21-2021 - On-Demand Transit RFP Award

213 - 217

IS-23-2021 Year-Round Load Restrictions on Low Class Bituminous Town Roadways

Recommendation:

That: Council directs staff to apply year-round load restrictions of five tonnes per axle on all Town Low Class Bituminous (LCB) roadways, and further

That: Council directs that Traffic By-Law No. 2000-89, Schedule ‘X’, be amended accordingly, and further

That: Council directs Highway Occupancy Policy By-law No. 120-2015 be amended to include load exemptions as identified in Report No. IS-23-2021.

IS-23-2021 - Year-Round Load Restrictions

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9.3 New Business/Enquiries

218 - 219 (a) Response to Enquiry

Re: Enquiry by Councillor Butler at the April 12, 2021 Council-in-Committee Meeting regarding the MacDonald Drive street lighting billing.
Butler - MacDonald Dr Street Lighting Billing

220 - 221 (b) Response to Enquiry

Re: Enquiry by Councillor McDermott and Councillor Lubberts at the April 12, 2021 Council-in-Committee Meeting regarding the street lighting replacement contract.
McDermott & Lubberts - Street Lighting Replacement Contract

9.4 Business Status Report

222 IS-BSR - 17MAY2021

10. Corporate and Community Services

10.1 Presentations and Delegations

10.2 Reports

10.3 New Business/Enquiries

10.4 Business Status Report

223 CS-COS-FES-BSR-May17

11. Scheduling of Meetings

12. Adjournment

Infrastructure Services

Prepared for	Council-in-Committee	**Report No.**	IS-22-2021
Agenda Date	May 17, 2021	**File No.**	360501

Subject

AWARD OF TENDER FOR THE 2021 SIDEWALK REPAIR PROGRAM - CONTRACT NO. ISE-21T-SIDE21 TO NEPTUNE SECURITY SERVICES INC.

Recommendations

THAT Council accepts and approves the tender submission from Neptune Security Services Inc. for the completion of the 2021 Sidewalk Repair Program, Contract No. ISE-21T-SIDE21 in the amount of $238,006.25 (including 13% HST); and further

THAT Council amends the 2021 Capital Budget to supplement the 2021 Sidewalk Repair Program – Contract No. ISE-21T-SIDE21 by $40,000.00 with funding from the Road Refurbishing Reserve.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: **2: Sustainable Infrastructure for the Future**

Strategic Objective: Maintaining and investing in sustainable infrastructure that serves the entire community and builds a strong, vibrant and attractive community.

List of Stakeholders

1) Mayor and Council of the Town of Fort Erie
2) The Ratepayers of the Town of Fort Erie
3) Pedestrians utilizing sidewalks within the Town of Fort Erie
4) Neptune Security Services Inc.
5) Remaining project bidders

Prepared by:	Submitted by:	Approved by:
Original Signed:	*Original Signed:*	*Original Signed:*
Ryan Lemay, CET.,rcca Project Manager, Engineering Division	Kelly Walsh, P.Eng., Director, Infrastructure Services	Tom Kuchyt, CET Chief Administrative Officer
Original Signed:		
Tim Marotta, P. Eng. Manager, Engineering Division		

Purpose of Report

The purpose of this report is to advise Council of the tender process for the 2021 Sidewalk Repair Program Contract No. ISE-21T-SIDE21 and to request Council's authorization to award the tender for this contract to low bidder, Neptune Security Services Inc. of Mississauga, Ontario in the amount of $238,006.25 (including 13% HST).

Secondly, to seek Council approval for a budget amendment to the 2021 Capital Budget to supplement the project from the Road Refurbishing Reserve to account for the difference between the project costs and the approved budget.

Analysis

Background

The Engineering Division inspects all sidewalks within the Town of Fort Erie on an annual basis. The 2021 list of sidewalks for repair has been developed in accordance with By-law No. 211-92: Sidewalk Policy. Repair work for sidewalks are prioritized based on inspection and resulting condition rating, location of sidewalks in relation to school walking areas and classification of adjacent roads.

Locations included as part of the sidewalk repair program are subject to removal and replacement of sidewalk panels at various locations throughout the Municipality. However, during field inspections occasional settled or lifted sidewalk panels are discovered. Should such scenarios develop, a separate request for price quotation related to concrete raising and levelling services will be issued. Typically, such repair scenarios and methods would be employed in business district areas and similar commercial locations

Tender Call

Tender No. ISE-21T-SIDE21 2021 Sidewalk Repair Program has been issued in accordance with and adherence to provisions of the Town of Fort Erie's purchasing By-law (By-law No. 2-10, being a By-law Respecting the Purchase of Goods, Services and Construction). The tender closed on Tuesday, April 27, 2021 at 2:00 pm local time. Tenders were publicly opened via teleconference shortly thereafter. All tenders were checked for mathematical errors and tender specification conformance. A detailed spreadsheet, including unit prices submitted by all contractors is available for review by members of Council in the Infrastructure Services Department. A total of five (5) tenders were received through Biddingo. One (1) of the tenders received was submitted by a contractor who had not pre-qualified for the Town's safety program. Accordingly, this tender submission was not opened. The remaining four (4) qualifying tender submissions are summarized in Table 1 below:

Table 1: Tender Summary

ISE-21T-SIDE21 SIDEWALK REPAIR PROGRAM BUDGET		
$200,000.00		
ISE-21T-SIDE21 - Submitted Tenders		
Contractor	**Tender Price (including 13% HST)**	**Tender Price (net of non-rebatable taxes)**
Neptune Security Services Inc.	$238,006.25	$214,332.00
Oakridge Landscaping	$271,047.30	$244,086.49
1526957 Ontario Limited (o/a CTC Contracting)	$292,093.70	$263,039.42
Steed & Evans LTD.	$361,600.00	$325,632.00

The low bidder, Neptune Security Services Inc., is a contractor from the Mississauga Area that has completed contracts for many organizations, including the Municipality of Brighton. Staff was able to verify with the Municipality of Brighton the works completed by this contractor were done satisfactorily.

Financial/Staffing and Accessibility (AODA) Implications

Through the 2021 Capital Budget, Council has approved allocation of $200,000.00 to the 2021 Sidewalk Repair Program for repairs and replacements. Funding sources for this project are exclusive to the 2021 Construction (Road Refurbishing Reserve) fund (SIDE21- 2021 Sidewalk Repair Program). A summary of the total project costs and funding sources are noted below in Table 2 and Table 3.

The total length of sidewalk for the 2021 program is approximately 1,211 m. Specifics on this year's work are reflected in the 2021 Sidewalk Repair List found within Appendix '1'. The 2021 Sidewalk Repair Program contract has been tendered for a one (1) year

term, with an optional extension to include a second year. The contract may be extended with cost increases (due to inflation), provided the extension option and pricing are agreed upon by both the Town of Fort Erie and the Contractor. Satisfactory vendor performance will also be subject to consideration with respect to exercising the extension option. Should both parties agree to an extension, the second contract term would be awarded to the Council approved budget level for 2022.

Table 2: Total Estimated Project Cost (SIDE21)

Project Component	Cost
Sidewalk Repair Program - Repairs and Replacements	$214,332.00
Town Staff Project Management	$25,000.00
Total Project Costs	**$239,332.00**

All amounts include non-rebated HST

Table 3: Available Funding Sources

Funding Source	Funds
Road Refurbishing Reserve – SIDE21	$200,000.00
Total Project Funds Available	**$200,000.00**

All amounts include non-rebated HST

Table 4: Variance Projection

2021 Sidewalk Repair Program (ISE-21T-SIDE21) Variance		
Total Estimated Project Cost	**Total Project Funds**	**Variance**
$239,332.00	$200,000.00	(-$39,332.00)

All amounts include non-rebated HST

As noted in Table 4, there is a projected negative variance for this project in the amount of $39,332.00. Staff is seeking a transfer of $40,000.00 from the Road Refurbishing Reserve which has a forecasted 2021 ending balance based on existing approved projects of $2,600,000.00.

Given that the funding put towards sidewalk repair has been at the current level since at least 2013, staff will be recommending an increase in this amount in future capital budgets, as well as a corresponding increase in funding.

In 2023, the Town will undertake an update of our Asset Management Plan, where long term funding requirements for maintaining the existing system will be identified.

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan.

Infrastructure is a priority in this plan and, while infrastructure maintenance is not specifically referenced, sidewalk repair and replacement is an important operation to ensure the safety of the pedestrian public in Fort Erie.

The provisions of the Town of Fort Erie Tendering Policy By-law No. 2-10 were adhered to during the tender process for this project. Sidewalk repair standards are set out in By-law No. 211-92. “Being a By-Law to Adopt a Sidewalk Policy for the Town of Fort Erie and to Repeal By-Law No. 131-71”.

Staff will ensure that the Contractor adheres to the Town of Fort Erie Health and Safety Regulations and Procedures, The Occupational Health and Safety Act, and the Uniform Manual for Traffic Control & Devices – Temporary Conditions – Book 7.

Comments from Relevant Departments/Community and Corporate Partners

All relevant departments were consulted throughout the tender process.

Communicating Results

The Engineering Division will ensure the following communications will be completed for the 2021 Sidewalk Repair Program:

- Ongoing Project updates on the Town’s website “Let’s Talk Fort Erie”;
- Hand delivered notices will be delivered directly to impacted residents and property owners.

Alternatives

Council has the option of not authorizing the award of this contract and cancelling the project. Given the liability exposure to the Town, related to sidewalk conditions, this option is not recommended due to the potential liability created.

Conclusion

Council’s approval is requested for an amendment to the 2021 Capital budget to supplement the 2021 Sidewalk Repair Program – Contract No. ISE-21T-SIDE21 by $40,000 with funding from the Road Refurbishing Reserve; and further

Staff recommends that the 2021 Sidewalk Repair Program – Contract No. ISE-21T-SIDE21 be awarded to the low bidder, Neptune Security Services Inc. at the tendered amount of $238,006.25 (including 13% H.S.T.) for the construction and repair, replacement and/or removal of sidewalk sections listed in Appendix ‘1’. This program is part of the Town’s annual infrastructure maintenance program.

Attachments

Appendix ‘1’ – 2021 Sidewalk Repair Program Location List

Appendix '1' to Administrative Report IS-22-2021

2021 Sidewalk Repair Program Location List

Area	Road Name	Side of Road	From	To	Desciption	Length (m)	Notes
Crystal Beach							
	Gorham Road	East	Farr Avenue	Highland Drive	Located on Gorham Road - 3866 Farr Avenue Side Lot	1.60	Remove and Replace
	Gorham Road	East	Farr Avenue	Highland Drive	Located at North East Corner of Gorham Road and Farr Avenue	7.80	Remove and Replace
	Ridge Road South	West	Rebstock Road	Farr Avenue	Located IFO 89 Ridge Road South	7.00	Remove and Replace
	Rebstock Road	North	Ridge Road South	Ridgeway Road	Located IFO 3732 Rebstock Road	9.15	Remove and Replace
	Brunswick Avenue	South	Helen Street	Dovercourt Road	Located IFO 3771 Brunswick Avenue	4.60	Remove and Replace
	Brunswick Avenue	North	Dovercourt Road	Ridgeway Road	Located on Brunswick Avenue - 242 Ridgeway Road Side Lot	1.90	Remove and Replace
	Roxborough Avenue	South	Dovercourt Road	Ridgeway Road	Located IFO 3845 Roxborough Avenue	4.90	Remove and Replace
	Roxborough Avenue	South	Helen Street	Dovercourt Road	Located IFO 3771 Roxborough Avenue	4.20	Remove and Replace
	Roxborough Avenue	South	Helen Street	Dovercourt Road	Located on Roxborough Avenue - 279 Helen Street Side Lot	3.20	Remove and Replace
	Roxborough Avenue	North	Ridge Road South	Helen Street	Located IFO 3706 Roxborough Avenue	3.00	Remove and Replace
	Mathewson Avenue	North	Ridge Road South	Helen Street	Located IFO 3730 Mathewson Avenue	4.70	Remove and Replace
	Mathewson Avenue	North	Dovercourt Road	Ridgeway Road	Located IFO 3834 Mathewson Avenue	3.20	Remove and Replace
	Mathewson Avenue	South	Dovercourt Road	Inglewood Road	Located IFO 3827 Mathewson Avenue	8.30	Remove and Replace
	Mathewson Avenue	North	Dovercourt Road	Ridgeway Road	Located IFO 3842 - 3846 Mathewson Avenue	11.00	Remove and Replace
	Mathewson Avenue	North	Dovercourt Road	Ridgeway Road	Located IFO 3854 Mathewson Avenue	4.60	Remove and Replace
	Inglewood Road	West	Mathewson Avenue	Fernwood Lane	Located IFO 303 Inglewood Road	22.00	Remove and Replace
	Inglewood Road	West	Mathewson Avenue	Fernwood Lane	Located IFO 303 - 317 Inglewood Road	17.80	Remove and Replace
	Inglewood Road	West	Mathewson Avenue	Fernwood Lane	Located IFO 321 Inglewood Road	6.20	Remove and Replace
	Inglewood Road	East	Mathewson Avenue	Fernwood Lane	Located IFO 314 Inglewood Road	10.50	Remove and Replace
	Inglewood Road	East	Mathewson Avenue	Fernwood Lane	Located IFO 308 - 314 Inglewood Road	9.60	Remove and Replace
	Inglewood Road	West	Fernwood Lane	Lynwood Lane	Located IFO 341 Inglewood Road at North West Corner of Lynwood Lane Intersection	4.90	Remove and Replace
	Dovercourt Road	West	Roxborough Avenue	Mathewson Avenue	Located IFO 283 Dovercourt Road	1.50	Remove and Replace
	Dovercourt Road	West	Roxborough Avenue	Mathewson Avenue	Located at 289 Dovercourt Road - IFO Fire Hydrant	6.30	Remove and Replace
	Dovercourt Road	West	Mathewson Avenue	Fernwood Lane	Located IFO 309 Dovercourt Road	6.00	Remove and Replace
	Griffin Avenue	South	Ridge Road South	Helen Street	Located on Griffin Avenue - 367 Ridge Road South Side Lot	11.20	Remove and Replace
	Graeber Avenue	North	Helen Street	Dovercourt Road	Located IFO 3764 Graeber Avenue	5.90	Remove and Replace
	Graeber Avenue	North	Helen Street	Dovercourt Road	Located IFO 3788 - 3798 Graeber Avenue	35.70	Remove and Replace
	Graeber Avenue	South	Helen Street	Dovercourt Road	Located IFO 3797 Graeber Avenue	3.20	Remove and Replace
	Ridgeway Road	West	Shannon Road North	Erie Road	Located IFO 405 Ridgeway Road	12.20	Remove and Replace
	Ridgeway Road	West	Shannon Road North	Erie Road	Located IFO 365 Ridgeway Road	7.80	Remove and Replace
	Crystal Beach Drive	North	Graeber Avenue	Lake Avenue	Located IFO 3798 - 3806 Crystal Beach Drive	12.30	Remove and Replace
	Rebstock Road	North	Ridgeway Road	Haun Road	Located IFO 3874 Rebstock Road- North West Corner of Intersection at Ridgeway Road and Rebstock Road	10.60	Remove and Replace
	Rebstock Road	North	Ridgeway Road	Haun Road	Located IFO 3874 Rebstock Road- North West Corner of Intersection at Ridgeway Road and Rebstock Road	10.50	Remove and Replace
	Ridgeway Road	East	Lynwood Lane	Graeber Avenue	Located IFO 388 Ridgeway Road	5.00	Remove and Replace
	Ridgeway Road	East	Lynwood Lane	Graeber Avenue	Located IFO 396 Ridgeway Road - Nort East Corner of Intersection at Ridgeway Road and Graeber Avenue	16.90	Remove and Replace
	Ridgeway Road	East	Lynwood Lane	Graeber Avenue	Located IFO 396 Ridgeway Road - Nort East Corner of Intersection at Ridgeway Road and Graeber Avenue	17.50	Remove and Replace
	Schooley Road	West	Rebstock Road	Smalls Road	Located IFO 167 Schooley Road	4.50	Remove and Replace
	Schooley Road	West	Smalls Road	Glenspring Road	Located IFO 251 Schooley Road	6.20	Remove and Replace
	Schooley Road	West	Glenspring Road	Erie Road	Located IFO 351 Schooley Road	9.30	Remove and Replace
	Schooley Road	East	Birchwood Road	Erie Road	Located IFO 376 Schooley Road	6.20	Remove and Replace
	Schooley Road	East	Birchwood Road	Erie Road	Located IFO 390 Schooley Road	17.80	Remove and Replace
	Ashwood Avenue	East	Birchwood Road	Erie Road	Located on Ashwood Avenue. 4086 Erie Road Side of building	8.60	Remove and Replace
	Ashwood Avenue	East	Birchwood Road	Erie Road	Located IFO 392 - 400 Ashwood Avenue	21.20	Remove and Replace
	Victoria Road	South	Oxford Avenue	Maplewood Avenue	Located on Victoria Road - 239 Oxford Avenue Side Lot	19.00	Remove and Replace
	Victoria Road	South	Derby Road	Devon Place	Located on Victoria Road - 241 Derby Road Side Lot	24.00	Remove and Replace
	Oxford Avenue	East	Victoria Road	Erie Road	Located IFO 346 Oxford Avenue - Curb and Gutter	11.00	Remove and Replace
	Victoria Road	South			Located IFO 391 Victoria Road	2.40	Remove and Replace
	Beechwood Avenue	West	Rebstock Road	Smalls Road	Located IFO 153 Beechwood Avenue	4.80	Remove and Replace
	Westwood Avenue	West	Glenolden Lane	Erie Road	Located IFO 375 Westwood Avenue	12.00	Remove and Replace
	Lakewood Avenue	East	Smalls Road	Glenspring Road	Located IFO 270 Lakewood Avenue	2.10	Remove and Replace
	Lakewood Avenue	East	Rebstock Road	Smalls Road	Located IFO 170 Lakewood Avenue	11.00	Remove and Replace
	Rosewood Avenue	East	Glenspring Road	Erie Road	Located IFO 380 Roasewood Avenue	33.80	Remove and Replace
	Cherry Hill Boulevard	East	Glenolden Lane	Erie Road	Located on Cherry Hill Boulevard - 383 Rosewood Avenue. Rear Lot	4.80	Remove and Replace
	Erie Road	North	Ridgeway Road	Belfast Road South	Located IFO 3896 Erie Road	7.80	Remove and Replace
	Erie Road	North	Derby Road	Cambridge Road West	Located IFO 3966 Erie Road	1.55	Remove and Replace
	Erie Road	North	Cherrywood Avenue	Schooley Road	Located IFO 4116 Erie Road	1.50	Remove and Replace
	Erie Road	North	Westwood Avenue	Lakewood Avenue	Located on Erie Road - 415 Westwood Avenue Side Lot	18.20	Remove and Replace
	Lincoln Road West	West	Belfast Road North	Shannon Road South	Located IFO 206-208 Lincoln Road West	18.50	Remove and Replace
	Shannon Road South	North	Lincoln Road West	Cambridge Road West	Located on Shannon Road South - 206 Lincoln Road West Side Lot	27.00	Remove and Replace
	Derby Road	East	Brewster Road	Rebstock Road	Located IFO 134 Derby Road	7.80	Remove and Replace
	Derby Road	West	Victoria Road	Cambridge Road West	Located IFO 255 Derby Road	8.80	Remove and Replace
	Derby Road	East	Victoria Road	Cambridge Road West	Located IFO 256 Derby Road	4.00	Remove and Replace
	Derby Road	West	Cambridge Road West	Lincoln Road West	Located IFO 267 Derby Road	6.30	Remove and Replace
	Derby Road	East	Lincoln Road West	Conway Place	Located on Derby Road - 292 Derby Road. North East Corner of Intersection at Conway Place	2.00	Remove and Replace
	Derby Road	West	Loomis Crescent West	Queens Circle	Located IFO 323 Derby Road	3.30	Remove and Replace
	Lincoln Road East	North	Cambridge Road East	Lincoln Road East	Located on Lincoln Road East - 268 Derby Road	1.70	Remove and Replace
	Cambridge Road West	East	Belfast Road North	Shannon Road South	Located IFO 343 Cambridge Road West	8.50	Remove and Replace
	Cambridge Road East	West	Essex Place	Shannon Road North	Located IFO 89 Cambridge Road East	6.00	Remove and Replace
	Shannon Road North	South	Loomis Cresceny East	Queens Circle	Located Shannon Road North - 29 Loomis Crescent	1.50	Remove and Replace
	Conway Place	South	Derby Road	Lincoln Road West	Located IFO 57 Conway Place	13.70	Remove and Replace
	Conway Place	South	Lincoln Road West	Cambridge Road West	Located on Conway Place - 381 Cambridge Road West	7.50	Remove and Replace
	Lincoln Road West	East	Conway Place	Belfast Road North	Located IFO 275 Lincoln Road West	2.00	Remove and Replace
	Lincoln Road East	South	Derby Road	Conway Place	Located IFO 19 Lincoln Road East	2.00	Remove and Replace
Ridgeway							
	Ridge Road North	West	Nigh Road	Hazel Street	Located IFO 667 Ridge Road North	6.50	Remove and Replace
	Ridge Road North	West	Nigh Road	Hazel Street	Located IFO 593 Ridge Road North	3.30	Remove and Replace
	Ridge Road North	West	Nigh Road	Hazel Street	Located IFO 593 Ridge Road North	2.50	Remove and Replace
	Ridge Road North	West	Nigh Road	Hazel Street	Located IFO 575 Ridge Road North	3.20	Remove and Replace
	Ridge Road North	West	Nigh Road	Hazel Street	Located IFO 575 Ridge Road North	7.50	Remove and Replace
	Ridge Road North	East	Nigh Road	Hazel Street	Located IFO 576 Ridge Road North	6.20	Remove and Replace
	Ridge Road North	East	Hazel Street	Dominion Road	Located IFO 504 Ridge Road North	5.90	Remove and Replace
	Ridge Road North	East	Hazel Street	Dominion Road	Located IFO 502 Ridge Road North	5.50	Remove and Replace
	Ridge Road North	East	Hazel Street	Dominion Road	Located IFO 492 Ridge Road North	9.40	Remove and Replace
	Ridge Road North	East	Hazel Street	Dominion Road	Located IFO 488 Ridge Road North	3.00	Remove and Replace
	Ridge Road North	East	Hazel Street	Dominion Road	Located IFO 436 Ridge Road North	7.50	Remove and Replace
	Highland Drive	North	South Mill Street	Park Street	Located on Highland Drive at Int	1.50	Remove and Replace
	Highland Drive	South	Park Street	Gorham Road	Located IFO 3817 Highland Drive	1.50	Remove and Replace
	Hibbard Street	North	Ridge Road North	South Mill Street	Located IFO 3714 Hibbard Street - North-East Corner of Intersection with South Mill Street	6.50	Remove and Replace
	Hibbard Street	North	Belleview Boulevard	Thornwood Avenue	Located on Hibbard Street - North-West Corner of Intersecion With Belleview. 315 Belleview Boulevard	5.00	Remove and Replace
	Hibbard Street	North	Ridge Road North	South Mill Street	Located on Hibbard Street - 301 Ridge Road North Rear Commercial Parking Lot	4.70	Remove and Replace
	South Mill Street	East	Dominion Road	Hershey Street	Located IFO 342 South Mill Street	3.80	Remove and Replace

Appendix 1 - 2021 Sidewalk Repair Program Location List

Area	Road Name	Side of Road	From	To	Desciption	Length (m)	Notes
	North Mill Street	West	Dead End	Dominion Road	Located IFO 437 North Mill Street	9.80	Remove and Replace
	Thornwood Avenue	East	Dominion Road	Hibbard Street	Located IFO 350 Thornwood Avenue	5.50	Remove and Replace
	Gorham Road	East	Highland Drive	Farr Avenue	Located IFO 120 Gorham Road	12.20	Remove and Replace
	Gorham Road	East	Highland Drive	Farr Avenue	Located IFO 156 Gorham Road	4.80	Remove and Replace
	Highland Drive	South	South Mill Street	Park Street	Located IFO 3797 Highland Drive - Catch Basin Adjustment		Remove and Replace
	Highland Drive	South	South Mill Street	Park Street	Located on Highland Drive - 169 South Mill Street Side Lot	4.50	Remove and Replace
	Disher Street	North	Prospect Point Road N	Ridge Road North	Located IFO 3640 Disher Street	11.20	Remove and Replace
	Dominion Road	South	Ridge Road North	South Mill Street	Located IFO 3697 Dominion Road	2.50	Remove and Replace
	Dominion Road	South	Ridge Road North	South Mill Street	Located on Dominion Road - 371 Ridge Road North	12.00	Remove and Replace
	Dominion Road	North	Prospect Point Road N	Ridge Road North	Located IFO 3642 Dominion Road	1.20	Remove and Replace
	Dominion Road	North	Prospect Point Road N	Ridge Road North	Located IFO 3646 Dominion Road	6.90	Remove and Replace
	Dominion Road	South	Prospect Point Road N	Ridge Road North	Located IFO 3653 Dominion Road	12.80	Remove and Replace
	Dominion Road	North	Barrington Court	Charleston Drive	Located IFO 3280 Dominion Road	3.20	Remove and Replace
	Thunder Bay Road	North	Nicolas Road	Bernard Avenue	Located IFO 3040 Thunder Bay Road	3.00	Remove and Replace
	Thunder Bay Road	North	Nicolas Road	Bernard Avenue	Located IFO 3050 - 3062 Thunder Bay Road	3.30	Remove and Replace
	Thunder Bay Road	North	Nicolas Road	Bernard Avenue	Located IFO 3070 Thunder Bay Road	10.30	Remove and Replace
	Bernard Avenue	East	Poplar Avenue	Evadere Avenue	Located IFO 118 Bernard Avenue	9.10	Remove and Replace
	Bernard Avenue	East	Bethune Avenue	Poplar Avenue	Located IFO 146 Bernard Avenue	8.50	Remove and Replace
	Bernard Avenue	East	Bethune Avenue	Poplar Avenue	Located IFO 160 Bernard Avenue	4.90	Remove and Replace
Stevensville							
	West Main Street	South	Old Mill Road	Ott Road	Located IFO 3985 West Main Street - Catchbasin Adjustment		Remove and Replace
	Stevensville Road	East	East Main Street	Carver Street	Located on Stevensville Road - 3701 East Main Street Side Lot	7.40	Remove and Replace
	Stevensville Road	East	East Main Street	Carver Street	Located IFO 2486 - 2494 Stevensville Road	8.30	Remove and Replace
	Stevensville Road	East	East Main Street	Carver Street	Located IFO 2494 - 2500 Stevensville Road	32.50	Remove and Replace
	East Main Street	South	East Avenue	Stevensville Road	Located IFO 3613 East Main Street	6.40	Remove and Replace
	East Main Street	North	Winger Road	Utvich Parkway	Located IFO 3456 East Main Street	6.10	Remove and Replace
	East Main Street	South	East Avenue	Stevensville Road	Located IFO 3547 East Main Street	7.50	Remove and Replace
	East Main Street	South	East Avenue	Stevensville Road	Located IFO 3579 East Main Street	14.00	Remove and Replace
	East Main Street	South	East Avenue	Stevensville Road	Located IFO 3607 East Main Street	1.60	Remove and Replace
	Carver Street	North	Diane Street	Hill Street	Located IFO 3614 Carver Street	7.80	Remove and Replace
	Hill Street	South	Diane Street	Hill Street Dead End	Located on Hill Street - 2475 Diane Street - North Side Lot.	1.50	Remove and Replace
	Stevensville Road	East	East Main Street	Hayslip Street	Located IFO 2596 Stevensville Road	3.00	Remove and Replace
	Stevensville Road	East	East Main Street	Hayslip Street	Located IFO 2604 Stevensville Road	5.00	Remove and Replace
	Stevensville Road	East	Carver Street	South CN Railway	Located IFO 2440 - 2446 Stevensville Road	32.50	Remove and Replace
	Stevensville Road	East	Carver Street	South CN Railway	Located IFO 2440 Stevensville Road	3.50	Remove and Replace
	Stevensville Road	West	Foster Street	South CN Railway	Located IFO 2465 - 2471 Stevensville Road	17.50	Remove and Replace
Fort Erie							
	Queen Street	South	Central Avenue	Douglas Street	Located IFO 182 Queen Street	13.50	Remove and Replace
	Queen Street	South	Central Avenue	Douglas Street	Located IFO 176 Queen Street	4.00	Remove and Replace
	Queen Street	South	Central Avenue	Douglas Street	Located on Queen Street	12.20	Remove and Replace
	Douglas Street	West	Catherine Street	Henrietta Street	Located IFO 42 Douglas Street	13.40	Remove and Replace
	Lavinia Street	South	Niagara Boulevard	Waterloo Street	Located IFO 24 Lavinia Street	5.20	Remove and Replace
	Lavinia Street	South	North Street	Central Avenue	Located IFO 140 Lavinia Street	5.40	Remove and Replace
	Lavinia Street	South	North Street	Central Avenue	Located IFO 140 Lavinia Street at South West Corner of Intersection - Lavinia Street and North Street	3.40	Remove and Replace
	Lavinia Street	South	North Street	Central Avenue	Located IFO 144 Lavinia Street	6.80	Remove and Replace
	Lavinia Street	South	North Street	Central Avenue	Located IFO 144 Lavinia Street	4.80	Remove and Replace
	Lavinia Street	North	Aberdeen Street	Torrance Street	Located IFO 181 Lavinia Street	11.30	Remove and Replace
	Lavinia Street	South	Aberdeen Street	Champlain Drive East	Located IFO 184 Lavinia Street	16.00	Remove and Replace
	Lavinia Street	North	Aberdeen Street	Torrance Street	Located IFO 191 Lavinia Street	4.60	Remove and Replace
	Lavinia Street	South	Champlain Drive East	Torrance Street	Located IFO 196 Lavinia Street	4.20	Remove and Replace
	Aberdeen Court	East	Catherine Street	Aberdeen Court	Located on Aberdeen Court - 138 Catherine Street Side Lot.	12.00	Remove and Replace
	Aberdeen Court	West	Catherine Street	Henrietta Street	Located IFO 16 Aberdeen Court	4.50	Remove and Replace
	Aberdeen Street	East	Bertie Street	Murray Street	Located IFO 164 Aberdeen Street	5.00	Remove and Replace
	Stanton Street	East	Catherine Street	North Dead End	Located on Stanton Street - 52 Catherine Street Side Lot.	7.40	Remove and Replace
	Concession Road	East	Catherine Street	Henrietta Street	Located IFO 63 Concession Road	14.90	Remove and Replace
	Concession Road	East	Catherine Street	Henrietta Street	Located IFO 65 - 67 Concession Road	25.20	Remove and Replace
	Osborne Street	East	Henrietta Street	Idylewylde Street	Located IFO 7 Osborne Street	1.50	Remove and Replace
	Jennet Street	West	Gilmore Road	Russel Street	Located IFO 9 Jennet Street	6.30	Remove and Replace
	Kingsmill Street North	East	Gilmore Road	South Dead End	Located IFO 15 Kingsmill Street North	4.60	Remove and Replace

Office of the C.A.O.

Prepared for	Council-in-Committee	**Report No.**	CAO-11/LC-06-2021
Agenda Date	May 17, 2021	**File No.**	120902

Subject

LAND MATTERS:

MAY 6, 2021 LAND COMMITTEE MEETING MINUTES

Recommendations

THAT Council receives the May 6, 2021 Land Committee meeting minutes attached as Appendix "1" to Report No. CAO-11/LC-06-2021.

THAT Council approves the recommendations contained in Appendix "2".

Relation to Council's 2018-2022 Corporate Strategic Plan

Land Committee Minutes are provided to Council together with recommendations associated with property and land matter requests.

List of Stakeholders

- Residents, organizations and businesses of Fort Erie as contained in the report

Prepared by:	Approved by:
Original Signed	*Original Signed*
Bev Bradnam, DPA, CMM III Manager, Strategic Initiatives	Tom Kuchyt, CET Chief Administrative Officer

Purpose of Report

The purpose of this report is to ensure that members of Council are provided with current land information and staff's deliberations associated with the land matters discussed at the May 6, 2021 Land Committee meeting.

Land Committee minutes are intended to be presented to Council for approval on a regular basis. While not all reports will provide recommendations for Council's deliberations, they will provide background information on land matters discussed.

Analysis

Attached as Appendix "1" to the Report is a copy of the May 6, 2021 Land Committee meeting minutes.

The Committee passed one recommendation related to the disposal of vacant land owned by the Region of Niagara on Dominion Road.

Members of the Land Committee will be in attendance during Council's deliberation to answer any questions arising from the minutes.

Financial/Staffing and Accessibility (AODA) Implications

Detailed in the May 6, 2021 Land Committee meeting minutes.

Policies Affecting Proposal

By-law No. 168-91, as amended, established and appointed members to the Land Committee. The By-law sets out the role of the Land Committee and defines mandates and responsibilities of its members. The sale of land is governed by By-law No. 60-2017.

Comments from Relevant Departments/Community and Corporate Partners

The Land Committee is represented by the Mayor, the Chief Administrative Officer, the Director of Financial Services, the Director of Community and Development Services, the Director of Infrastructure Services and the Manager, Economic Development and Tourism Services. The Executive Director of the Fort Erie Native Friendship Centre also attends the Land Committee meetings.

Other staff members are invited to participate in the Land Committee meetings depending upon their specific duties, responsibilities and specific area of expertise.

Communicating Results

Not applicable.

Alternatives

No alternatives are provided.

Attachments

Appendix “1” - May 6, 2021 Committee Meeting Minutes
Appendix “2” - Recommendation for Council’s Approval

MINUTES

Land Committee Meeting

Meeting Date, Time, and Location
Thursday, May 6, 2021 at 10:00 a.m. via zoom

Members	Support Staff
Mayor Wayne Redekop **T. Kuchyt**, Chief Administrative Officer, Chair **K. Dolch,** Director, Planning and Development Services **C. Grummett**, Manager, Economic Development and Tourism Services **J. Janzen,** Director, Corporate Services **K. Walsh,** Director, Infrastructure Services **J. Dockstader,** Executive Director, Fort Erie Native Friendship Centre (regrets) **J. Stirton**, Town Solicitor	**S. Hansen**, Manager, Community Planning **B. Critelli,** Law Clerk **C. Schofield,** Manager, Legislative Services and Clerk **B. Bradnam**, Manager, Strategic Initiatives **Guest:** Frank Fucile, Manager, Real Estate Department, Niagara Region (to 10:18 a.m.)

1) **New Business**

1) Disposal of Vacant Land – Regional Road 1 (Dominion Road)

Frank Fucile, Manager, Real Estate Department, Niagara Region was present to discuss the disposal of vacant land that was part of the April 29, 2021 Special Land Committee meeting during which the Land Committee confirmed interest in the parcel as it is adjacent to the abandoned rail line (see Appendix “1.1” to the Minutes). Mr. Fucile explained the circumstances related to an adjacent property owner’s request to purchase the vacant land following a recent accident with their young child. Mr. Fucile had explained to the residents the process of circulating the request to dispose of the property to the municipality as well as determining if there are any easements for utilities that would be required. Land Committee members agreed that the triangular piece of property is not essential to the Town and agrees that the property would be better utilized by the young family. The Mayor noted that the Town would still like to work with the Region of Niagara to develop the abandoned rail lands and suggested that a rumble strip be placed on the “s” bend on Dominion to alert drivers to the poor sight lines. Mr. Fucile also described the recent alert constructed on St. Paul Street in St. Catharines that activates lights when pedestrians approach a crossing so that they can do so safely and that might be something that can also be considered if the trail is developed. The Mayor asked if this was the approach being taken at Gorham Road and the Director, Infrastructure Services, confirmed that it is being considered. The following recommendation was passed:

Recommendation No. 1:

THAT: The Land Committee advises the Region of Niagara that they have no interest in the surplus lands described as part of PIN 64470-0002 and being part 1 on reference plan 59R-8808, Regional Road 1 (Dominion Road)

(CARRIED)

Mr. Fucile left the meeting at 10:18 a.m.

1) **New Business, continued**

2) Disposition of part of Sherkston Road

The Director, Infrastructure Services, shared his screen with the Committee and described complaints received by the Traffic Coordinating Committee on the section of Michener Road between Farr Avenue and Point Abino Road. The Director explained that the section requires $75,000 of paving and he is recommending that we dispose or stop up and close the section. The Director noted that this request has been before Council before and he will bring further details to the Land Committee on this issue including comments from the Traffic Coordinating Committee. Add to outstanding.

3) Inquiries from Niacon Construction regarding parking for proposed development at 4002 Erie Road

A memorandum from the Manager, Development Approvals, was reviewed by the Committee. Discussion took place with respect to parking in Crystal Beach and the need for some overnight parking for the new development as well as other property owners that have long term rentals with no parking available. The Erie Road municipal lot to the east of Derby Road was discussed in detail. Staff have considered the fairest and most equitable solutions and it was agreed that further consultation needs to take place with the Crystal Beach BIA, Phil Smith based on his previous requests for his tenants, and also seek input from the community through “Let’s Talk Fort Erie”. Remain on outstanding.

2) **Outstanding Parks and Open Space Development Land Matters**

1) Coal Dock’s Property

The Mayor advised that he reached out to the General Manager of the Niagara Parks Commission and they are seeking firmer costs and then will be tendering.

3) **Outstanding Land Matters for Discussion**

1) Request to purchase old Ridgeway Public Works Yard

Nothing new to report. Remain on outstanding.

2) Property Acquisition, Land Exchange and Road Widening at the North East corner of Hagey Avenue and Concession

The Law Clerk advised that following the last meeting she reached out to the Municipal Engineer, Infrastructure Renewal, who advised that he had no update yet on the agreement with the Hagey Avenue property owner. Remain on outstanding.

3) **Outstanding Land Matters for Discussion, continued**

3) Purchase of Waterfront Lands adjacent to the Crystal Beach Waterfront Park

The Director, Planning and Development Services, advised that the matter is with legal counsel. Remain on outstanding.

4) Property off of Queen Street/Douglas Street

The Director, Planning and Development Services, advised that the Planning Technician Is preparing a generic letter for adjacent property owners to determine interest in moving forward. Remain on outstanding.

5) Draft Plan of Subdivision – Proposed Parkland Dedication – 3285 Thunder Bay Road

The Town Solicitor advised that she has prepared a draft Memorandum of Understanding that will be before Council on May 10, 2021. Remain on outstanding.

6) Disposition of Fire Stations 4 and 6

The CAO advised that he is awaiting a resubmittal of a proposal by the organization interested in Station No. 6 prior to the original date of June 30, 2021. Remain on outstanding.

7) Municipality's Duty and Responsibility for Rear Yard Drainage in Subdivisions

The Director, Infrastructure Services, advised that there are no new updates on this matter. Remain on outstanding.

8) Waterfront Encroachment – Burleigh Road

The CAO advised that the Executive Director of the Fort Erie Native Friendship Centre has been busy working with Public Health on vaccinations. Remain on outstanding.

9) 4152 Erie Road

Nothing new to report. Remain on outstanding.

10) Request to purchase Town-owned Lands – 390 Derby Road (Smith)

This matter was put on hold until completion of the Crystal Beach Secondary Plan but may be revisited sooner if other parking options become available. Remain on outstanding.

11) Inquiries from Niacon Construction regarding parking for proposed development at 4002 Erie Road

Refer to Item 1.3. Remain on outstanding.

3) **Outstanding Land Matters for Discussion, continued**

12) Bert Miller Nature Club request

The Director, Planning and Development Services, advised that the Planning Technician will be reaching out to the property owner (noting it is owned by an Estate) to determine if they are interested in selling the property. Remain on outstanding.

13) Request to improve walkability and signage of Munster and Ulster Lanes

The Director, Infrastructure Services, will be bringing back drawings to the Land Committee to review and provide direction on encroachments. Remain on outstanding.

14) Request to purchase 0-16255 Lincoln Road West

Nothing new to report. Remain on outstanding.

15) Disposal of Vacant Land – Regional Road 1 (Dominion Road

See Item 1.1. Remove from outstanding.

4) **Other Matters**

No other matters were discussed.

5) **Next Meeting Date and Adjournment**

The next Land Committee meeting date will take place on Thursday, June 3, 2021 at 10:00 a.m. via Zoom.

The May 6, 2021 Special Land Committee meeting adjourned at 10:47 a.m.

Minutes recorded and prepared by:

Bev Bradnam, DPA, CMM III
Manager, Strategic Initiatives

Minutes approved by:

Tom Kuchyt, CET
Chief Administrative

Niagara Region

part 1 on plan 59R-8808

Legend

- Address Points
- Ownership Parcels
- Streets Labels

25.4 0 12.70 25.4 Meters

N

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Notes

part of PIN 64470-0002

Appendix "2" to Administrative Report No. CAO-11/LC-06-2021

Date of Meeting	Land Matter	Rec. No.	Tasks identified/ Recommendation of Land Committee	Status/Council Action Required
May 6/21	**Disposal of Vacant Land – Regional Road 1 (Dominion Road)**	**1**	**THAT: The Land Committee advises the Region of Niagara that they have no interest in the surplus lands described as part of PIN 64470-0002 and being part 1 on Reference Plan 59R-8808, Regional Road 1 (Dominion Road)**	**Requires Council's Approval**

Office of the C.A.O.

Prepared for	Council-in-Committee	**Report No.**	CAO-12-2021
Agenda Date	May 17, 2021	**File No.**	120810

Subject

AGE FRIENDLY INITIATIVE

Recommendations

THAT Council receives Administrative Report No. CAO-12-2021 for information purposes.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Optimizing Health, Housing and Social well-being through service access and healthy lifestyles

List of Stakeholders

- Town of Fort Erie residents, business and visitors

Prepared by:	Approved by:
Original Signed	*Original Signed*
Bev Bradnam, DPA, CMM III Manager, Strategic Initiatives	Tom Kuchyt, CET Chief Administrative Officer

Purpose of Report

The purpose of this report is to provide Council with an overview of the Age Friendly initiative and the Town of Fort Erie's involvement to date in response to a recent presentation to Council.

Background

In 2009, funding from the Ontario Trillium Foundation was received by the Rose City Seniors Centre Foundation in Welland to support an age-friendly initiative in Niagara and included the salary of a Coordinator position. The Coordinator rolled out the initiative in 2011 and 2012 to local area municipalities.

During a February 2012 Area CAO meeting, the matter of Age Friendly Niagara was brought up in relation to a request by the Age Friendly group to conduct an inventory of facilities, which Accessibility Advisory Committee's across Niagara were already auditing as part of the requirements under the *Ontarians with Disabilities Act*. At the time, most CAOs also noted that local area municipalities also had a youth and seniors committee.

In April 2012, a delegation from Virginia Stewart, Community Coordinator, Niagara Age-Friendly Community Initiative was received by Council and the following resolution was passed:

THAT: The Council of the Town of Fort Erie receive for information the presentation by Virginia Stewart, Community Coordinator on behalf of the Niagara Age-Friendly Community Initiative report, and further

THAT: The Council receive the Year-1 Niagara Age-Friendly Community Initiative Report, and further

THAT: The Town of Fort Erie affirm its commitment to age-friendly principles, and further

THAT: The Town of Fort Erie staff be encouraged to engage in age-friendly sessions and other related events to learn more about age-friendly, and further

THAT: The information regarding age-friendly be forwarded to the Town of Fort Erie Accessibility Advisory Committee, Senior Citizens Advisory Committee and Fort Erie Active Transportation Advisory Committee for attention.

Following the above, the Town's AAC staff liaison (author of this report) contacted the Coordinator to advise that the Town's AAC believes in the principles of universal design and when conducting annual audits, the AAC looks at all residents and visitors being able to access all municipal facilities, parks and services. At the time it was also noted

that accessible customer service training and accessible communications training was provided to all staff.

In response, the staff liaison was invited to participate in a Fort Erie-specific facilitated session at the Fort Erie Multi-Cultural Centre, which took place in August 2012. At this initial meeting a number of survey responses were revealed by Age Friendly Niagara. Participants asked who the respondents to the survey were as a number of key data points did not match with what the participants felt reflected what was actually taking place in Fort Erie. A number of the key features that required improvement (Belonging & Leadership, Civic Participation, Communication & Information and Transportation) were priority areas for Council and outlined in the 2011-2014 Strategic Plan, i.e. “Council and Community Working Together”, improving communication with the audio broadcast of Council meetings, improvements to accessible transit and a new Customer Service Unit that had just celebrated its first full year of service provision. Following the event, the Age Friendly Niagara Coordinator was provided with additional details related to the Town’s 2011/2012 Accessibility Plan and 2012 Customer Service Unit Review report.

Bridges Community Health Centre was also asked to present the Fort Erie perspective at a November 2012 Age Friendly Niagara Network event and vetted the presentation with the Town. The presentation concluded with the statement “If age friendly is about designing for everyone then we need to engage families with young children, new Canadians, individuals with disabilities, as well as the aged. The feedback needs to come from a variety of individuals. It needs to be more representative of our diverse community”.

An Age-Friendly Fort Erie 2012 Community Report was also received, which showed the median age in 2011 to be 46.6. Partners outlined in the Community Profile Report included the Senior Citizens Advisory Committee, Accessibility Advisory Committee, Fort Erie Active Transportation Committee, Casa El Norte, Bridges Community Health Centre, Fort Erie Meals on Wheels, Beachcombers, Job Gym, Multicultural Centre, Royal Legion BR 230 and the Welcome Wagon. The Age Friendly Principles and Key Features were also compared to what the Town already had in place and were included in the AODA Standards and Training, Built Environment Standard, Employment Standard, Information and Communications Standard, Building Code, Transportation Standard, Planning documents related to Official Plans, Neighbourhood and Secondary Plans. What was lacking at the time was the “health and wellness” piece, which Council has since put in place and at the time were beginning to develop.

In 2013, the Manager, Strategic Initiatives, accepted the invitation to join the Niagara AFC Network but not in an active leadership role. The former CAO also reported to the Niagara Age Friendly Coordinator that due to limited resources, both financial and human, the Town of Fort Erie would not be seeking designation through the World Health Organization but would continue to participate as a Network member.

In 2015, the Niagara Age-Friendly Community (AFC) officially launched and released the *Niagara Ageing Strategy and Action Plan* and marked the completion of the Ontario Trillium Foundation funded project. At that time, the Town of Fort Erie was added to the distribution list for AFC updates provided by the Network and a number of local representatives,

including the Ridgeway Legion Branch 230 and Bridges Community Health Centre also offered to be champions for some of the Plan's five major goals.

At the June 20, 2016 Regular Council meeting, Dominic Ventresca and Cathy Fusco, Co-Chairs, Niagara Age Friendly Community Network delivered a power point presentation which showed that 19.9% of adults in Fort Erie are over the age of 65. Council took no action.

The Manager, Strategic Initiatives, has attended many focus groups and Age Friendly Niagara forums between 2017 and 2019 together with the Community Health Care Services Coordinator.

Analysis

The World Health Organization's 8 Age-Friendly Community Domains are as follows:

- Transportation
- Housing
- Social Participation
- Respect and Social Inclusion
- Civic Participation and Employment
- Communications and Information
- Community Support and Health Services
- Outdoor spaces and buildings

In order to be designated as an Age Friendly Community there are specific requirements under the World Health Organization program[1]:

Commit to and implement the four steps to create age-friendly local environments (see figure 2):

- Engage and understand:

  Engaging stakeholders including older people, incorporating also those that are isolated or hard to reach, to understand their needs and preferences and the existing barriers and opportunities for healthy and active ageing is key to ensuring efforts to become more age-friendly respond to local need and priorities (Outcome: participatory age friendly assessment)

- Plan:

  Planning strategically enables all stakeholders to develop a shared vision, to agree on the priorities for action and to plan and resource how the city or community will tackle these challenges. (Outcome: Action plan)

[1] https://www.who.int/ageing/age-friendly-environments/GNAFCC-membership-en.pdf?ua=1

- Act:

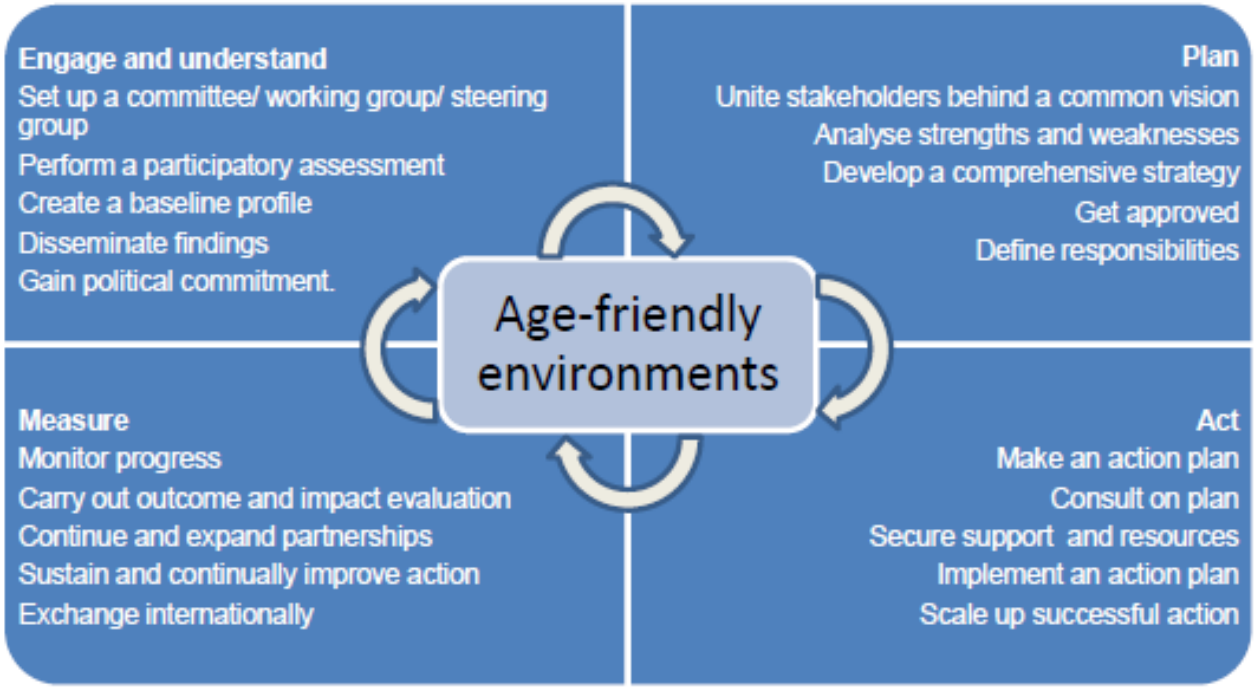
  Implementing the Action plan is at the heart of creating an age-friendly city or community. The Guide to creating age friendly cities and the AFEE Handbook list many possible actions. (Outcome: Age-friendly practices)

- Measure:

  Collecting evidence on both the progress of implementing the age-friendly approach as well as its impact on people lives is crucial to the success and sustainability of a city or communities' efforts to become increasingly age-friendly. Monitoring and evaluating progress will help to identify successes and challenges, provide results that can be communicated to local stakeholders, and serve as the basis for defining priorities for future action. (Outcome: Monitoring and evaluation reports)

Figure 2

Steps to creating age-friendly environments. The age-friendly journey requires a continuous process of improvement that tends to be in the direction of the arrows. Members can join at any step. The different steps together take on average five years to execute.



As noted in response to previous requests, the Town does not have the human or financial resources to undertake this designation when it currently looks at operating and capital projects with a universal lens, one that reflects opportunities for all ages and abilities. The Town of Fort Erie does continue to participate as a Network member and receives frequent updates from Age Friendly Niagara and participates in forums and focus groups when they are able.

Financial/Staffing and Accessibility (AODA) Implications

The Town does not have the human or financial resources to seek designation with the World Health Organization as an Age Friendly Community but will continue to participate in the regional network, which also has representation from the Town's Senior Citizens Advisory Committee. The Town has specific requirements under the *Accessibility for Ontarians with Disabilities Act* (AODA) to ensure compliance directly related to the key principles for an age friendly community but does so with a universal lens. The Town's Accessibility Advisory Committee reviews and comments on various plans and also provides an annual update to Council on its Multi Year Accessibility Plan, including audits of parks and facilities.

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan and has as one of its key priorities: Optimizing Health, Housing and Social well-being through service access and healthy lifestyles.

By-law No. 157-2019 adopted Council's Multi Year Accessibility Plan 2019-2023, the second long term accessibility plan adopted by Council, which also included extensive public consultation. Annual status updates are also provided that highlight actions taken during the year and programs and projects reviewed and commented on.

Comments from Relevant Departments/Community and Corporate Partners

The most recent Age Friendly Needs Assessment Study (December 2020) shows the following senior citizens and age friendly advisory committees in Niagara:

Fort Erie Senior Citizens Advisory Committee
Grimsby – in development
Lincoln Age-Friendly Committee
Niagara Falls Senior Citizens Advisory Committee
Niagara-on-the-Lake Community Wellness Committee
Pelham Senior Citizens Advisory Committee
Port Colborne Senior Citizens Advisory Committee
St. Catharines Advisory Committee on Older Adults
Thorold Age-Friendly Advisory Committee
Wainfleet Age-Friendly Advisory Committee
Welland Senior Citizens Advisory Committee
West Lincoln Age-Friendly Committee

Bridges Community Health Centre and the Ridgeway Legion Branch 230 also participate in the network.

Communicating Results

Not applicable.

Alternatives

Council may choose to direct staff to seek designation as an Age Friendly Community. This is not recommended as the Town's Accessibility Advisory Committee and Senior Citizens Advisory Committee already play a role in making sure our community provides opportunity for all ages.

Conclusion

While the Age Friendly Niagara initiative responds to the needs of our seniors, the Town's many different Advisory Committees, Official Plans, Secondary and Neighbourhood Plan, Multi-Year Accessibility Plans, Parks and Open Space Plans all respond to an inclusive community, one that is welcoming to all ages and abilities.

Corporate Services

Prepared for	Council-in-Committee	**Report No.**	CS-05-2021
Agenda Date	May 17, 2021	**File No.**	230513

Subject

ADJUSTMENTS, REBATES, UNDER SECTION 357 AND 358 FOR 2018, 2019 AND 2020

Recommendation

THAT Council approves the cancellation, reduction or refund of taxes and penalties in the amount of $18,395.44 as per Appendix "1" to Report No. CS-05-2021 in accordance with Section 357 and 358 of the *Municipal Act, 2001* and directs staff to submit a By-law to Council.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: N/A
Goal: N/A
Initiative: N/A

List of Stakeholders

Mayor & Council
Municipal Staff
Town of Fort Erie Ratepayers
Region and School Boards

Prepared by:	Submitted by:	Approved by:
Original Signed	*Original Signed*	*Original Signed*
Gillian Corney, Manager, Revenue & Collections	Jonathan Janzen, CPA, CA Director, Corporate Services	Tom Kuchyt, CET Chief Administrative Officer

Purpose of Report

In accordance with Section 357 and 358 of the *Municipal Act, 2001*, ratepayers may make application for cancellation, reduction or refund of taxes levied in the year in respect of an occurrence, which would materially change their assessment. These applications may be submitted for the current and previous two tax years. Council is being requested to authorize the reduction of taxation as per the attached Appendix "1".

Analysis

See Appendix "1" attached for a complete listing of all tax accounts receiving a credit adjustment.

The adjustment code "CC" – Change of Property Class is for properties that moved from the commercial property class to the residential property class. This includes properties used as model homes for builders and subsequently sold as residential units.

The adjustment code "FR" or "FD" is for assessment reductions for properties that have been damaged/razed by fire or demolition.

Financial/Staffing and Accessibility (AODA) Implications

The proportionate shares of the $18,395.44 in tax adjustments between the Town, Region and School Boards are shown in the table below:

YEAR	MUNICIPAL	BIA CHARGES	INTEREST	REGION	SCHOOL BOARDS	TOTAL
2018	65.53	38.53	-	60.79	119.63	284.48
2019	65.54	37.71	-	60.71	113.42	277.38
2020	5,336.76	592.08	1,553.91	5,103.46	5,247.37	17,833.58
TOTAL	**$ 5,467.83**	**$ 668.32**	**$ 1,553.91**	**$ 5,224.96**	**$ 5,695.29**	**$ 18,395.44**

The 2021 budget for tax adjustments and write-offs including vacancy and charitable rebate programs is $279,500. The municipal share of the above write-off will bring the year to date tax write-off balance to $22,387.

Policies Affecting Proposal

Sections 357 and 358 of the *Municipal Act, 2001*.

Comments from Relevant Departments/Community and Corporate Partners

Section 357 and 358 applications are forwarded to MPAC's Regional Assessment Office #18 for their investigation and recommendation.

Communicating Results

N/A

Alternatives

Council may choose not to approve the recommended adjustments of taxes. The decision could then be further appealed to the Assessment Review Board by the property owner. It would not generally be appropriate for Council to deny approval of these applications since they are not errors in judgment but errors in fact, i.e. clerical error or physical change such as demolition of a building.

Conclusion

The *Municipal Act, 2001* prescribes that tax adjustment applications under Section 357/358 are presented to and approved by Council.

Attachments

Appendix “1” – Tax Adjustment Summary

Appendix "1" to Administrative Report No. CS-05-2021

Tax Adjustment Summary

ADDRESS	ROLL NO.	CODE	TAXES 2018	TAXES 2019	TAXES 2020	PENALTY & INTEREST	TOTAL
80 CATHERINE	010 043 06004	CC			333.31		333.31
84 CATHERINE	010 043 06006	CC			622.41		622.41
88 CATHERINE	010 043 06007	CC			314.61		314.61
94 JARVIS	010 049 04200	FR			2,783.17	313.11	3,096.28
80-84 JARVIS	010 049 04300	FR			5,232.19	588.60	5,820.79
244 JARVIS	010 050 04900	CC	284.48	277.38	272.82		834.68
345-353 STONEMILL	020 010 29400	FR			295.89		295.89
63 BUTLERS N	020 012 33159	CC			2,454.75	46.94	2,501.69
1-3573 DOMINION	020 012 33301	CC			2,823.28	488.35	3,311.63
47-340 PROSPECT	020 012 34147	CC			434.95	116.91	551.86
354 WESTWOOD	020 017 16000	FR			355.71		355.71
996 ARTHUR	020 019 04500	FR			281.01		281.01
4068 ERIE	030 004 22500	FR			75.57		75.57
			$ 284.48	**$ 277.38**	**$ 16,279.67**	**$ 1,553.91**	**$ 18,395.44**

Legend

BE	Became Exempt
CC	Change Property Class
ER	Gross Clerical Error
FD	Damaged by Fire or Demolition
FR	Razed by Fire or Demolition
RP	Repairs/Renovations Preventing Normal Use

Planning and Development Services

Prepared for	Council-in-Committee	**Report No.**	PDS-38-2021
Agenda Date	May 17, 2021	**File No.**	350309-0506

Subject

PROPOSED COMBINED OFFICIAL PLAN & ZONING BY-LAW AMENDMENT
0-5513 DOMINON ROAD
ESSENTIAL CAPITAL INC (FRANK IANNIELLO) - OWNER
PLANNING SERVICES INC (JOHN PERRY) - AGENT

Recommendation

THAT Council receives for information purposes Report No. PDS-38-2021 regarding a proposed Combined Official Plan and Zoning By-law Amendment for 0-5513 Dominion Road.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

Essential Capital Inc (Frank Ianniello) - Owner
Professional Planning Services Inc (John Perry) - Agent
Residents and Property Owners in the Town of Fort Erie

Prepared by:	Reviewed and Submitted by:	Approved by:
Original Signed	***Original Signed***	***Original Signed***
Daryl Vander Veen Junior Planner	Aaron Butler, MCIP, RPP Manager, Development Approvals	Tom Kuchyt, C.E.T. Chief Administrative Officer

Purpose

The purpose of this report is to provide information to Council on a proposed Combined Official Plan and Zoning By-law amendment in support of the May 17, 2021 Public Meeting on the application. John Perry of Professional Planning Services Inc (Agent) submitted the application on behalf of the Owner, Essential Capital Inc (Frank Ianniello) for the lands known as 0-5513 Dominion Road. The Owner intends to file a consent application to create a new lot for future development of a single detached dwelling. The intention is to also develop a single detached dwelling on the retained lot.

A location map showing the subject lands is attached as **Appendix "1"**.

An Official Plan Amendment is required as the proposed lot does not meet infill policy in the Town's Official Plan required to sever a lot in the Rural Area, namely the requirement that the new lot is between two features on the same side of the road with a distance of 90.00 m or less between them. A Zoning By-law Amendment is required to permit the proposed lot areas of 0.68 ha for the new lot and 1.77 ha for the retained lot, and the lot frontage of 54.79 m for the new lot. An application sketch of the proposal is attached as **Appendix "2"** for reference.

Town Staff have met with the land owner, their agents, Niagara Region Staff and Niagara Peninsula Conservation Authority Staff to discuss comments received to date, prior to the preparation of this report.

Nature of the Site

The subject property is located in the rural area of the Town of Fort Erie on the south side of Dominion Road, west of Rosehill Road. A watercourse runs through the site in a north-south direction. The following summarizes the land uses surrounding the subject property:

North: A large, vacant, wooded parcel that is identified as Locally Significant Wetlands under the regulation of the Niagara Peninsula Conservation Authority. A municipal drain (Bertie Bay Drain) exists on the property to the north and extends into the subject property.

South: A hydroelectric corridor owned by Canadian Niagara Power and the Fort Erie Friendship Recreational Trail. Further south are wooded lands, a Locally Significant Wetland and several single detached dwellings.

East: Vacant rural land, a rural commercial operation and single detached dwellings. A hydroelectric substation is under construction at the corner of Dominion and Nigh Roads.

West: Vacant rural land and single detached dwellings along Dominion Road.

Planning Context

2020 Ontario Provincial Policy Statement (PPS)

The PPS permits residential development on rural lands, including lot creation, that is locally appropriate. Development must be compatible with the rural landscape, capable of being sustained by rural service levels with available infrastructure and comply with minimum distance separation (MDS) requirements.

The PPS also requires that natural features and areas shall be protected for the long term. The diversity and connectivity of natural features in an area and the long-term ecological function and biodiversity of natural heritage systems should be maintained, restored or, where possible, improved. Development and site alternation shall not be permitted adjacent to natural heritage features or fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on natural features or their ecological functions.

The PPS does not permit development or site alteration on lands identified as having archaeological potential unless archaeological resources have been accessed and significant archaeological resources have been conserved.

2019 Ontario Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The Growth Plan allows limited development in rural areas provided they are compatible with the rural landscape and surrounding local land uses, will be sustained by rural service levels will not adversely affect the protection of agricultural uses or other resource-based uses such as mineral aggregate operations.

The Growth Plan seeks to limit residential development in rural areas by requiring new multiple lots for residential development to be located within settlement areas. The Growth Plan defines multiple lots as the creation of more than three lots through a plan of subdivision, consent, or plan of condominium. The subject application is only proposing to create one new lot.

The subject property is also identified as forming part of the Provincial Natural Heritage System. The Growth Plan requires a vegetation protection zone (VPZ) with a minimum width of 30 m from the outside boundary of fish habitat, significant woodlands, and/or a key hydrologic feature (KHF) such as wetlands or intermittent streams. Development or site alteration is not permitted within the VPZ. Niagara Region has provided comments relative to Provincial policy that a minimum 30 m VPZ is required adjacent to the drain on the property as it has been identified as an intermittent watercourse in the applicant's Environmental Impact Study (EIS), whereas the applicant has proposed a 10 m development buffer from the feature. Further, the applicant's EIS has identified wetland vegetation site, near the watercourse; this area may be included within the adjacent Thunder Bay Woodlot Wetland Complex. If so, the Growth Plan requires the minimum 30 m VPZ from the outer edge of this feature as well.

2014 Niagara Region Regional Official Plan (ROP)

The subject property is designated as Rural Area in the Regional Official Plan. Niagara Region's ROP permits a limited amount of non-farm development in areas designated as Rural Area including lot creation provided the development is limited to three lots or less and the proposed lots and soils are capable of long-term operation of a private sewage disposal system. Development is intended to be low-intensity and compatible with other uses in the area, including agricultural uses. Minimum lot size for new lots is 1 hectare (ha) unless a hydrogeological study demonstrates that a smaller lot can accommodate an appropriately-sized septic system. The applicant has submitted a hydrogeological study with the application to support smaller lot areas.

Niagara Region staff have confirmed that the subject property is impacted by the Region's Core Natural Heritage System (CNHS) and is also part of the Growth Plan's Provincial Natural Heritage System (PNHS). The Region notes that the site is identified as a Potential Natural Heritage Corridor and previous correspondence at the pre-consultation stage indicated that there may be other unknown natural heritage features on site as the municipal drain connects natural heritage features north and south of the property. Niagara Region has provided detailed feedback on the Agent/Owner's Environmental Impact Study (EIS) and have requested that an Addendum to the EIS be completed to address components that require further information or greater detail. These comments are summarized under the EIS heading in the Studies Section of this report.

2011 Town of Fort Erie Official Plan

Official Plan Schedule A – Land Use Plan

The subject property is designated Rural in the Town's Official Plan Schedule A. Lands with Rural designation are reserved for agriculture of all types. Other uses may be permitted such as development of single detached dwellings provided Official Plan policies are met and sustainable water and private septic systems can be supported.

Official Plan - Consent to Sever Infill Policy

Consents are permitted in areas with Rural land use designation if the proposal meets the infilling regulations under Subsection 4.6.3.II of the Official Plan. Subsection 4.6.3.II (a) permits creation of an infilling lot if it fronts onto a public road and is on the same side of the road between an existing dwelling and another existing dwelling, natural heritage feature or improved road allowance and the distance between such buildings or features is 90 metres or less. In this case, the distance between features exceeds the 90 metre limit and an Official Plan Amendment is required to create the proposed lot.

Official Plan Schedule B – Mineral Aggregate & Petroleum Resources

The subject property is not located within area identified as petroleum resource area or selected bedrock resource area as identified on Schedule B of the Official Plan. A review of petroleum well map data from the Province of Ontario indicates that there are no existing wells on the subject property or within 75.00 m of it.

Official Plan Schedule C – Natural Heritage Features

Schedule C of the Town's Official Plan does not identify any natural heritage features directly on the subject property. Locally Significant Wetland, Locally Significant Natural Area, Environmentally Sensitive Area and a Woodlot over 2 ha are north of the property on the other side of Dominion Road. Locally Significant Wetland, Locally Significant Natural Area, and a Woodlot over 2 ha are south of the subject property on the other side of the Fort Erie Friendship Trail. The subject property is within an Environmental Corridor buffer that corresponds to the Fort Erie Friendship Trail. The Bertie Bay municipal drain on the subject property connects the natural heritage features north and south of the subject property.

Comments provided by Niagara Region confirm that the subject property is within the Provincial Natural Heritage System and is impacted by the Region's Core Natural Heritage System. An Environmental Impact Study (EIS) Addendum is required to confirm the status and extent of the potential wetland areas with the Ministry of Natural Resources and Forestry (MNRF) and if they are complexed in with other wetland areas north and south of the property. This may impact the boundaries of the new and proposed lots and the proposed septic systems. A revised hydrogeological assessment will be needed to confirm that land area available for development is appropriate.

Official Plan Schedule C1 – Natural Hazards and Fish Habitat

Schedule C1 of the Town's Official Plan does not identify any natural hazard area on the subject property. The Bertie Bay municipal drain is identified as an unclassified stream fish habitat.

Niagara Region has also confirmed that the Bertie Bay municipal drain is considered to be a key hydrologic feature under the Provincial Growth Plan. As such, the minimum required setback from a key hydrologic feature is 30 m through a vegetation protection zone. This may impact the boundaries of the new and proposed lots and the proposed septic systems. The Region has requested that the Owner/Agent's EIS be updated via an Addendum to address these issues in greater detail.

Official Plan Schedule D – Cultural Heritage Archaeological Zones of Potential

Schedule D of the Official Plan identifies the subject property as being within area with archaeological potential. The Owner/Agent obtained an archaeological consultant to conduct a Stage 1 & 2 archaeological assessment. The Stage 2 assessment did not

locate any cultural heritage or archaeological resources and so the study recommended that no further assessment is required for the subject property.

Official Plan Section 13.7 – Amendments to the Land Use Plan, Schedule "A"

Section 13.7 of the Official Plan outlines a set of criteria to be considered by Council when amendments to the Official Plan Schedule A or to the Zoning By-law are proposed. Detailed analysis of the consistency of this proposal with Section 13.7 will be included in the future recommendation report to Council following the completion of public and agency consultation, including the required updates to studies.

Town of Fort Erie Comprehensive Zoning By-law No. 129-1990

The subject property is currently zoned Rural (RU) Zone in accordance with the Town of Fort Erie's Comprehensive Zoning By-law No. 129-1990. The RU zoning permits development of one single detached dwelling on one lot as well as accessory buildings and uses. The RU zoning requires a minimum lot frontage of 95.00 m and a minimum lot area of 6.00 ha per lot.

A Zoning By-law Amendment is required as both the new lot and the retained lot proposed by this application are less than 6.00 ha in area. The proposed lot also has less than 95.00 m of lot frontage.

The proposed Zoning By-law Amendment will therefore change the zoning of the property from Rural (RU) zone to a site-specific Rural (RU-XX) with the following zoning exceptions:

Zoning Regulation	Zoning By-law Requirement (RU Zone)	Proposal
Minimum Lot Area	6.00 ha	New Lot – 0.68 ha Retained Lot – 1.77 ha
Minimum Lot Frontage	95.00 m	New Lot – 54.79 m Retained Lot – Meets requirement

Based on feedback received from Niagara Region and the Niagara Peninsula Conservation Authority (NPCA) regarding key hydrologic and natural heritage features on site, Environmental Protection (EP) zoning or Environmental Conservation (EC) Overlay zoning may also need to be implemented to protect environmental sensitive areas on the subject property. This will be reviewed by planning staff in greater detail once the Agent/Owner has submitted an EIS Addendum and detailed comments are provided by the Region and NPCA following the outcome of the report. Staff will evaluate any changes to the sizes of the proposed lots as a result of the EIS Addendum, and report to Council.

Studies

Archaeological Assessment

The Owner/Agent obtained an archaeological consultant to assess if there are any archaeological resources on the subject property. A Stage 1 background research assessment of the site indicated moderate to high potential for the subject site to have archaeological resources. A Stage 2 field assessment then followed consisting of test pits spaced at 5 m intervals across the site. No archaeological material was located in the test pits and so the archaeological assessment concluded that no further archaeological assessment of the development area is recommended.

Niagara Region has reviewed the draft archaeological assessment and did not object to the conclusions of the study. However, the Region notes that they require a final copy of the archaeological assessment and an acknowledgement letter from the Ontario Ministry of Heritage, Culture, Tourism and Sport (MHSTCI) affirming that the assessment meets Provincial requirements and has been entered into the Provincial registry system for archaeological reports. This will be required as a condition of consent should the proposed Official Plan and Zoning By-law Amendments be approved.

Environmental Impact Study

The Owner/Agent obtained an environmental consultant to prepare a scoped Environmental Impact Study (EIS) in support of this application. The EIS involved a background review of relevant Provincial, Regional, NPCA and Town environmental policy and a field inventory. The field inventory examined spring and summer vegetation of the property, classification of vegetation on site using Provincial standards, surveys of amphibian vocalizations, assessment of potential habitat in the watercourse, an assessment of potential bat habitat, documentation of wildlife encountered on the site over the course of the study and completion of a species at risk screening.

Notable conclusions from the EIS are as follows:

- One provincially rare flower species known as Slender Mountain Mint and one locally rare flower species known as Small-flowered Agrimony were identified on the eastern portion of the retained lot on the east side of the municipal drain. No development is proposed in this area.
- A significant area of land along the municipal drain is classified as Reed-Canary Grass Mineral Meadow Marsh Type vegetation (denoted in the study as MAM2-2). The study concludes that the marsh area does not warrant inclusion within nearby wetland complexes due to the small size of the marsh area and limited wetland functions provided by the vegetation community.
- The Bertie Bay municipal drain is described an intermittent watercourse that possibly functions as seasonal fish habitat for small fish entering the watercourse from Lake Erie.

- The subject property is deemed to not be providing significant habitat for an Endangered or Threatened species of fauna. The EIS recommends that the land east of the municipal drain remain in its natural vegetated state to retain the Slender Mountain Mint east of the drain.
- No vegetation is present on or adjacent to the subject property that serves as habitat for rare species or specialized habitat for amphibian breeding grounds.
- No special concern or rare wildlife species were observed on the subject property.
- The study notes that the property is included in the Provincial Natural Heritage System and is identified within a potential natural heritage corridor in Niagara Region Core Natural Heritage Map. The property may function as a linkage between natural heritage features north and south of the site and so the EIS recommends that a portion of the lands remain in a naturally vegetated condition to preserve linkage.
- The EIS concludes that a 10.00 m naturally vegetated buffer be maintained on either side of Bertie Bay municipal drain to avoid impacts on the watercourse and amphibian breeding.

Niagara Region Comments

Niagara Region has expressed some concerns with the current EIS and have requested that an EIS Addendum be completed to provide more information and analysis on potential natural heritage features and key hydrologic features on site. The first is the adequacy of the proposed 10.00 m vegetated buffer from Bertie Bay municipal drain recommended by the EIS. The drain is considered to be a key hydrological feature in the Provincial Growth Plan and is also identified in the study as being potential fish habitat. The Growth Plan requires a minimum setback of 30 m for a vegetation protection zone from this hydrologic feature.

Second, of additional concern was the classification of a significant portion of the property on the retained lot as MAM2-2 marsh type vegetation. Based on the description of this area in the EIS as well as the linkage to natural heritage areas north and south of the subject property, this area may be unevaluated wetland area, and would be subject to Growth Plan policies and NPCA regulations if complexed in with other wetland areas that are nearby. If this is the case these areas are unsuitable for development and a 30 m vegetation protection zone must be maintained from its boundary. The Agent’s environmental consultant needs to verify the status of the potential wetland area with the Ontario Ministry of Natural Resources and Forestry (MNRF) and address it in the EIS Addendum. Based on the outcome of the Addendum, the proposed lot boundaries, lot area, and septic system locations may need to be revised and the hydrogeological study updated as well. No development, including new lot lines or septic systems are permitted within wetland areas or the 30 m vegetation protection zone from a wetland area.

A third issue is the identification Slender Mountain Mint on the subject property. Niagara Region have recommended that this area should be placed in an environmental conservation zone and this should be addressed in the EIS Addendum.

Fourth, the Addendum should consider that the property is located within a Natural Heritage Corridor and examine how the corridor function of the site can be maintained post construction.

Niagara Peninsula Conservation Authority (NPCA) Comments

NPCA regulated features have been identified on site through the applicant's EIS, namely the unevaluated wetland and the watercourse. NPCA policies and regulations require a minimum development setback of 15 m from the watercourse, unless otherwise demonstrated through the completion of an EIS that less is appropriate. The NPCA is not satisfied that the current EIS supports a reduced buffer and has requested additional information through an Addendum Report. The NPCA has requested more information through the EIS Addendum to accurately characterize the wetland. The NPCA notes in their comments that their policy does permit compensation for removal of Locally Significant Wetlands (LSW). Town Staff note that should the wetlands be considered Locally Significant and complexed in with wetlands to the north and south, the 30 m vegetation protection zone required by Provincial policy would likely satisfy NPCA policy and regulations.

Hydrogeological Study

A hydrogeological study was completed by the Owner/Agent for the two lots associated with the proposal. The study concluded that the proposed new lot and the retained lot areas are of sufficient size to sustain private septic systems to service future dwellings. The septic systems will need to be designed as tertiary/level IV systems with 50% nitrogen removal technology. The septic systems will need to be located near the northern boundaries of both lots (in the front yard along Dominion Road) and maintain a 3.00 m setback from the front lot line. The study did not examine provision for private water supply as both lots will have access to Town-owned water service along Dominion Road.

Niagara Region have noted that they have reviewed the current hydrogeological study and have no objection to the conclusions and recommendations. However, based on the results of the EIS Addendum the hydrogeological study may need to be revised if the proposed lot areas or lot boundaries are impacted by the outcome of the Addendum.

Financial/Staffing Implications

All costs associated with processing the application and the development of the property is the responsibility of the owner.

Policies Affecting Proposal

Notice of the Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the April 22, 2021 edition of the *Fort Erie Post*. In addition, a 'Notice of Complete Application and Public Meeting' was mailed by Town Staff to all property owners within 120.00 m of the subject property on April 21, 2021.

Land use policies for the subject property are contained in the Town's Official Plan and applicable Regional and Provincial policies and NPCA regulations.

Comments from Relevant Departments/Community and Corporate Partners

A request for comments regarding this Zoning By-law amendment was circulated to relevant Departments/Community and Corporate Partners on April 15, 2021. Comments received to date are summarized below. Agency/Staff comments are attached as **Appendix "3"**. As of the writing of this report no comments or objections have been received from the public.

Agency Comments

Niagara Region

Niagara Region has provided detailed comments on this application in a letter attached as part of **Appendix "3"**. Regional comments on the EIS, hydrogeological study and archaeological assessment are summarized earlier in the report. An EIS Addendum is requested as the proposal does not currently meet Provincial and Regional natural heritage policies. The location of the proposed new line and development area may have to be modified to meet a 30 m setback from the natural heritage features on site. Niagara Region staff also noted that the proposed lots have access to a Town-owned water main along Dominion Road. Dominion Road is a Regional road that was recently rebuilt and is still undergoing maintenance. Connection to the water main will not be permitted until August 1, 2021 so as to not impact the maintenance period of the road. Regional construction, encroachment and entrance permits will be required.

Niagara Peninsula Conservation Authority (NPCA)

NPCA has provided detailed comments on this application in a letter attached as part of **Appendix "3"**. NPCA comments on the EIS are summarized earlier in the report. NPCA Staff have requested an EIS Addendum to accurately characterize the wetland area on site and to justify any reductions in setback requirements from the regulated watercourse. Town Staff note that should the wetlands be considered Locally Significant and complexed in with wetlands to the north and south, the 30 m vegetation protection zone required by Provincial policy would likely satisfy NPCA policy and regulations.

Staff Comments

Chief Building Official

No comments or objections.

Fort Erie Fire Department

No comments or objections.

Infrastructure Services – Coordinator, Development Approvals

No comments or objections.

Manager, Community Planning

No comments or objections.

Neighbourhood Planner

No comments or objections.

Environmental Advisory Committee

The Town's Environmental Advisory Committee will be asked to comment on the Addendum to the Environmental Impact Study and any modified proposal.

Public Comments

An information open house meeting for this application was held on April 27, 2021. Notice of the information open house was uploaded to the Town's public notice page on and mailed to all property owners within 120.00 m of the subject property on April 15, 2021. One member of the public attended the information open house meeting due to interest in the proposed new lot. No objections to the proposal were provided. Another member of the public provided an email the following day with interest in the proposal. Staff forwarded a copy of the information open house presentation along with notes. The member of the public did not have any further comments or questions as of the writing of this report.

Notice of the May 17, 2021 Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the April 22, 2021 edition of the *Fort Erie Post*. In addition, all property owners within 120 metres of the subject lands were mailed a "Notice of Complete Application and Public Meeting" on April 21, 2021. As of the writing of this report no comments or objections have been submitted to staff.

Alternatives

N/A

Communicating Results

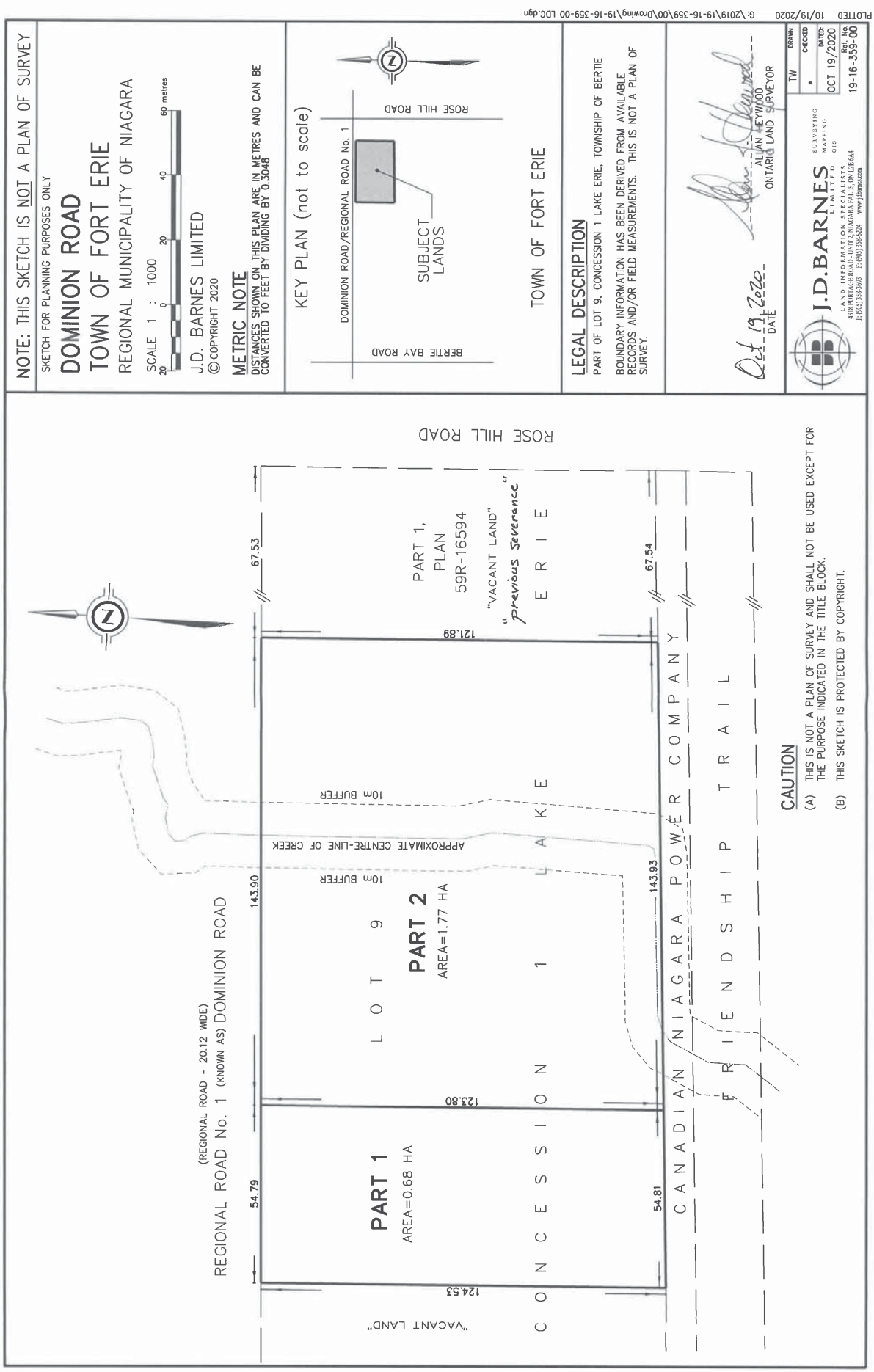
There are no communication requirements at this time.

Conclusion

This report is submitted to Council for information purposes at this time. Staff will continue to work with the applicant, their agent, and relevant agencies to resolve the natural heritage concerns outlined in the report and to satisfy Provincial, Regional, Town and NCPA policies. Once these concerns are resolved or otherwise concluded, Staff will then will prepare a recommendation report to Council on the proposed Zoning By-law Amendment at a future Council meeting.

Attachments

Appendix "1" - Location Plan
Appendix "2" - Application Sketch
Appendix "3" - Agency and Staff Comments


PLOTTED 10/19/2020 G:\2019\19-16-359\00\Drawing\19-16-359-00 LDC.dgn
NOTE: THIS SKETCH IS NOT A PLAN OF SURVEY
SKETCH FOR PLANNING PURPOSES ONLY
DOMINION ROAD
TOWN OF FORT ERIE
REGIONAL MUNICIPALITY OF NIAGARA
SCALE 1 : 1000
20 0 20 40 60 metres
J.D. BARNES LIMITED
© COPYRIGHT 2020
METRIC NOTE
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048
KEY PLAN (not to scale)
BERTIE BAY ROAD
DOMINION ROAD/REGIONAL ROAD No. 1
ROSE HILL ROAD
SUBJECT LANDS
TOWN OF FORT ERIE
LEGAL DESCRIPTION
PART OF LOT 9, CONCESSION 1 LAKE ERIE, TOWNSHIP OF BERTIE
BOUNDARY INFORMATION HAS BEEN DERIVED FROM AVAILABLE RECORDS AND/OR FIELD MEASUREMENTS. THIS IS NOT A PLAN OF SURVEY.
Oct 19, 2020
DATE
ALLAN HEYWOOD
ONTARIO LAND SURVEYOR
J.D.BARNES LIMITED
SURVEYING MAPPING GIS
LAND INFORMATION SPECIALISTS
4318 PORTAGE ROAD - UNIT 2, NIAGARA FALLS, ON L2E 6A4
T: (905) 358-3693 F: (905) 358-6224 www.jdbarnes.com
TW DRAWN
CHECKED
DATED: OCT 19/2020
Ref. No. 19-16-359-00
ROSE HILL ROAD
PART 1, PLAN 59R-16594
"VACANT LAND"
"previous severance"
E R I E
67.53
67.54
121.89
10m BUFFER
APPROXIMATE CENTRE-LINE OF CREEK
10m BUFFER
143.90
143.93
L A K E
L O T 9
PART 2
AREA=1.77 HA
C O N C E S S I O N 1
123.80
54.79
54.81
PART 1
AREA=0.68 HA
124.53
"VACANT LAND"
REGIONAL ROAD No. 1 (KNOWN AS) DOMINION ROAD
(REGIONAL ROAD - 20.12 WIDE)
C A N A D I A N N I A G A R A P O W E R C O M P A N Y
F R I E N D S H I P T R A I L
CAUTION
(A) THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.
(B) THIS SKETCH IS PROTECTED BY COPYRIGHT.

Re: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

Ed Melanson to: Daryl Vander Veen 2021-04-19 02:18 PM

From: Ed Melanson/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie

Good afternoon Daryl,

I have reviewed that attached proposed official plan and zoning by-law amendments and have no questions, concerns or comments at this time.

Thanks for reaching out.

Ed Melanson
Fire Chief / CEMC
Office: (905) 871-1600 ext. 2600
Cell: (905) 329-7255

Daryl Vander Veen Good evening, A complete application for a Co... 2021-04-15 05:01:03 PM

From: Daryl Vander Veen/FortErie
To:
Date: 2021-04-15 05:01 PM
Subject: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

Good evening,

A complete application for a Combined Official Plan and Zoning By-law amendment has been received from John Perry of Planning Services Inc on behalf of Essential Capital Inc. (Frank Iannielllo) for 0-5513 Dominion Road, a rural property located in the Town of Fort Erie.

This Combined Official Plan and Zoning By-law amendment application seeks to permit creation of one new lot in area designated Rural in the Town's Official Plan. The proposed new lot does not meet the infill policies in the Town's Official Plan for a severance in the Rural area so an Official Plan Amendment is required. A Zoning By-law amendment is also required to permit the proposed lot area of the retained and new lot and to permit deficient lot frontage for one of the lots.

The Official Plan land use designation will remain Rural. The zoning of the subject property is proposed to change from Rural (RU) Zone to a site-specific Rural (RU-XX) Zone.

The following is submitted for your review:

Interoffice Memorandum

April 22, 2021
File No. 350302-0123 and 350309-0487

To: Daryl Vander Veen, Junior Planner
From: Jeremy Korevaar, Coordinator, Development Approvals
Subject: **Application for Combined Official Plan and Zoning By-law Amendment - 0-5513 Dominion Road**

On behalf of the Infrastructure Services Department, Engineering Division, I have reviewed the proposed Combined Official Plan and Zoning By-law Amendment for **0-5513 Dominion Road** and the supporting documentation and have no comments or objection.

Jeremy Korevaar, C.E.T.
Coordinator, Development Approvals

Re: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

Keegan Gennings to: Daryl Vander Veen 2021-04-22 04:03 PM

From: Keegan Gennings/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie

Hi Daryl
I have no comments concerning the creation of the new lot and associated planning applications.

Regards,

Keegan Gennings C.B.C.O
Chief Building Official
Town of Fort Erie
905-871-1600 ext. 2515

Daryl Vander Veen Good evening, A complete application for a Co... 04/15/2021 05:01:03 PM

From: Daryl Vander Veen/FortErie
To:
Date: 04/15/2021 05:01 PM
Subject: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

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The Official Plan land use designation will remain Rural. The zoning of the subject property is proposed to change from Rural (RU) Zone to a site-specific Rural (RU-XX) Zone.

The following is submitted for your review:

0. Pre-consultation Agreement
1. Application for Combined Official Plan and Zoning By-law Amendment
2. Survey Sketch
3. Environmental Impact Study
4. Hydrogeology Report
5. Archaeological Assessment
6. Planning Justification Report
7. Location Map

Re: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

Pieter Wasserman to: Daryl Vander Veen 2021-05-05 09:29 AM
Cc: Signe Hansen

From: Pieter Wasserman/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie
Cc: Signe Hansen/FortErie@TownOfFortErie
History: This message has been replied to.

Hi Daryl,

I do not have any comments on the combined OPA and ZBA application on this site. The site is also not located in a Secondary Plan area.
I may however have comments at a later development stage.

Thank you!

Kind regards,

Pieter Wasserman, M.Arch (Prof.), MCPUD
Neighbourhood Planner & Urban Designer
Community Planning
The Corporation of the Town of Fort Erie| Planning and Development Services
1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6
T: 905-871-1600 x 2503| F: 905-871-6411

Daryl Vander Veen Good evening, A complete application for a Co... 04/15/2021 05:01:03 PM

From: Daryl Vander Veen/FortErie
To:
Date: 04/15/2021 05:01 PM
Subject: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

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The Official Plan land use designation will remain Rural. The zoning of the subject property is proposed to change from Rural (RU) Zone to a site-specific Rural (RU-XX) Zone.

The following is submitted for your review:

Re: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

Signe Hansen to: Daryl Vander Veen 2021-05-05 09:14 AM
Cc: Pieter Wasserman

From: Signe Hansen/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie
Cc: Pieter Wasserman/FortErie@TownOfFortErie
History: This message has been replied to.

Good morning Daryl

I do not have any comments relative to the combined OPA and ZBA application.
I will have comments at the development stage.

Regards
Signe

Signe Hansen, OALA, CSLA, MBA
Manager, Community Planning
The Corporation of the Town of Fort Erie| Planning and Development Services
1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6
T: 905-871-1600 x 2506| F: 905-871-6411

Daryl Vander Veen Good evening, A complete application for a Co... 2021-04-15 05:01:03 PM

From: Daryl Vander Veen/FortErie
To:
Date: 2021-04-15 05:01 PM
Subject: Request for comments - Proposed Combined Official Plan & Zoning By-law amendment (0-5513 Dominion Road, Fort Erie, file nos. 350302-0123 & 350309-0487)

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The Official Plan land use designation will remain Rural. The zoning of the subject property is proposed to change from Rural (RU) Zone to a site-specific Rural (RU-XX) Zone.

The following is submitted for your review:

0. Pre-consultation Agreement
1. Application for Combined Official Plan and Zoning By-law Amendment
2. Survey Sketch

Via Email Only

May 6, 2021

File No.: D.10.01. OPA-20-0008, D.18.01 ZA-20-0022

Mr. Daryl Vander Veen
Junior Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Mr. Vander Veen:

Regional and Provincial Comments
Official Plan and Zoning By-law Amendment
Applicant: Essential Capital Inc., Frank Ianniello
Agent: John Perry
0-5513 Dominion Road, SS Dominion, West of Rosehill Road
Town of Fort Erie

Regional Development Services staff has reviewed the information circulated for the subject applications. Currently, the lands are designated Rural and zoned Rural (RU). The Official Plan amendment is requested because the proposed lots do not comply with the definition of infill lots as outlined in the plan. The Zoning By-law amendment application is requested to add site-specific regulations to the existing RU zone to facilitate a future severance to create one new rural residential lot.

A formal pre-consultation meeting was held for this application on January 10, 2019 at Fort Erie Town Hall. The application and associated fees were received on April 15, 2021. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering this application.

Provincial and Regional Policies

The subject property is located outside of the Urban Area Boundary for the Town of Fort Erie, and within the Rural Area according to the Provincial Policy Statement (PPS). Provincial policy states that limited residential development may be directed to rural lands provided the development is locally appropriate, does not adversely affect the viability of agricultural uses, is compatible with the rural landscape and can be sustained by rural services.

The 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan) states that Provincial mapping of the Agricultural System for the Greater Golden Horseshoe does not apply until it has been implemented in applicable upper-tier and single-tier Official Plans. Until that time, Prime Agricultural areas identified in upper- and single-tier Official Plans that were approved and in effect as of July 1, 2017 will be considered the agricultural land base for the purposes of this Plan. Provincial mapping of the Provincial Natural Heritage System for the Growth Plan does not apply until implemented in the applicable upper-tier and single-tier Official Plans. Until that time, Growth Plan Natural Heritage System policies apply outside settlement areas to the Natural Heritage Systems identified in Official Plans that were approved and in effect as of July 1, 2017.

The subject lands are designated Rural in the Regional Official Plan (ROP). Regional policies provide for some non-farm residential development in the Rural area. This development is limited to three (3) lots or less dependent on private services and size of lots. The minimum lot size minimum lot size within the Rural area is to be 1 hectare unless it is determined through a hydrogeological study that considers potential cumulative impacts that a smaller size lot will adequately accommodate private water and sewage treatment facilities for long term operation. Applications for three lots or less should be accompanied by a drainage plan and should be subject to site plan approval. Based on the sketch, the proposed lot sizes are 0.68 ha and 1.77 ha.. A Hydrogeological Study has been submitted in support of the reduced lot size, which is discussed further below.

The policies state that non-farm residential development, within the Rural Area, will be subject to detailed regulations by the area municipality through their Official Plans and Zoning By-laws. In order to mitigate the cumulative impact of continuous introduction of non-farm development outside settlement areas, the long-term pattern and character of future rural development is to be carefully considered. ROP policy stipulates that rural residential development is to retain desirable natural features and vegetation and may also make provision for the enhancement of the site. In addition, it must be suitable to the physical characteristics of the site and provide suitable soil and drainage conditions that will permit the proper siting of buildings and the supply of potable water and installation of long-term operation of sanitary waste disposal.

Core Natural Heritage System

The subject property is impacted by portions of the Region’s Core Natural Heritage System (CNHS) and is also identified by the Growth Plan (2019) as forming part of the Provincial Natural Heritage System (PNHS). On-site, the CNHS consists of a Potential Natural Heritage Corridor, however, through the review of aerial imagery and the completion of site visit, it was noted at the January 10, 2019 pre-consultation meeting that the property has potential for unidentified important environmental features (e.g., wetland, watercourse/fish habitat, woodland). Further, adjacent to the site, both north and south, the CNHS consists of Environmental Conservation Area (ECA), which includes both Significant Woodland and Locally Significant Wetland. As such, Regional Environmental Planning staff requested the completion of a scoped Environmental

Impact Study (EIS) in support of development and/or site alteration proposed on the subject lands.

Regional Environmental Planning staff have reviewed the EIS prepared by Colville Consulting Inc., dated November 2019, and a number of concerns were identified that should be addressed in an updated EIS or EIS Addendum in order to satisfy Regional staff that the conclusions of the EIS are valid. Details are summarized below.

1. The EIS indicates that there is a wetland vegetation community on the subject lands, specifically Reed-canary Grass mineral meadow Marsh Type (MAM2-2). Although the EIS concludes that the marsh does not warrant inclusion within the adjacent Thunder Bay Woodlot Wetland Complex, Ministry of Natural Resources and Forestry (MNRF) confirmation should have been included in the EIS and is still required. If the marsh is not deemed to form part of the wetland complex, the marsh should be evaluated by the Niagara Peninsula Conservation Authority (NPCA) to determine the extent of regulated wetlands on the subject lands. Any wetland confirmed as a Locally Significant Wetland by the MNRF or Regulated Feature by the NPCA is considered an Other Wetland by the Regional Official Plan. Correspondence from both agencies must be included in the EIS addendum.

2. Consistent with Policy 4.2.4.1c of the Provincial Growth Plan (2019), a vegetation protection zone (VPZ) no less than 30 m is required from the outside boundary of a Key Hydrologic Feature (KHF), fish habitat, and/or significant woodland. Development or site alteration is not permitted within the feature or its VPZ. The definition of KHF includes wetlands and intermittent streams. The EIS identifies both an intermittent watercourse and wetland on the subject lands. As such, at a minimum the intermittent watercourse requires a minimum 30 m VPZ, as measured from the surveyed Top of Bank. In addition, depending on the results of the MNRF and NPCA review of the marsh community it may also require a 30 m VPZ, as measured from the outside extent of its confirmed boundary. Consistent with Growth Plan policy, the VPZ must be established to achieve and be maintained as natural self-sustaining vegetation.

3. Slender Mountain Mint was identified on the subject lands, which is identified as an Environmental Conservation Area (ECA) feature under ROP policy (7.B.1.4 – Significant Habitat of Species of Concern). As such, the extent of its habitat should be placed into an appropriately restrictive environmental conservation zone. Any proposed changes to the location of this species should be addressed in the EIS Addendum. Staff request that the Town or the Applicant share the species location and details related to its sensitivity with the adjacent landowner (Canadian Niagara Power) for their information and allow them to help mitigate negative impacts to the extent possible.

4. Consideration of the Natural Heritage Corridor should be completed to ensure that the Corridor function of the site is maintained post construction.

Staff note that as it relates to future consent applications, consistent with Regional Official Plan (ROP) policy 7.B.1.18, new lots shall not extend into either the area to be retained in a natural state as part of the CNHS or the buffer zone identified through an Environmental Impact Study (EIS). This includes the provincially required minimum 30 m VPZ's. Please ensure that any newly proposed lot lines conform to Regional policy.

In summary, Environmental Planning staff request the completion of an updated EIS (with changes clearly identified to facilitate review) or EIS addendum to address the concerns summarized above.

We look forward to working with the applicant and are open to meeting to further discuss our comments, if desired.

Hydrogeological

Regional staff note that ROP policy for rural residential lot creation limits such development to three lots or less. The minimum lot size is to be 1 hectare unless it is determined through a hydrogeological study that a smaller lot size will adequately accommodate the long term operation of private water and sewage treatment facilities without risk to groundwater supplies. It is noted that the subject lands are mapped as a Highly Vulnerable Aquifer with the bedrock aquifer having less than 2 m of sediment protecting it. A Highly Vulnerable Aquifer is an aquifer that can be easily changed or affected by contamination from both human activities and natural processes.

Regional staff have reviewed the submitted Hydrogeological Assessment for the proposed severances completed by Terra-Dynamics Consulting Inc., dated November 25, 2019 and have no objections to the report and recommendations. The Assessment finds that the site does not have very thin soils (less than 2 metres) overlying the bedrock. As a result of the aquifer being highly vulnerable, a contaminant assessment was completed to see if the lot sizes are appropriate. The report concludes that the two proposed consents and remnant parcel (Part 1, 2, and 3) can be safely serviced by private sewage systems subject to the report's recommendations of having the future septic systems located along the northern limit of the properties with a Tertiary/Level IV 50% nitrogen removal (denitrification N-1) to allow for sufficient downgradient dilution area within the proposed lots. The report also indicated that these lots would have municipal water supply.

Regional staff note that the applicant is now proposing only one consent (Part 1 and 2) and that the proposed lot lines may need to be modified to address environmental constraints on the property. As such, an addendum to this report will be required with the future consent application to determine if the revised parcel areas, as proposed, still provide for sufficient downgradient dilution area and can support the long term septic system use.

Archaeology

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

The subject land is identified as having high archaeological potential based on the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) Criteria for Evaluating Archaeological Potential and the Town of Fort Erie's Archaeological Master Plan mapping (Official Plan Schedule D). A draft Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd., dated June 19, 2019, was submitted with the application. The Stage 2 Assessment resulted in the identification of no archaeological resources, and the Licensed Archaeologist recommends no additional archaeological assessment.

Regional Staff will require a copy of the final Stage 1-2 Archaeological Assessment and acknowledgment letter from the Ministry confirming that the assessment meets licensing requirements and has been entered into the Ontario Public Register of Archaeological Reports.

Private Servicing

At the time of our inspection, the proposed lots are currently vacant and appears to have enough usable area to allow for the installation of private sewage system meeting Building Code requirements however the exact size and location cannot be confirmed until the permit stage.

Our department has no objections to the proposed application provided the septic permit applied for reflects the requirements of the Hydrogeological Study. Outcomes from the hydrogeological review may affect the size, location and type of sewage system required to be installed on the newly created lots in order to address any environmental concerns

Site Servicing

Based on the application form, it indicates that the properties are serviced by water. If new services are required from the Town main, we would like to advise that the recently completed projects on Dominion Road are still in maintenance until August 1, 2021 and therefore no connections can be made to the local main until the maintenance period is cleared.

It is recommended that the Town engineering staff review and confirm that the local water system has sufficient capacity and fire flow to support the additional water connections.

Regional staff would like to see the plans for the connection to the Town main, as we will not permit any new cuts or disturbance to the new asphalt or regional watermain. The as-built drawings have been provided so that the applicant can develop a plan for the connection for review and approval by the Town and Regional staff.

A Regional construction permit will be required for the work, in order to obtain this permit the project will have to be out of the maintenance period and the detailed connection drawing will need to be provided and approved by both the Region and Town.

At the time of construction, if works are being proposed within close proximity to the Regional watermain Jeff Carl, Area 1, Water Operations Manager (Ext. 5403), and Adam Allcock, Area 1, Water System Maintenance Manager (Ext. 5404), should be contacted 72 hours prior to any works near the Regional 400mm dia. watermain. They can be reached at 905-871-3551.

Regional Permit Requirements

Regional Construction Encroachment Permit

Prior to any construction/work taking place within the Regional road allowance, a Regional Construction, Encroachment, and entrance Permit must be obtained from the Transportation Services Division, Public Works Department.

Regional Sign Permit

Please note that the placement of any sign, notice or advertising device within 20m of the centerline of Dominion Road will require a Regional Sign permit. Permit applications can be made through the following link:
http://niagararegion.ca/living/roads/permits/default.aspx

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are not exceeded:

- No limit blue/grey containers;
- No limit green containers max; and,
- 2 garbage containers per property (Bi-weekly)

Collection will be at the curbside only

Please note that if the above limits cannot be met that waste collection will be the responsibility of the owner through a private contractor and not the Niagara Region.

Notwithstanding the above comments the site remains eligible for the curbside collection of blue/grey and green bins.

Conclusion

In conclusion, Regional staff will need to review the updated EIS or EIS addendum and the final Archaeological Assessment to determine if the proposed Official Plan and Zoning By-law amendment meets Provincial and Regional policy requirements.

Should you have any questions concerning the above noted comments or wish to meet to discuss further, please do not hesitate to contact me at 905-980-6000 extension 3518 or by email at lola.emberson@niagararegion.ca or Adam Boudens, Senior Environmental Planner/Ecologist at ext. 3370 adam.boudens@niagararegion.ca. Alternatively, you can also contact Cara Lampman, Manager, Environmental Planning at 905-980-6000 ext. 3430 or cara.lampman@niagararegion.ca.

Respectfully,

Lola Emberson

Lola Emberson, MCIP, RPP
Senior Development Planner

cc: Ms. S.Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Mr. A. Butler, MCIP, RPP, Manager, Development Approvals, Fort Erie
Mr. A. Boudens, Senior Environmental Planner/Ecologist, Niagara Region

NIAGARA PENINSULA CONSERVATION AUTHORITY

250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

May 07, 2021

Our File No.: PLOPA202100527

BY E-MAIL ONLY

Planning Department
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, L2A 2S6

Attention: Aaron Butler, MCIP, RPP, Manager Development Approvals

Subject: **Application for Official Plan Amendment, (OPA & ZBA)**
Owner: Frank Ianniello – Essential Capital Inc.
0-5513 Dominion Rd. Fort Erie
ARN 270302001020300

The NPCA has received an email circulation dated April 15, 2021 from the Town of Fort Erie for an Official Plan Amendment, and Zoning By-Law Amendment, submitted to the Town of Fort Erie by Essential Capital Inc. The purpose of the applications is to permit a distance of 150m between dwellings and to change section 8.3 to require a 1 hectare minimum lot size, vs. 6 hectares. NPCA staff have reviewed the "Scoped Environmental Impact Study, Dominion Road and Rosehill Road Property, Town of Fort Erie," prepared by Colville Consulting Inc. and other supporting documents for the applications and offer the following comments.

NPCA Policies

The NPCA regulates watercourses, flood plains (up to the 100-year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06* of the *Conservation Authorities Act*. The *NPCA Policy Document: Policies for the Administration of Ontario Regulation155/06 and the Planning Act* (NPCA policies) provides direction for managing NPCA regulated features. The subject lands are impacted by a NPCA regulated hazard slope.

NPCA regulated features have been identified on the subject property, including an unevaluated wetland and a regulated watercourse in the Terms of Reference (ToR) and Field Studies conducted in the "Scoped EIS" completed by Colville Consulting Inc. These features are subject to NPCA Policy 8.1.2.3. Unevaluated Wetlands and NPCA Policy 9.2.5. Watercourse Buffer Composition. The following comments are related to further studies requested in addition the work that has been completed, NPCA staff are not satisfied policy has been met, and an addendum to the EIS will be required to address these deficiencies.

Watercourse

Further assessment of the watercourse to determine physical and biological components is requested.

Section 4.3 of the EIS identifies "*Since no fish were observed in this watercourse, it is assumed to be contributing to fish habitat in Lake Erie*." NPCA staff are not in agreement that a visual inspection of fish will determine the absence of fish from occurring. In order to determine potential occurrence of fish in watercourses the proper studies should be employed, such as electroshocking for wadable streams in conjunction with minnow traps. Based on the proximity of this watercourse to Lake Erie, studies are required to determine the presence of fish. Further, this will be one consideration for the OWES evaluation criteria given fish and fish habitat is a component in the scoring.

Appropriate studies to verify the flow regime of the watercourse are requested, using the Ontario Stream Assessment Protocol (OSAP) for methods and to demonstrate conformance.

Biological studies to determine the aquatic community are requested, such as fish surveys to determine the aquatic community and possible presence of rare, sensitive and species at risk. The preferred method for conducting fisheries inventories in wadable streams is outlined in the Ontario Stream Assessment Protocol (OSAP). The applicant must demonstrate conformance with this protocol.

Where Aquatic species at risk are potentially known to occur, please contact the MECP and follow up with the appropriate studies, including mussel studies.

Unless the applicable and complete studies are provided, a minimum of 15m natural buffer for the watercourse will be expected. At this time, NPCA staff are unclear of whether there is permanent flow. Further, the aquatic community has not been characterized with in-field complete data and therefore, the habitat of species at risk or species of concern could be confirmed. As such, a minimum of a 15m natural buffer for the watercourse will be expected until demonstrated with the proper studies to be otherwise setback.

Wetlands

NPCA note the occurrence of unevaluated wetlands on the property with a watercourse that traverses through it. NPCA staff request that any wetlands identified on site that are proposed to be removed are to be evaluated per the criteria in the Ontario Wetland Evaluation System (OWES) to determine their significance. It is important to note that any proposed compensation must meet NPCA Policy 8.2.2.8. and obtain a work permit issued by the NPCA. NPCA staff request clarification as to whether the applicant will propose to remove the wetlands or if they will remain in place.

NPCA staff request ELC field data (i.e., field cards) including soil characterization evaluation to verify the ecotypes identified. This is especially important for those units that have fresh or moist soil types. It is possible that FOD ecotypes may be in fact wetlands. More information is needed to accurately characterize the forms of these features.

For any swamp habitats and habitats that may have salamander or newts, salamander and newt surveys are required to be completed. Please see the *Significant Wildlife Habitat Criteria Schedules for Ecoregion 7E* for more information to assist with identifying candidate sites, methods for detecting occurrences and significance.

Additional photos for each ELC Ecotype are requested. This will help with understanding each ecotype during desk top reviews for NPCA staff. Ensure that photos capture what is typical of each unit and any specific features of relevance.

Section 4.2.3 of the EIS identifies "*No portion of the property other than the watercourse was observed to contain sufficient hydroperiod to provide suitable amphibian breeding habitat*." NPCA staff are unclear what accepted ecohydrological studies were used to ascertain this statement, and request that it is demonstrated that ecohydrological studies were completed in order to determine whether or not the wetlands do not offer a hydroperiod that will provide amphibian habitat.

The EIS identified rare and/or sensitive floral species in the wetlands. NPCA staff are unclear how occurrences of rare and/or sensitive floral species that were identified to occur in wetland will have proper avoidance and mitigation measures to reduce harm to these species. This could include a combination of appropriate setbacks, transplanting individuals to appropriate locations (where NPCA staff are in support). Demonstrate what measures will be in place to reasonably protect these species or reduce harm to them in order to support ecology.

Depending on the proposed future development for the proposed residential lots, a detailed feature-based water balance may be required to determine existing flow paths and contributions to these wetland feature(s). The requirement for a water balance will depend on the scope, nature and location of the future development.

Conclusion

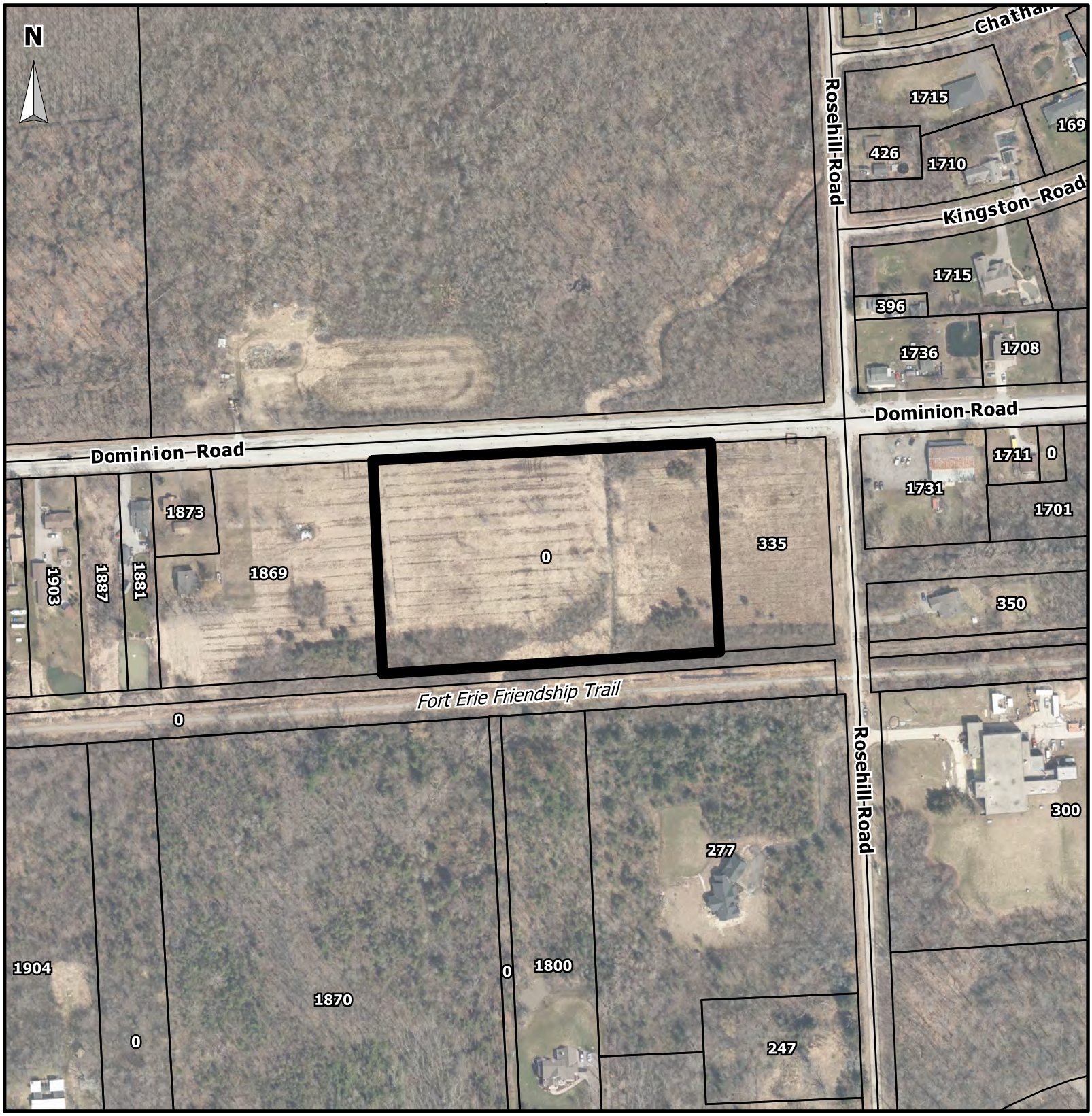
At this time, the NPCA requires further information to support the application in the form of an addendum to the EIS, for example if the wetlands on the subject property are classified as Provincially Significant, then a request for Environmental Protection Zoning will be requested.

I hope this information is helpful. Please send a copy of any staff reports to Committee/Council once they are available. If you have any questions, please let me know.

Sincerely,

Jessica Abrahamse M.E.S,
Watershed Planner
(905) 788-3135, ext. 235

cc:



LOCATION PLAN
Combined Official Plan & Zoning By-law Amendment - 0-5513 Dominion Road

Subject Lands - 0-5513 Dominion Road

Planning & Development Services
Map Created May 6, 2021

Planning and Development Services

Prepared for	Regular Council	**Report No.**	PDS-17-2021
Agenda Date	February 22, 2021	**File No.**	310109

Subject

ANIMAL WELFARE, PROTECTION, AND CONTROL BY-LAW RECOMMENDATION REPORT

Recommendations

THAT Council receives the draft Animal By-law attached as **Appendix "1"** to Report No. PDS-17-2021, and further

THAT Council chooses Option No._____ for the licensing of cats, and further

THAT Council approves the draft Animal By-law attached as **Appendix "1"** to Report No. PDS-17-2021, subject to the revisions required to implement Council's choice of Option No. _____ for the licensing of cats.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: N/A
Goal: N/A
Initiative: N/A

List of Stakeholders

Fort Erie Society for the Prevention of Cruelty to Animals
Fort Erie citizens and animal owners

Prepared by:	Submitted by:	Approved by:
Original Signed	*Original Signed*	*Original Signed*
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Purpose

To provide a response and recommendations to Council regarding the Town's animal control and related By-laws to be reflective of modern times, providing policies and procedures from the current contractor of animal control services, and an update on the future Animal Control Services Agreement.

Background

The Town has three By-laws which relate to animals. By-law No. 119-97, as amended or replaced, is specific to regulating, restricting, and prohibiting the keeping and running-at-large of dogs only. By-law No. 146-2001, as amended or replaced, regulates and prohibits the keeping of exotic animals. Lastly, By-law 176-2001, as amended or replaced, regulates potentially dangerous dogs and dangerous dogs. The Town does not currently have any by-laws with respect to the standards of care for an animal, harm prevention, and other relevant necessities towards animal health. Animal welfare and protection is now the responsibility of the province under the *Provincial Animal Welfare Service Act, 2019*, S.O. 2019, c.13, (PAWS Act) enacted January 1st, 2020, which replaced the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, c. O.36, as it was repealed January 1st, 2020.

At the Regular Council meeting August 24th, 2020, the Municipal Council of the Town of Fort Erie considered Resolution No. 7, directing staff to develop an Animal Rights and Protection By-law. Council also directed staff to work with experts in the field, which include a Doctor of Veterinary Medicine in good standing with the Canadian Veterinary College, and an animal rights lawyer to ensure expert legal advice in advocacy and securement of law. To permit staff to prepare a report with respect to costs, Council considered and approved Resolution No. 7A, which postponed a decision on Resolution No. 7, until October 19th, 2020.

Further to the Regular Council meeting August 24th, 2020, the Municipal Council of the Town of Fort Erie, considered Resolution No. 8, and directed staff to modernize and update the Animal Control By-law to be reflective of all types of animals, both domestic and wild, to ensure the safe harbour, handling, and protection of animals. Council directed staff to integrate the new Animal Rights and Protection By-law once developed, into the Animal Control By-law to be more reflective of modern day realities. To permit staff to prepare a report with respect to costs, Council considered and approved Resolution No. 8A, which postponed a decision on Resolution No. 8, until October 19th, 2020.

Further to the Regular Council meeting August 24th, 2020, the Municipal Council of the Town of Fort Erie, considered and approved Resolution 9, directing staff to examine the current Animal Control Services Agreement, in preparation of the 2022 open bid date, so that changes could be made to include the new Animal Welfare, Protection, and Control By-law, and be rewritten to offer more control for inspection and rights to the Town of Fort Erie, to ensure that processional, ethical, moral care, and control of animals are followed. Council directed staff to conduct a financial analysis and

comparison to ensure that the amount provided in the contract is reflective of the financial burden/expenses to carry out the duties on an annual basis. Council directed staff to request policies and procedures with respect to Animal Control Services, qualifications of those tasked with services, compliance of safe handling, care, and control of animals brought in. Council propounded that the Animal Control Services Agreement be placed on an open bid system in 2022, rather than single sources for competitive advantages and opportunities.

At the Regular Council meeting October 19th, 2020, staff presented Council with report PDS-46-2020. The report identified that animal welfare and protection for most animal species, including those charged with a duty of care to those animals, were currently covered by either Federal or Provincial law, and enforcement agencies were currently in place to address them. The report identified that based on a legal opinion obtained, the Town had jurisdiction to enact a by-law which included animal welfare provisions, and also identified basic obligations on behalf of the Town to continue to provide animal control services. The Municipal Council of the Town of Fort Erie, considered and approved Resolution No. 2, and amended the 2020 General Levy Operating Budget by $30,000 for the purpose of obtaining a legal and veterinarian review of the potential Animal Welfare Protection By-law, and the current Animal Control Services Agreement.

At the Council-in-Committee meeting held November 2nd, 2020, the Municipal Council of the Town of Fort Erie was provided with a memorandum regarding the delegation of the appointment of Municipal Law Enforcement Officers (MLEOs). By-law No. 106-12, passed October 9th, 2012, delegated authority to the Town Clerk to appoint employees of the Fort Erie SPCA when staffing changes occur, as Municipal Law Enforcement Officers, for the purposes of enforcing Town's three animal related By-laws. This appointment is specifically related to a contractor being awarded the contract to administer the Town's animal related By-laws, under the Animal Control Services Agreement. It was clarified that the appointments of Fort Erie SPCA (FESPCA) staff as MLEOs, to facilitate the FESPCA employees in carrying out their contractual duties as Animal Control Officers for the purpose of enforcing the Town's By-laws regulating animals in accordance with the Animal Control Services Agreement. It was further clarified that the Town does not hire or terminate FESPCA employees.

At the Special Council meeting held November 18th, 2020, the Municipal Council of the Town of Fort Erie, considered and approved Resolution No. 8, as amended, postponed from August 24, 2020 (Resolution No. 7), directing staff to identify a practicing lawyer in good standing with the Law Society of Ontario, with a specialization in animal rights and welfare law, and an expert of veterinary medicine in good standing with the Canadian Veterinary College. Council directed staff to engage both professionals in the development and review for Animal Control Services. Council directed staff to modernize and update the animal control by-laws, to be reflective of other animal types both domestic and wild, to ensure safe animal harbour, handling and protection (Resolution No. 8). Council directed staff to provide a draft by-law to Council at the first Council-in-Committee meeting in February 2021. In relation to Resolution No. 9 at the August 24th, 2020, meeting, Council directed staff under Resolution No. 8 at the

November 18th, 2020, meeting, to request a copy of all FESPCA Policies and Procedures as it relates to its contractual obligation of Health, Safety, and Procedural Guidelines, as it applies to employees, facilities, animal intake, impound services, adoption, end of life, dog licensing, and any and all other incidental policies, with the documents being provided to Council be February 5th, 2021.

At the Regular Council meeting on December 14th, 2020, Council directed staff to incorporate the following provisions into a new Animal Control By-law, as part of its scope, and/or policy purpose, definitions, understandings and directives:

1. freedom from hunger, malnutrition and thirst by ready access to fresh water and a diet to maintain full health and vigour;
2. freedom from fear and distress by ensuring conditions and treatment which avoid mental suffering;
3. freedom from physical and thermal discomfort by providing an appropriate environment including shelter and a warm, dry comfortable and clean resting space including the need to be housed with or apart from other animals;
4. freedom from pain, injury, disease and suffering by prevention or rapid diagnosis and treatment; and
5. freedom to express normal patterns of behaviour by providing sufficient space, proper facilities and company including adequate outside space to exercise properly and indoor space to live.

Analysis

Animal Lawyer and Veterinarian

Staff identified a lawyer Jennifer Friedman, who is a member in good standing with the Law Society of Ontario. The animal rights and welfare lawyer is in her eighteenth year of legal practice. For the past 15 years, Ms. Friedman has handled hundreds of animal cases before the courts and tribunals across Canada. In 2012, her submissions to the Ontario Bar Association led to the creation of the province's first section dedicated exclusively to Animal Law. This was the second of its kind in Canada, and she acted as Chair from 2012-2014. In 2016, Ms. Friedman opened her own practice devoted exclusively to Animal Law.

The veterinarian performing a review of the Animal Welfare, Protection, and Control By-law came at the recommendation of Ms. Friedman. Dr. Heinrich, DVM, is a member of the Animal Welfare Committee of the Canadian Veterinary Medical Association, and has published papers including stress and pain related behaviours.

Modernize and update the Animal Control By-law

The modernized and consolidated Animal Control By-law, which is attached to this report as **Appendix "1"** was based on the following criteria:

1) To consolidate all animal related by-laws into one source document

2) Provide enhanced definitions

3) Provide new provisions for:
   a) standards of care
   b) obligation to report animal abuse, hardship, privation, or neglect
   c) pens and enclosures
   d) tethering animals
   e) animals in distress and harm to animals
   f) euthanasia
   g) animal fighting
   h) trapping animals
   i) feral cats
   j) livestock
   k) domestic animal excrement
   l) wildlife
   m) keeping of cats and licensing cats
   n) animal noise
   o) non-compliance to utilize AMPS
   p) seized animals

4) Refine current provisions for:
   a) Potentially Dangerous Dogs and Dangerous Dogs
   b) Muzzle Orders
   c) The Appeal Committee
   d) forfeited animals
   e) kennel care
   f) identification tags
   g) licence appeals
   h) keeping of dogs
   i) exotic animals

5) Map out enforcement and inspection powers for the administration of the By-law

6) Ensure that the By-law had a neutral administrator, so that provisions could be contracted out to any agency if possible.

Five Freedoms

The five freedoms of animals are addressed in various sections of the Animal Welfare, Protection, and Control By-law. Predominantly, the sections referencing standards of care, keeping animals, pens and enclosures, tethers, and traps, have provisions to address the five freedoms for animals.

Animal Fighting, Harm, Distress, and Wild Animals

Provisions were originally included in the draft Animal Welfare, Protection, and Control By-law prohibiting animal fighting, provisions to address harming or causing distress to an animal, and provisions for wild animals including harbouring. The legal opinion received regarding these provisions was that it was "ultra vires", or outside the scope of the municipality, to pass a By-law which included the aforementioned provisions. As such, to address these circumstances, the matters are required to be brought to the attention of an Animal Welfare Inspector under the *Provincial Animal Welfare Service Act, 2019,* S.O. 2019, c.13. A provision was included in the draft By-law requiring a person, including a veterinarian, if it is suspected that an animal is involved in animal fighting, or a person is causing harm or distress to an animal, to bring that information to the attention of an Animal Welfare Inspector. Failure to do so, is an offence under the By-law.

Appointment of MLEOs

The appointment of MLEOs will be based on a successful contractor to administer the new Animal Control Services Agreement, or if need be, Town staff in the absence of a contractor. The appointment process currently is a list of those responsible for enforcing the Town's By-laws are provided to the Clerk of the Town, where the Clerk has the authority to appoint those persons to fulfil their contract mandate. The process has been effective, and there has not been an identified need to change this process.

Cat licensing

In Niagara Region, seven of eleven municipalities licence cats. These municipalities are Welland, Niagara Falls, Wainfleet, Lincoln, Pelham, West Lincoln, and Niagara-on-the-lake. Of those seven, only Welland requires a mandatory licence for cats, and it is $10 for a lifetime licence. The remaining six municipalities offer a $20 licence on a voluntary basis. The majority of municipalities in the Region utilize Docupet, which is a contracted service that collects licence fees, maintains a pet database, and has a 24/7 call centre to assist with matters such as lost/found licenced animals. The only municipalities that are not a part of Docupet are Fort Erie, Niagara-on-the-Lake, and Grimsby. One of the primary purposes of cat licensing is to address animals at large, and with identification tags issued along with a licence, the owner can be identified and the animal returned. Further, it is also possible to address owners who consistently permit their pet to be running-at-large. With respect to the following licensing options, the difference between voluntary and mandatory is that if mandatory, the pet owner may be susceptible to a penalty for failing to licence.

Option #1: No change. No licence required

Option #2: Implement a mandatory one-time licence with no fee. The Town will incur a minor expense to issue a tag

Option #3: Implement a voluntary one-time $20 licensing fee

Option #4: Implement a $20 mandatory annual licensing fee

Option #5: Implement a $20 mandatory one-time licensing fee

Examine and Revise current Animal Control Services Agreement

This portion of the direction provided by Council will be reviewed after the adoption of a new Animal Welfare, Protection, and Control By-law, or updated current animal related By-laws.

Financial/Staffing and Accessibility (AODA) Implications

The Animal Welfare, Protection, and Control By-law is well in excess of what currently exists in Town with respect to animal control and regulation By-laws. As such, it is expected that there will be an increase in the contractual amount tendered. Currently, the Animal Control Services Agreement provides for a monetary compensation of $150,973 until May 31st, 2021, and then will increase to $153,238 after that until May 31st, 2022. In return, the contactor is permitted to retain dog licensing fees. For 2020, it was estimated that approximately $195,000 would be collected in dog licence fees. It is not known what the licensing fee totals for cats will be if adopted. This would mean that the minimum remuneration required before any of the additional responsibilities, would currently be in excess of $345,973 to administer the By-law.

There may not be an agency or contractor who will be able to perform the enforcement aspect of the Animal Welfare, Protection, and Control By-law. With the *OSPCA Act* repealed, and the introduction of the *PAWS Act*, the OSPCA has begun to move away from being an enforcement agency, and is becoming more of a humane society. Aside from the OSPCA, there are no known agencies within Niagara Region who may be able to bid on the contract, and be capable of enforcing the Animal Welfare, Protection, and Control By-law. As a result, there is a possibility that the Town may have to administer the By-law in-house, but may still be able to contract out for shelter services.

Policies Affecting Proposal

By-Law 119-97, as amended, Being a By-law to Regulate, Restrict, and Prohibit the Keeping and Running at Large of Dogs

By-Law 146-2001, as amended, Being a By-law to Regulate and Prohibit the Keeping of Exotic Animals in the Town of Fort Erie

By-Law 176-2001, as amended, Being a By-law to Regulate Dangerous Dogs in the Town of Fort Erie

By-Law 106-12, as amended, Being a By-law to appoint Animal Control Officers of the Town of Fort Erie SPCA as Municipal Law Enforcement Officers for the Town of Fort Erie

By-Law 2-10, as amended, Being a By-law respecting the purchase of Goods, Services, and Construction

Comments from Relevant Departments/Community and Corporate Partners

N/A

Communicating Results

New requirements for cat licensing, if adopted will have to be communicated by the Town through various mediums. Additionally, the Town Poundkeeper will need to be notified of the changes to administer the licences.

Alternatives

Rely on the *Provincial Animal Welfare Services Act, 2019*, and the Animal Welfare Inspectors appointed to enforce that legislation. Only enforce what the Town is obligated to do, which in short is addressing animals running-at-large, and provide a Poundkeeper service.

The municipality can explore the option of retaining pet licensing fees, and utilize a contractor such as Docupet to collect pet licensing fees, and provide follow-ups for expired licences. This may affect the amount required for contracted services such as an Animal Control Services Agreement, but if performed in-house, would assist with the administration of the program.

Conclusion

The new Animal Welfare, Protection, and Control By-law encompasses all animal related Town By-laws into a single source document. It provides Town specific regulations to existing legislation, and acts as a reference guide of roles and responsibilities for a contractor charged with the responsibility of providing Poundkeeper services on behalf of the Town.

With the addition of more definitions, new standards of care including the “five animal freedoms”, more clarity with respect the roles and responsibilities of the appeal committee and the process thereof, neutral language to allow for the appointment of any capable contractor, and the utilization of AMPS with a tiered system, the Town will have a comprehensive document with respect to almost all matters related to animal welfare, protection, and control.

There is a possibility that there might not be a contractor suitable to administer the new Animal Welfare, Protection, and Control By-law. With the introduction of the *PAWS Act*, and its Animal Welfare Inspectors, organizations like the OSPCA, are moving from enforcement, and going towards being a humane society while offering shelter services. As such, the Town may be in a position that it will have to administer enforcement

services in-house including additional costs, and retain a humane society for the purpose of providing shelter services.

A revision of the current Animal Control Services Agreement is not possible at this time, until the adoption the Animal Welfare, Protection, and Control By-law, or similar By-law(s) to modernize and update animal control related Town By-laws, which ultimately will be the foundation for such an agreement.

Attachments

Appendix "1" - Draft Animal Welfare, Protection, and Control By-law

The Municipal Corporation of the Town of Fort Erie

By-law No. XX-2021

Being an Animal Welfare By-law, Governing the Care, Licensing, and Regulating of Dogs, Cats, and Other Animals, and to Repeal By-law Nos. 119-97, 156-97, 23-2000, 82-2001, 146-2001, 176-2001, 81-2003, 32-04, 33-04, 135-10, 58-12, 106-2015, 107-2015, 74-2018, and 13-20

Whereas the Municipal Council ("Council") of The Corporation of the Town of Fort Erie (the "Town") enacted By-law No. 119-97 on July 21, 1997, as amended, to regulate and restrict the keeping of dogs, and prohibit the running-at-large of dogs in the Town; and

Whereas Council enacted By-law No. 146-2001 on August 20, 2001, as amended, to regulate and prohibit the keeping of exotic animals in the Town; and

Whereas Council enacted By-law No. 176-2001 on September 24, 2001, as amended, to regulate dangerous dogs in the Town; and

Whereas at the Special Council meeting held on November 18th, 2020, Council considered and approved Resolution No. 8, as amended, postponed from August 24, 2020, to create a comprehensive animal by-law in respect to all animal species to ensure safe animal harbour, handling and protection; and

Whereas Subsection 8(3) of the *Municipal Act, 2001,* S.O. 2001, c. 25 grants municipalities broad powers to govern, regulate, and licence in accordance with Section 11 of the *Municipal Act, 2001;* and

Whereas Subsection 10(2) of the *Municipal Act, 2001* authorizes municipalities to enact by-laws in respect to animals; and

Whereas Subsections 11(2) and 11(3) of the *Municipal Act, 2001*authorizes lower tier municipalities to enact by-laws respecting the health, safety and well-being of persons, and the protection of persons and property; and

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Whereas Subsection 103(1) of the *Municipal Act, 2001* confers the power upon municipalities to enact by-laws governing the seizure and impoundment of animals being at large or trespassing, and the subsequent disposition of impounded animals subject to conditions; and

Whereas Section 105 of the *Municipal Act, 2001* requires municipalities to convene for a Hearing, subject to prescribed conditions, if an animal owner is aggrieved by a muzzling order; and

Whereas Section 425 of the *Municipal Act, 2001* authorizes a municipality to enact by-laws making it an offence to contravene a by-law; and

Whereas Subsection 434.1 of the *Municipal Act, 2001* confers the power upon municipalities to enact by-laws to impose administrative monetary penalties for failure to comply with by-law provisions; and

Whereas the *Municipal Act, 2001* further authorizes the Town to enact by-laws to provide for, without limitation, delegation of its authority, imposition of fees, entry on land, inspections, and appeals; and

Whereas the *Animals For Research Act,* R.S.O. 1990, c. A.22 generally provides for the redemption and destruction of impounded animals; and

Whereas the *Pounds Act,* R.S.O. 1990, c. P.17 generally provides for the appointment of a Poundkeeper, and for the recovery of expenses associated with impounding animals running-at-large; and

Whereas the *Dog Owners Liability Act*, R.S.O. 1990, c. D. 16 generally provides for owner liability for dog attacks or bites; and

Whereas the *Provincial Animal Welfare Services Act*, S.O. 2019, c. 13 generally provides for greater animal protection and humane treatment of animals; and

Whereas Council approved the initiative to enact a comprehensive new animal by-law;

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

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1. SHORT TITLE

This By-law may be referred to as the "Animal By-law".

2. APPLICABILITY AND SCOPE

(1) The provisions of this By-law apply to the entire geographic area and boundaries of the Town.

(2) If there is a conflict between a provision of this By-law and any other by-law of the Town, or a provincial or federal statute or regulation, the one that is most restrictive prevails.

(3) The provisions of this By-law do not apply to:

(a) bees;

(b) any display held by an agricultural or horticultural organization incorporated under the *Agricultural and Horticultural Organizations Act*, R.S.O. 1990, c.A.9.;

(c) the lands and premises being utilized as a zoo, and lawfully permitted to operate as such;

(d) an animal hospital or clinic lawfully operated and supervised by a veterinarian.

(e) an Activity permitted under the *Fish and Wildlife Conservation Act,* S.O. 1997,

(f) an Activity regarding agricultural animal care, management or husbandry carried on in accordance with:

(i) any standards of care or administrative requirements that expressly provide that they apply to that Activity; or

(ii) if no standards of care or administrative requirements expressly provide that they apply to that Activity, the reasonable and generally accepted practices of agricultural animal care, management or husbandry.

3. DEFINITIONS:

For the purpose of this By-law:

(a) "accredited veterinary facility" means a veterinary facility as defined in the *Veterinarians Act,* R.S.O. 1990, c.V.3, and is accredited under the *Veterinarians Act.*

(b) “agricultural operation” means a business operated outside the Town’s Urban Boundary in an agriculturally zoned area for the principal purposes of producing and processing agricultural products and operating abattoirs, and which involves commitment of finances, time, size, and scope and with a reasonable expectation of profit.

(c) “animal” means any member of the animal kingdom other than human.

(d) “Animal Control Officer” means a person or a corporation, including said corporation’s employees, agents, and representatives, that has entered into a contract with the Town for the control and regulation of animals within the Town, including Poundkeeper services, or who are employed by the Town for the control and regulation of animals within the Town, and includes a Municipal Law Enforcement Officer, a police officer, and any other party contracted by the Town to provide such services.

(e) “appeal” means an application by an individual or entity aggrieved by conduct initiated in accordance with this By-law.

(f) “attack(ed)” means physical contact, other than friendly or accidental contact, by an animal that results in bleeding, bone breakage, bruising, a scratch or a sprain to a person or an animal.

(g) “bite” means piercing or puncturing of skin inflicted by the tooth or teeth of an animal.

(h) “business day” means a weekday, excluding a day that is a holiday recognized by the Town.

(i) "cat" means a domesticated male or female feline of any breed or crossbreed, other than a Savannah cat, of the species Felis catus.

(j) “Clerk” means the Clerk of the Town or his or her designate.

(k) “commercial kennel” means a premise of an establishment where more than two (2) dogs are boarded, bred, kept or trained for remuneration, and includes a duly licensed pet daycare and similar in-home pet boarding facility.

(l) “control” means the ability to manage, direct, restrict, and restrain the movements of an animal at all times.

(m) “Council” means Town Council.

(n) “Committee” means a Committee consisting of three (3) members of Council convened to hear an Appeal under this By-law known as the “Dangerous Dogs Appeals Committee”.

(o) "critical distress" means distress that requires immediate intervention to prevent serious injury and/or to preserve life.

(p) "dangerous dog" means any dog, other than a police work dog or guard dog, who has, in the absence of any mitigating factor, attacked, bitten, or caused injury or death to a person or animal; and as more particularly described in Section 19 herein.

(q) "dog" means any male or female domesticated canine of any breed or crossbreed, other than wolf-dogs or coy-dogs, of the species Canis familiaris, but does not include a police work dog, a guard dog, or a guide dog.

(r) "dispose of" means burial or cremation.

(s) "distress" means the state of being:

(i) in need of proper care, water, food or shelter; or

(ii) injured, sick, in pain or suffering; or

(iii) abused or subject to undue physical or psychological hardship, privation or neglect.

(t) "dwelling" means a place occupied by at least one (1) person as an independent home or residence with a private entrance, which contains food preparation and sanitary facilities for the exclusive use of the occupant/s thereof.

(u) "exotic animal" means any animal or class of animals enumerated in Schedule "A" herein.

(v) "feral cat" means any cat found in Town with no owner and which cat is not socialized and exhibits fear and resistance to humans.

(w) "guard dog" means any dog trained and duly licenced to inflict injury, maim, immobilize or display a threatening or aggressive disposition for security purposes on licensed industrial or commercial use lands.

(x) "guide dog" means a dog duly designated in the *Accessibility for Ontarians with Disabilities Act,* S.O. 2005, c.11 and *Blind Persons Rights Act*, R.S.O. 1990, c.B.7, as amended.

(y) "Hearing" means an administrative proceeding held pursuant to the *Statutory Powers and Procedures Act* R.S.O. 1990 c. S. 22, and more particularly described in Section 27 herein.

(z) "hunting" means lying and waiting for, searching for, being on the trail of, pursuing, chasing or shooting at wildlife, whether or not the wildlife is killed, injured, captured or harassed and does not include trapping.

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(aa) "identification tag" means a disc or other shape of metal or plastic issued and dispensed by the Town or Poundkeeper further to an approved cat or dog license application and registration.

(bb) "impound" means to confiscate, confine, hold or take possession.

(cc) "keep" means to have temporary or permanent control or possession of an animal, and the word "harbour" has a similar meaning.

(dd) "kennel" means a purebred kennel or commercial kennel with at least two (2) dogs over sixteen (16) weeks of age, being boarded, bred, kept or trained, but excludes:

(i) a veterinary clinic or veterinary hospital;

(ii) a public pound or animal shelter used by the Town for impounding animals;

(iii) any premises duly licensed under any statute of the Province of Ontario or the Government of Canada, which permits the keeping of dogs and other animals under certain conditions; or

(iv) a licensed pet shop.

(ee) "leash" means a tether, rope, chain, line or similar device for leading or restraining an animal and shall be of sufficient strength and design to allow a person to restrain and control the animal.

(ff) "Licence Agent" means the Town or any employee thereof, or such person or organization as is authorized to act on behalf of the Town, to maintain, enforce, and administer this By-law.

(gg) "licence fee" means a fee imposed upon the owner of a dog or kennel in accordance with the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(hh) "livestock" means any domestic or farmed animal, including, but not limited to, poultry, cattle, swine, horses, mink or other furbearing animals, rabbits, sheep, goats and other types of animals listed in the Agricultural Code of Practice of the Ontario Ministry of Agriculture, Food and Rural Affairs.

(ii) "Manager" means the Director, Planning and Development Services or his or her designate, or a delegate authorized by Council to act on behalf of the Town, to maintain, enforce, and administer this By-law.

(jj) "menace" means intimidating, aggressive, threatening demeanour toward people or animals without any mitigating factor/s.

(kk) "microchip" means an approved Canadian standard encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to owner information, including the name and address of the owner of the animal.

(ll) "mitigating factor" means a consideration that excuses aggressive behaviour of a dog, and as more particularly described in Section 19 herein.

(mm) "Municipal Law Enforcement Officer" means a person duly appointed by the Town to enforce the provisions of this By-law, and includes any police officer appointed pursuant to the *Police Services Act,* R.S.O. 1990, c. P.15.

(nn) "minor owner or custodian" means if the owner or custodian of an animal is a minor, the owner or custodian of the animal is deemed to be the minor's parent or guardian.

(oo) "most humane course of action" means euthanasia of an animal if:

(i) immediate veterinary treatment cannot prolong the animal's life; or

(ii) prolonging the animal's life would result in undue suffering for the animal.

(pp) "muzzle" means a strong and well-fitted covering device that securely fastens over the dog's mouth to prevent the dog from biting but does not interfere with the dog's vision or ability to breath, drink, and pant.

(qq) "neutered" means a male dog with its generative organs removed or vasectomized.

(rr) "officer" means an Animal Control Officer, a Municipal Law Enforcement Officer, or police officer.

(ss) "owner" means:

(i) a person who has control of an animal;
(ii) a person who owns, keeps, possesses or harbours an animal;
(iii) a person who owns a premise; or
(iv) the parent or guardian of the minor owner of an animal.

(tt) "person" includes an owner, individual, partnership, association, firm or corporation, business entity or club, or any other incorporated or unincorporated group or organization to whom the context can apply in accordance with the *Interpretation Act,* R.S.O. 1985, c.1-21.

(uu) "pet shop" means an establishment engaged in the retail sale of animals excluding a kennel.

(vv) "Pit Bull" dog includes:

(i) a pit bull terrier;
(ii) a Staffordshire bull terrier;
(iii) an American Staffordshire bull terrier;
(iv) an American pit bull terrier;
(v) a dog for which a veterinarian attests has an appearance and physical characteristics that are substantially similar to the dog breeds referred to in (a)-

(d) above.

(ww) "place" includes any land, building, vehicle or vessel.

(xx) "point of reception" means any point on a premise where the barking, calling, whining or other similar persistent sound originating from other than that premise is received.

(yy) "police work dog" means a dog trained and duly licensed for and actually engaged in law enforcement for the Niagara Regional Police or other law enforcement agency.

(zz) "potentially dangerous dog" means a dog that, in the absence of any mitigating factor, chases or approaches any domestic animal or person, anywhere other than on the property of its owner, in a menacing fashion or apparent attitude of attack, including but not limited to, behaviour such as growling or snarling; and as more particularly described in Section 19 herein.

(aaa) "pound" means such premises and facilities designated by the Town further to a contract with the Town for the detention, maintenance or disposal of animals on behalf of the Town.

(bbb) "Poundkeeper" means the Town or any employee thereof, or such person or organization as is appointed by Council to act on behalf of the Town, to maintain, enforce, and administer this By-law (elaborate).

(ccc) "premise" means a vacant or occupied lot, building or a part thereof, including a dwelling unit, and any land appurtenant.

(ddd) "prescribed" means a provision or requirement according to this By-law.

(eee) "protective care" means the temporary, time-limited keeping of an animal by the Town as a result of an owner eviction, incarceration, fire, or medical emergency.

(fff) "Public Health Inspector" means a public health professional with Niagara Region Public Health, appointed under the *Health Protection and Promotion Act,* R.S.O. 1990, c.H.7.

(ggg) "purebred kennel" means a premise where more than two (2) purebred dogs, which are officially recognized breeds by the Canadian Kennel Club or other international registry, and shall have the same meaning as a "commercial kennel".

(hhh) "redemption period" means the period of time within which the animal owner has the right to redeem an impounded animal subject to the satisfaction of conditions.

(iii) "Rehabilitation Centre" means a facility established for the care and treatment of injured, sick or orphaned animals, with the objective of restoring the animals to their former capacity or function and then returning and releasing them to their natural habitat.

(jjj) "residential" means any property zoned as such within the current applicable Zoning By-law and shall include all lands within the Municipal Boundary, Neighbourhood Boundary, Urban Boundary, Hamlet Boundary and Secondary Plan Schedule as identified and designated in the Town Official Plan.

(kkk) "restrained" (in relation to a potentially dangerous dog or a dangerous dog), means being kept inside a premise in an enclosed six (6) sided pen of sufficient dimension and strength to be humane and secure to prevent a dog from coming in contact with or making a real and substantial threat of attack on a person other than the owner of the dog, or invitee of the owner, and includes keeping such dog securely on a leash of not more than one (1) meter in length when outside of such pen.

(lll) "restricted pit bull" means a pit bull owned by an Ontario resident on August 29, 2005 or born by November 30, 2005, and more particularly described in the *Dog Owners' Liability Act*.

(mmm) "running-at-large" means to be found in any place other than the premises of the owner of the dog, not under the control of any person, and where there is no consent to be in that place.

(nnn) "sell" means offer for sale or adoption, expose for sale of adoption.

(ooo) "service animal" means:

(i) the animal is required by a person with a disability; and

(ii) the person has documentation from one (1) of the regulated health professionals enumerated in the *Accessibility for Ontarians with Disabilities Act,* S.O. 2005, c.11 confirming the person requires the animal for reasons relating to their disability:

(ppp) "spayed" means a female dog whose ovaries and/or uterus have been removed.

(qqq) "Standard of Care" means a Standard of Care prescribed by this By-law.

(rrr) "sterilization" means to spay or neuter a cat or dog.

(sss) "tag" means a method of identifying a licensed dog or cat.

(ttt) "tether" means a rope, chain or similar device, attached to a fixed point, used for restraining an animal that prevents an animal from moving away from a localized area.

(uuu) "Town" means The Municipal Corporation of the Town of Fort Erie.

(vvv) "trap, neuter, return program (TNR)" means to trap, sterilize, and attempt to return feral cats to locations in which they were found.

(www) "unsanitary" means the accumulation of urine or fecal matter, odour, insect infestation, or rodent attractants that may endanger animal or human health.

(xxx) "veterinarian" means a person licensed as a veterinarian by the College of Veterinarians of Ontario.

4. INTERPRETATION

The requirements of this By-law are in addition to the requirements contained in any other applicable by-laws of the Town or applicable provincial or federal statutes or regulations.

PART II:

5. LICENSING OF CATS AND DOGS

(1) Every owner whose cat or dog is aged sixteen (16) weeks or older shall make application for a licence on the prescribed form within ten (10) days of the date the animal comes into his or her possession.

(2) Despite Subsection 5(1), no licence shall be required for a dog being temporarily kept at a kennel in Town, or a private residence where there is no remuneration for keeping the dog, if the dog, when not being kept at the kennel or private residence, is kept at premises located outside of the Town.

(3) Every owner of a dog or cat applying for a licence shall submit to the Poundkeeper a completed application together with the prescribed licence fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(4) The licence application shall include the following, as applicable:

(a) the name, address, telephone number, and e-mail address of the owner;

(b) the name, breed, colour and sex of the dog or cat;

(c) the address of the premises where the dog or cat is to be kept in Town;

(d) veterinary proof of a current rabies vaccination;

(e) veterinary proof that the animal has been sterilized as applicable;

(f) microchip identification;

(g) if the dog is a pit bull, proof satisfactory to the Poundkeeper that the dog is a restricted pit bull;

(h) whether the dog is attack trained, a guide dog, a guard dog, or a service dog;

(i) the names, addresses and telephone numbers of up to three (3) alternate persons who may be contacted in the case of animal impoundment;

(j) whether the dog is designated as a "dangerous dog";

(k) whether the dog is designated as a "potentially dangerous dog";

(l) whether the dog will be kept in a kennel;

(m) acquisition information, including country of origin if foreign; and

(n) such additional information as may be reasonably requested by the Poundkeeper.

(5) The Licence Agent is authorized to issue licences only to applicants.

(6) Upon issuance of a licence, the owner shall be furnished with an identification tag.

(7) The Licence Agent may issue up to three (3) licences per applicant to dogs being legitimately used as guard dogs.

(8) The Licence Agent shall maintain a current record of every dog or cat registered pursuant to this By-law, which includes:

(a) the date of licence issuance or renewal;
(b) the name, address, telephone number, and email address of the owner;
(c) the description of the animal;
(d) the registration number; and
(e) the fee paid.

(9) Failure to provide a rabies certificate except for a dog or cat with immune-mediated disease, shall constitute an offence under this By-law and, in addition to any other penalty or action provided herein, the Poundkeeper shall immediately report this information to Niagara Region Public Health.

(10) An application for a licence for a prohibited pit bull shall not be processed, and will be returned to an applicant.

(11) Every licence is valid for the calendar year in which it is issued, and automatically expires on December 31 of each year.

(12) The Poundkeeper shall ensure annual renewal applications are available to the public on November 1. Every owner shall complete the licence renewal on or before January 1.

(13) All renewal applications received after January 1 of each year shall be subject to the prescribed late payment fee, in addition to the prescribed licence fee, as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(14) In the absence of updated information indicated on the renewal application, every person who submits a renewal application acknowledges that the information provided on the original application is still current.

(15) Every owner of a dog or cat shall notify the Poundkeeper within ten (10) days of any change in:

(a) the name, address, telephone number, or e-mail address of the owner of the dog or cat;
(b) the address of the premises where the dog or cat is being kept by a new owner; or
(c) the ownership of the dog or cat.

(16) Failure to notify the Poundkeeper of ownership changes in accordance with Subsection 5(15) may lead to the cancellation of the licence.

(17) The Poundkeeper may revoke any cat or dog licence issued in error.

(18) Cat and dog licences are not transferable.

(19) Despite any other provision in this By-law, there shall be no licence fee payable to the Town for a duly licensed police animal, guide dog, or service animal.

6. IDENTIFICATION TAGS

(1) Upon approval of a cat or dog licence application or renewal application (including a police animal, guide dog, or service animal), an identification tag shall be issued to the owner of the dog or cat.

(2) Identification tags shall be sequentially numbered and indicate the year of issuance. The Poundkeeper shall keep a record of each identification tag issued, including the serial number of the identification tag, and the name, address and telephone number of the owner of the dog or cat.

(3) Every owner shall ensure that the current identification tag is securely attached to their dog or cat at all times;

(a) Subsection 6(3) does not apply to an owner of a dog when such dog is actively participating in a sanctioned dog show, provided that the dog can be identified

by another means such as a tattoo or microchip and such identification has already been provided to the Poundkeeper.

(b) Subsection 6(3) does not apply to an owner of a dog when such dog is being lawfully used for hunting provided that the owner has the identification tag on his or her person at all times.

(4) The Poundkeeper shall provide the owner of a "potentially dangerous dog", "dangerous dog" or "attack trained dog" with an identification tag of a distinct colour differentiating them from other dogs.

(5) If an identification tag is lost, damaged or destroyed, an owner of a cat or dog shall immediately apply for a replacement identification tag by submitting to the Poundkeeper a completed replacement tag application, together with the prescribed identification tag replacement fee as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(6) Upon the death of a licensed dog or cat, the owner may transfer the identification tag to a new dog at no additional charge provided the owner submits to the Poundkeeper an application for the new dog or cat.

(7) Identification tags issued by another municipality are not recognized by the Town, and are not transferable.

7. KENNELS

Licensing

(1) Every owner or operator of a kennel shall make application for a kennel licence on the prescribed form.

(2) Every applicant for a kennel licence shall submit to the Licence Agent a completed application together with the prescribed licence fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(3) The kennel licence application shall include the following, as applicable:

(a) the name, address, telephone number, and e-mail address of the applicant;

(b) the address of the kennel;

(c) the maximum number of dogs at the kennel, excluding any dogs sixteen (16) weeks of age or under;

(d) if the application is for a new kennel, a detailed drawing of the premises showing the location of the kennel in relation to the dwelling unit, neighbouring dwelling, dog runs, fencing, and other buildings on the premises;

(e) if the applicant is not the owner of the lands, written permission from the registered owner of the lands where the kennel is located, confirming that such registered owner permits the kennel use; and

(f) such additional information as may be required by the Poundkeeper.

(4) In addition to satisfaction of Subsections 7(1) to 7(3), the Licence Agent shall only issue or renew a kennel licence further to a satisfactory inspection performed by the Licence Agent and/or Poundkeeper, including:

(a) certification that the kennel meets the standards and requirements of the Town and the Niagara Regional Health Department;

(b) proof of compliance with the Town's Comprehensive Zoning By-law No. 129-90, as amended or replaced, and

(c) proof of adherence to all by-laws of the Town and the *Building Code Act*, S.O. 1992, c. 23 pertaining to, without limitation, construction and kennel maintenance.

(5) The Licence Agent is only authorized to issue kennel licences to applicants.

(6) A kennel licence is valid for the calendar year in which it is issued, and automatically expires on December 31 of each year.

(7) The Licence Agent shall ensure annual kennel licence renewal applications are available to the public on November 1. Every owner or operator shall complete the licence renewal on or before January 1.

(8) All kennel licence renewal applications received after January 1 of each year shall be subject to the prescribed late payment fee, in addition to the prescribed licence fee, as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(9) In the absence of updated information indicated on the kennel licence renewal application, every applicant for a kennel licence acknowledges that the information provided on the original application is still current.

(10) Failure to notify the Licence Agent of ownership changes in accordance with Subsection 7(9) may lead to the cancellation of the licence.

(11) The Licence Agent may revoke any kennel licence issued in error.

(12) Kennel licences are not transferable.

Kennel Licence Numbers

(13) Upon approval of a kennel licence application or renewal application, a kennel licence number shall be issued to the owner or kennel operator.

(14) Kennel licence numbers shall be sequentially numbered and indicate the year of issuance. The Licence Agent shall keep a record of each kennel licence number issued, including the licence number, and the name, address, telephone number and e-mail address of the applicant.

(15) Kennel licence numbers issued by another municipality are not recognized by the Town, and are not transferable.

Kennel Operations

(16) Every owner and operator of a kennel shall ensure that:

(a) all dogs are adequately fenced or caged to prevent running-at-large;

(b) all dogs are kept in cages of adequate size to allow the animal to extend their legs, stand, sit, turn around, and lie down in a fully extended position, in accordance with the following provisions:

Minimum primary enclosure space requirements:

Height of the dog measured at the shoulder of the dog (cm)	Area (m2)	Width (m)	Height (m)
70 or greater	15	2.40	1.80
40 to 70	10	1.80	1.80
20 to 40	6	1.40	1.20
5 to 20	4	1	1.20

Minimum primary enclosure space requirements apply to the keeping of one adult dog. Dams and their puppies up to eight weeks of age are provided with an additional space of 10% per puppy. If two or more adult dogs are kept in one enclosure, the minimum dimensions for the enclosure specifed are increased by 1.5 square metres for each dog kept in the enclosure.

(c) all dogs must be provided with daily physical activity out of a cage;

(d) all dogs are fed and watered regularly;

(e) all dogs are kept in a sanitary environment free from vermin and disease;

(f) all floors are constructed using impermeable materials;

(g) all cages are constructed of metal and/or wire with impermeable floors;

(h) all droppings, soiled bedding and waste from which odour might arise are promptly removed;

(i) all cages and floors are thoroughly cleaned at least once (1) per day;

(j) electric lighting illuminates the premises;

(k) windows offer suitable ventilation;

(l) a heating system adequately heats the premises;

(m) a cooling system adequately cools the premises;

(n) hot and cold potable running water is available at all times;

(o) a sanitary food preparation and storage area is on the premises;

(p) the kennel does not become a nuisance by reason of odour, noise from barking or otherwise to a proximate residentially used property;

(q) maintain an environment in which the average sound level is less than 85 decibels; and

(r) the perimeter of the dog run shall be enclosed by a fence, having a minimum height of two (2) meters, and shall be of closed board construction to act as a visual barrier or other natural visual barrier or construction around the dog run or of closed construction if the dog run has or may become a nuisance, and to be approved by the Poundkeeper.

(17) The fence of a dog run of a licensed kennel owner, which was approved before this By-law took effect is deemed to comply with Clause 7(16)(p) provided it does not conflict with Town Fence By-law No. 70-2013, as amended or replaced.

(18) Every owner or operator of a kennel shall maintain a log of all dogs on the premises, including the name and address of the dog owner or custodian. Such log shall be available for review during an inspection by a Licence Agent, Animal Control Officer, Manager, or Municipal Law Enforcement Officer.

(19) Every owner or operator who holds a kennel licence shall not admit a dog into the kennel unless veterinary proof of current rabies immunization is produced, or veterinary proof is provided that a dog cannot be vaccinated due to a medical condition.

(20) If a veterinarian confirms that a kennel has an outbreak of distemper, hepatitis, rabies, parvo-virus, or any infectious or contagious disease, the kennel shall be closed forthwith and the licence shall be temporarily suspended by the Licence Agent, Poundkeeper, Public Health Inspector, or such other person as may be appointed by Council.

(21) Further to any closure and/or licence suspension imposed pursuant to Subsection 7(5), the kennel may reopen and have its licence reinstated by the Licence Agent, the Poundkeeper, Municipal Law Enforcement Officer, Public Health Inspector, or

such other person as may be appointed by Council only upon a written report from a veterinarian that the potential danger of disease transmission has subsided.

(22) Every owner or operator of a kennel shall permit the Licence Agent, Poundkeeper, Municipal Law Enforcement Officer, Animal Control Officer, Manager, Chief Building Official or designate, or such other person as may be appointed by Council, to enter and inspect the Kennel at all reasonable times, upon production of proper identification, for the purpose of determining compliance with this By-law.

(23) If a kennel deviates from the minimum standards pursuant to this By-law or the Town's Property Standards By-law No. 186-08, as amended or replaced, the Lot Maintenance By-law No. 92-2019, as amended or replaced, or any other applicable law, the Licence Agent, Municipal Law Enforcement Officer, Manager, or designate may revoke the kennel licence, and seize and impound all animals, until such time as the Manager or designate is satisfied that the kennel has come into compliance.

(24) Every owner or operator of a kennel shall have a right to appeal any licence suspension, refusal, or revocation.

PART III:

8. KEEPING OF CATS AND DOGS

(1) Except as otherwise permitted, no person shall own, possess, or harbour more than three (3) dogs in any one (1) household or on any premises irrespective of the ownership of the dogs.

(2) Except as otherwise permitted, no person shall own, possess, or harbour more than six (6) cats in any one (1) household or on any premises irrespective of the ownership of the cats.

(3) No person shall own, possess or harbor a dog or cat unless a licence for the dog or cat has been issued under this By-law.

(4) No person shall breed or offer for sale dogs without a kennel licence, rescue foster dog licence, or a pet shop licence.

(5) No person shall possess or harbour a rescue foster dog without a licence.

(6) Exceptions to Subsection 8(1) are as follows:

(a) Subsection 8(1) does not apply to any person keeping a licensed kennel of dogs in accordance with this By-law;

(b) The maximum provided for in Subsection 8(1) may be exceeded for the purpose of fostering rescue dogs on agricultural property subject to the following:

(i) completion of the prescribed application form accompanied by written documentation from a bona-fide registered not-for-profit animal rescue organization registered with Canada Revenue Agency attesting to the suitability of the foster family applicant;
(ii) payment of the prescribed rescue foster dog licence fee for up to five (5) dogs pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.
(iii) for agricultural property: a minimum of five (5) acres of land;
(iv) up to five (5) rescue foster dogs on agricultural property and up to three (3) rescue foster dogs on non-agricultural property in addition to the prescribed three (3) dog limit for a maximum period of twelve (12) consecutive months;
(v) foster dog licences and identification tags are transferable from adopted dogs to new foster dogs;
(vi) immediate written notification to the Poundkeeper if a rescue foster dog gives birth while in the foster home; and
(vii) the foster family shall wean and adopt out all puppies within eight (8) to ten (10) weeks of birth and provide written proof of adoption to the Poundkeeper.

(7) No person shall permit a dog to be on or in any cemetery, public beach, or park within the Town, except for the following parks: Lions Sugarbowl Park, Battle of Ridgeway Park, and The Friendship Trail.

9. ANIMALS RUNNING-AT-LARGE

(1) No animal owner shall allow, permit or cause that animal to be running-at-large in the Town.

(2) Every owner of a dog, and every person who has a dog under care, custody or control, shall restrain the dog on a leash measuring no more than six (6) feet, when the dog is at every place other than:

(a) on the property of the owner; or
(b) on the property of any other person with consent of that person.

(3) No person shall permit a dog to be in any public park described in Subsection 8(7) except on a leash measuring no more than six (6) feet and only on the grassy areas of said parks.

(4) A person may permit a licensed dog to be running-at-large in an off-leash dog area only in a place referred to in Subsection 8(7), except if the dog is required to be muzzled pursuant to this By-law and/or the *Dog Owners' Liability Act*, as amended or replaced.

(5) Any animal found running-at-large may be captured and impounded by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer.

10. ANIMAL IMPOUNDMENT

(1) If an Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer captures or impounds an animal running-at-large, that official may at his or her sole discretion:

(a) deliver the animal to the Poundkeeper;
(b) release the animal to its owner; or
(c) euthanize the animal if the animal is injured and it is the most humane course of action, and the owner cannot be found based on the following criteria:

i. Bringing to a veterinarian to determine if the state of disease or injury means euthanasia is the most humane course of action is not practicable or would cause further unnecessary suffering to the animal; and
ii. The Animal Control Officer, Manger, Municipal Law Enforcement Officer, or police officer performing euthanasia are trained by a veterinarian in the methods appropriate for the particular species.

(2) If a Town resident impounds an animal running-at-large, the resident shall notify the Clerk and arrange for delivery to or pick-up from the Poundkeeper within two (2) days.

(3) The Poundkeeper shall keep a record of every animal impounded, including:

(a) the date of impoundment;
(b) a description of the animal;
(c) the particulars of the identification tag for the animal, if applicable;
(d) the date disposed of; and
(e) the nature of the disposition made with respect to the animal.

(4) If an animal is impounded for running-at-large, the owner of the animal shall pay to the Poundkeeper reimbursement of its expenses with respect to the animal including:

(a) the prescribed redemption fees for the animal being at large and impounded pursuant to the Town's Fees Charges By-law No. 40-09, as amended or replaced;

(b) any additional costs incurred by the Town as a result of impoundment, including fees from a veterinarian or a specialized animal handler; and
(c) costs for having the animal sterilized or implanted with a microchip.

(5) Every owner shall retrieve the impounded animal from the Poundkeeper within four (4) days of the date of impoundment, excluding the day of impoundment, pound closures, and any statutory holidays.

(6) If an owner seeks to secure the release of a dog from the Poundkeeper, the owner shall:

(a) provide proof of the dog's current licence; or
(b) obtain a current licence before the dog is released; and
(c) pay the prescribed impound fees pursuant to the Town's Fees Charges By-law No. 40-09, as amended or replaced, and any other applicable damages, fines and expenses.

(7) If an animal is not claimed by its owner within the prescribed redemption period, the Poundkeeper is deemed to be the owner and may sell, dispose of, or have a veterinarian or an authorized person who is trained by a veterinarian in euthanasia to euthanize the unclaimed animal.

(8) Notwithstanding Subsection 10(7), if an animal bears identification, a microchip or an identification tag, the Poundkeeper shall make at least one (1) reasonable attempt to contact the owner prior to selling or otherwise disposing of the animal.

(9) Upon becoming entitled to sell or dispose of an animal, the Poundkeeper may, in his or her sole discretion, arrange to have the animal sterilized and/or identified by means of a microchip, and the cost of these services shall be added to the costs recoverable from the owner pursuant to Subsection 10(4).

(10) If a dog has been impounded and it is alleged that the dog bit or attacked a person or domestic animal and proceedings have been commenced against the owner of the dog under the *Dog Owners' Liability Act*, the Poundkeeper shall hold the dog pending the disposition of the matter. The Poundkeeper may only release the dog in accordance with a decision made under the *Dog Owners' Liability Act*. In such circumstances, the owner of the dog shall pay the costs set out in this By-law for the time the dog has been impounded regardless of whether the dog is returned to the owner.

(a) Every effort should be made to ensure the dog does not experience undue suffering while being held. In accordance with ensuring all basic standards of care are provided, each dog shall be provided with time outdoors and environmental enrichment. A veterinarian, certified animal behaviourist (excluding a dog trainer) or animal welfare scientist shall be involved in continuously monitoring the situation with each dog, assessing quality of life

and how it can be maintained and improved with human contact or contact with other dogs on a case by case basis.

(11) An impounded animal not wearing an identification tag for the current year may be given an inoculation, as recommended by a veterinarian, to provide temporary immunization against common diseases.

(12) (a) If any animal has bitten an animal or a person, or it is alleged that the animal has bitten an animal or a person, the Poundkeeper, Animal Control Officer, Manager, Municipal Law Enforcement Officer, or any person acting under his or her authority delegated by the Town, may impound the animal for the purpose of quarantine.

(b) If any animal has bitten an animal or a person, or it is alleged that the animal has bitten an animal or a person, the Poundkeeper may release the animal to the owner only if the Poundkeeper is satisfied that the owner will:

(i) take immediate steps to quarantine the animal;
(ii) ensure the animal will be properly contained so as not to be found running-at-large;
(iii) muzzle the animal;
(iv) adhere to any written conditions issued by the Poundkeeper; and
(v) pay the prescribed fees set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(13) If an owner forfeits or surrenders an animal and it is evidenced in writing, the Poundkeeper shall take the animal into care and shall have the authority to deal with the animal as if the owner.

PART IV:

11. BASIC STANDARDS OF CARE

(1) Every person who keeps an animal within the Town's boundaries shall ensure that the animal is provided with:

(a) adequate, appropriate, and sufficient quantity and quality of food and potable water to allow for normal growth and maintenance of body weight;

(b) adequate care necessary for its general welfare, which includes care sufficient to preserve its health and well-being;
(c) adequate and appropriate space to enable the animal access to:

(i) natural movement and exercise;

(ii) rest and sleep;
(iii) sanitary conditions free from excess waste, urine or fecal matter, or any other contaminants that could affect the animal's health;
(iv) ventilation;
(v) regular diurnal lighting cycles of either natural or artificial light;
(vi) air temperature suitable for the health of the animal;
(vii) protection from the elements, including harmful temperatures;
(viii) reasonable medical attention and veterinary care to relieve distress from injury, neglect or disease; and
(ix) current immunization against rabies for every dog or cat sixteen (16) weeks of age or over.

(d) transportation in a manner that ensures its physical safety and general welfare, and excludes transport of an animal outside the passenger compartment of a vehicle unless the animal is:

(i) in a fully enclosed and adequately ventilated trailer or crate that securely fastened to the bed of the vehicle; or
(ii) securely and humanely tethered to prevent jumping or ejection from the vehicle, strangulation, and access to the outside edges of the vehicle; and
(iii) reasonably protected from extreme temperatures.

(2) Subsection 11(1) does not apply in respect of an activity regarding agricultural animal care, management or husbandry carried on in accordance with the reasonable and generally accepted practices of agricultural animal care, management or husbandry.

(3) Every animal owner or person in care and control of an animal, who has reasonable grounds to believe that an animal is being abused, subject to undue physical or psychological hardship, privation or neglect shall report his or her belief to an Animal Welfare Inspector in accordance with the *Provincial Animal Welfare Services Act*.

12. STANDARDS OF CARE FOR ANIMALS LIVING OUTDOORS

(1) If an animal, other than a cat, lives outdoors for continuous periods of time exceeding thirty (30) minutes, the animal owner or person having custody and control of the animal shall provide a structurally sound enclosure for the animal’s use at all times. That enclosure shall be:

(a) weather-proofed and insulated sufficient to protect the animal from wind, rain, snow and sun;
(b) equipped with adequate bedding to protect against inclement conditions; and
(c) of proper size and design adequate and appropriate for the animal species.

(2) Every person who has the custody or control of an unsterilized cat or dog shall keep the animal indoors while the animal is in heat.

13. STANDARDS OF CARE REGARDING UNSANITARY CONDITIONS

(1) No person shall keep an animal within the Town in an unsanitary condition.

(2) For the purposes of Subsection 13(1), an unsanitary condition is characterized by the accumulation of urine or fecal matter, a strong odour, insect infestation or rodent attractants, and where the accumulation of any of the aforementioned are likely to endanger the health of any person or animal, or which is likely to disturb the enjoyment, comfort or convenience of any person or animal, in or about any place.

(3) Every owner who keeps an animal shall ensure that waste material and excrement is handled and disposed of in a sanitary manner.

(4) Every owner who keeps an animal shall remove waste excrement at least once (1) weekly from December 1 to April 1, and at least twice (2) weekly from April 2 to November 30.

(5) Every owner of an animal shall immediately remove and dispose of any feces left by the dog or cat on any premises other than those owned or occupied by the owner.

(6) Subsections 13(4) and 13(5) do not apply to an owner storing, removing or disposing of excrement in accordance with Regulation 267/03 of the *Nutrient Management Act*, S.O. 2002, c.4.

14. EUTHANASIA

(1) Every animal must be killed by the most humane course of action. An animal's pain and distress are deemed to be minimized if the animal is killed by a method that produces irreversible unconsciousness, and prompt subsequent death.

(2) A veterinarian may exercise his or her sole discretion to euthanize an animal if:

(a) the animal is suffering; and
(b) the animal's owner or custodian cannot be found promptly, or the veterinarian reasonably believes that:
    (i) the animal does not have an owner or custodian, or
    (ii) the animal's owner or custodian has abandoned the animal; and
(c) in the veterinarian's opinion, euthanasia is the most humane course of action.

(3) When possible, a person may bring sick or injured animal to a veterinarian to determine if the state of disease or injury means euthanasia is the most humane

course of action. If a person, Poundkeeper, Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer are performing euthanasia they need to be trained by a veterinarian in the methods appropriate for the particular species. Pentobarbital, the agent used for the euthanasia of most domestic species is a controlled substance. Other methods are acceptable but technique differs by species and needs to be taught. Furthermore, euthanizing animals is known to contribute to poor mental health among those who perform the procedure (veterinarians, veterinary technicians, farmers, etc), it is not an assignment that should be taken lightly.

PART V:

15. PENS AND ENCLOSURES

(1) If an animal, except wildlife, is confined to a pen or other enclosed structure or area, the following requirements must be met:

(a) the pen or other enclosed structure or area, and any structures or material in it, must be in a state of good repair;

(b) the pen or other enclosed structure or area, and any surfaces, structures and materials in it, must be made of and contain only materials that are:

(i) safe and non-toxic for the animal; and
(ii) of a texture and design that will not bruise, cut or otherwise injure the animal; and

(c) the pen or other enclosed structure or area must not contain one (1) or more other animals that may pose a danger to the animal.

(d) “invisible fence” systems are not an effective or animal welfare-friendly means of ensuring that an animal is prevented from running-at-large, and are prohibited.

(2) If kept outside on the owner's premises for any continuous period exceeding thirty (30) minutes, the person having the custody or control of the animal shall provide for a weather-proofed and insulated enclosure for that animal's use that includes sufficient space to allow for the normal postural and behavioural adjustments, adequate amounts of ventilation, and intensity of light for the animal at all times.

16. TETHERS

Every person who has tethered an animal shall ensure, at all times, that an animal:

(a) is tethered on a chain, rope or similar device of less than three (3) metres in length;

(b) has unrestricted movement within the range of the tether, and cannot suffer injury or strangulation resulting from the tether;

(c) is tethered in a manner that constrains the animal to the property to which the animal is tethered;

(d) has access to adequate and appropriate food, water and shelter;

(e) is not tethered if a choke collar, choke chain, pronged collar or any similar device forms part of the tether;

(f) is not unsupervised on a tether;

(g) is not hitched, tied or fastened to a fixed object where a rope, chain, or cord is tied directly around the animal's neck; and

(h) is not hitched, tied or fastened to a fixed object as the primary means of confinement under circumstances that can be reasonably deemed to be inhumane.

17. UNATTENDED ANIMALS IN A VEHICLE

Every person who leaves an unattended animal in a motor vehicle in the Town shall ensure:

(a) the avoidance of contact between the animal and persons and other animals outside of the vehicle;

(b) the animal has suitable ventilation; and

(c) the animal is not exposed to extreme temperatures.

18. ANIMAL NOISE

(1) No owner shall permit persistent barking, calling, whining or other similar persistent sound made by any domestic pet or any other animal kept or used for any purpose other than agriculture, which sound is clearly audible at a point of reception.

(2) Agricultural operations and domestic farm animals are exempt from Subsection 18(1).

PART VI:

19. POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG

(1) No owner shall permit or allow his or her dog to bite or attack a person or domestic animal.

(2) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer trained by a vet or animal behaviourist on recognition of dangerous dogs shall have the authority to designate a dog as a potentially dangerous dog or a dangerous dog but before issuing such a designation shall take into consideration any mitigating factors.

(a) Mitigating factors include, without limitation, the following:

(i) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a person;
(ii) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a domestic animal;
(iii) the dog was, at the time of the aggressive behaviour, acting in defence of the animal's young;
(iv) the dog was, at the time of the aggressive behaviour, reacting to a person trespassing on the property of the owner;
(v) the dog was, at the time of the aggressive behaviour, reacting to a domestic animal trespassing on the property of the owner; and
(vi) the dog was, at the time of the aggressive behaviour, being teased, provoked, or tormented.

(3) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall be empowered to declare a dog potentially dangerous upon receipt of a signed affidavit, and in the case of designating a dangerous dog, upon receipt of a signed affidavit, attested to by a witness, who actually saw the alleged dog bite a person or domestic animal, or saw the results of same. The declaration must identify the dog, the dog owner and their address.

(4) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer may, either on his or her own initiative or as a result of a complaint from any person, conduct a reasonable inquiry into whether a dog should be designated as a potentially dangerous dog or a dangerous dog.

(5) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall issue an Order designating a dog as a potentially dangerous dog if the dog:

(a) in the absence of any mitigating factor, has demonstrated a reasonable propensity, tendency or disposition to attack, bite, or cause injury to a person or domestic animal;
(b) has on at least (1) occasion behaved in a manner that poses a menace to the safety of a person or domestic animal;

(c) has been previously designated by another municipality as a potentially dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements;
(d) is a restricted pit bull and the dog's owner has failed, on at least one (1) occasion, to comply with one (1) or more of the requirements of this By-law or the regulations respecting restricted pit bulls; or
(e) in the opinion of an Animal Control Officer, Poundkeeper, Manager, or Municipal Law Enforcement Officer creates a reasonable concern for the well-being or safety of another animal or person.

(6) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall issue an Order designating a dog as a dangerous dog if the dog:

(a) in the absence of any mitigating factor, has attacked, bitten, or caused injury to a person or domestic animal;
(b) in the absence of any mitigating factor, has killed a person or domestic animal;
(c) has been previously designated by the Town as a potentially dangerous dog or a dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements;
(d) has been previously designated by another municipality as a potentially dangerous dog or as a dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements; or
(e) is a restricted pit bull and the dog's owner has failed, on at least one (1) occasion, to comply with one (1) or more of the requirements of this By-law or the regulations respecting restricted pit bulls.

(7) Subject to Subsections 19(5) and (6), the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer may issue and serve an Order upon an owner, requiring the owner to do any or all of the following:

(a) muzzle the dog at all times when off the owner's premises using a muzzle that will not cause injury to the dog or interfere with the dog's vision or respiration;
(b) leash the dog at all times when off the owner's premises using a leash not to exceed one (1) meter in length;
(c) keep the dog securely confined on the owner's premises either indoors, or if outdoors, in addition to the provisions listed in Section 15 of this By-law, in a six (6)-sided enclosure at least two (2) metres by four (4) metres capable of preventing the entry of children and other animals and constructed to prevent the dog from escaping;
(d) allow a Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer, to inspect the enclosure required in Clause (19)(7)(c) or to make whatever inquiry is reasonable to ensure compliance with this By-law;
(e) conspicuously display a sign on the property where the dog is kept that states there is a potentially dangerous dog or a dangerous dog on the property;
(f) confine the dog to allow lawful entry onto the premises of the dog owner without the fear of attack by the dog;

(g) further restrain the dog by whatever means is deemed reasonable and humane by the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer.
(h) ensure such dog is sterilized; or
(i) have implanted in such dog a microchip, and provide such microchip information to the Poundkeeper.

(8) Any Subsection 19(7) Order shall include:

(a) a statement that the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer has reason to believe that the owner's dog has bitten or attacked a person or domestic animal;
(b) a requirement that the owner muzzle the dog;
(c) information on restrictions of acquiring additional dogs;
(d) instructions on the process for having the potentially dangerous declaration removed pursuant to Subsection 19(10), if applicable; and
(e) a statement that the owner may request and is entitled to appeal the Order.

(9) Any Order issued pursuant to Subsection 19(8) takes effect immediately upon receipt, and the dog owner shall comply with all of the elements of the Order.

(10) A potentially dangerous dog designation shall be lifted if an owner submits proof of the following to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer:

(a) successful completion of a recognized dog obedience course after the issuance of the Order;
(b) successful completion of a recognized dog handling course after the issuance of the Order; and
(c) a recommendation from a veterinarian or certified animal behaviourist to lift the designation.

(11) Notwithstanding Subsection 19(10), any subsequent designation as a potentially dangerous dog shall not be lifted other than further to a decision on Appeal.

(12) An owner of a potentially dangerous dog shall be precluded from acquiring and licensing additional dogs until such owner submits proof of the following to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer:

(a) Successful completion of a recognized dog obedience course within the past thirty (30) days;
(b) Successful completion of a recognized dog handling course within the past thirty (30) day; and;
(c) a recommendation from a veterinarian.

(13) An owner of a dangerous dog may not acquire and license additional dogs.

(14) An owner, whose dog has been designated as a potentially dangerous dog or a dangerous dog shall immediately advise the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer of the particulars pertaining to any ownership transfer of the dog or address change.

(15) If a dangerous dog or potentially dangerous dog is not restrained and the owner or custodian cannot be readily located, the Poundkeeper, Manager, Animal Control Officer or Municipal Law Enforcement Officer may remove the dog from the property if it is reasonable to preserve public safety, including the well-being of another animal.

(a) All reasonable costs incurred by the Town to facilitate this removal shall be borne by the owner of the dog.

(16) If an owner whose dog has been designated as a dangerous dog is unwilling or unable to comply with the requirements herein, and the owner has surrendered the dog to the Poundkeeper, and evidenced in writing, the dog shall then be humanely euthanized by trained Poundkeeper staff or veterinarian after a ten (10) day holding period.

(17) Any dog designated as a dangerous dog under this By-law shall not be offered for adoption or sale.

(18) The cost of humanely euthanizing a dangerous dog shall be borne by the owner unless the dog owner surrendered the dog to the Poundkeeper.

PART VII:

20. ANIMAL TRAPS

(1) No person shall use, set or maintain a leg hold trap, a killing trap or a snare trap unless licensed to do so by the Ministry of Natural Resources and Forestry.

(2) Subsection 20(1) does not apply to:

(a) reasonable use by agricultural operations to protect livestock, crops, and the agricultural operation overall;
(b) reasonable efforts to control and eliminate rodents and pests, such as mice and rats, in relation to a residential, commercial, industrial, or public space property; or
(c) a pest control company or agency which has been hired to address an identified issue utilizing reasonable and humane common trade practices and procedures.

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21. FERAL CATS

(1) An Animal Control Officer, Poundkeeper, Manager, or Municipal Law Enforcement Officer may operate a "trap, neuter, return program" in respect of any feral cat or feral cat colony, and shall maintain a record of feral cat sterilizations.

(2) Any feral cat may be sterilized and subsequently released, at the sole discretion of the Poundkeeper.

(3) If, in the opinion of the Poundkeeper, a feral cat is injured or ill and euthanasia is the most humane course of action, the feral cat shall be euthanized.

22. LIVESTOCK

(1) No person shall keep livestock on any premises in Town unless the premises are zoned to permit the keeping of livestock by the Town's Comprehensive Zoning By-law No. 129-90, as amended or replaced.

(2) No owner of livestock shall permit any livestock to be running-at-large in the Town.

(3) Livestock shall be deemed to be running-at-large if found in any place other than the premises of the owner of the livestock, and not under the control of any person.

(4) An Animal Control Officer, Manager, Municipal Law Enforcement Officer, police officer or the Poundkeeper may seize and impound any livestock running-at-large in the Town.

(5) Any livestock seized pursuant to Subsection 22(4) shall be considered impounded at the time and place of the seizure by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, police officer, or the Poundkeeper.

(6) The Poundkeeper shall make reasonable efforts to determine the identity of the owner of the impounded livestock, and inform the owner that the livestock has been impounded in accordance with this By-law and the *Pounds Act*.

(7) Further to impoundment of livestock, the Poundkeeper shall:

(a) provide such veterinary or other care for any injured or ill impounded livestock necessary to preserve life or relieve distress;
(b) euthanize any impounded livestock without delay if the owner cannot be found and, in the opinion of the Poundkeeper, such action is the most humane course of action. Euthanasia shall only be performed by a person trained to administer it.

(c) be entitled to recover from the owner of the impounded livestock all reasonable costs of veterinary or other care provided while the livestock was impounded; and
(d) be entitled to recover from the owner of the impounded livestock any reasonable fees for the redemption of the livestock.

(8) Every owner shall retrieve the impounded livestock from the Poundkeeper within four (4) days of the date of impoundment, excluding the day of impoundment, pound closures, and any statutory holidays.

(9) The owner of any impounded livestock may secure the release of livestock during the redemption period subject to:

(a) payment of all reasonable costs and fees incurred by the Pound; and
(b) fulfillment of any other action in relation to the care or control of the impounded livestock that the Town or Poundkeeper may direct.

(10) If the owner of the livestock fails to comply with Subsection 22(8) or (9), the Poundkeeper is deemed to be the owner of the livestock and possesses the sole discretion to decide whether to keep, sell, or otherwise dispose of the impounded livestock.

(11) The Poundkeeper shall keep a record of all impounded livestock pursuant to Subsection 10(3).

23. EXOTIC ANIMALS

(1) No person shall own, breed, harbour, possess, keep, sell or offer for sale any exotic animal listed in Schedule “A” herein unless through statutory authorization.

(2) Notwithstanding Subsection 23(1) herein and Section 6.22 of the Town Zoning By-law No. 129-90, as amended or replaced, no person shall keep an exotic animal within the Town except in the following places or circumstances:

(a) a veterinary hospital under the care of a veterinarian;
(b) on the lands and premises of the Poundkeeper or authorized agency to house or shelter exotic animals, on a temporary basis, due to spatial or other special requirements;
(c) on the lands and premises listed under Schedule "B" herein;
(d) non-venomous snakes, non-venomous lizards, insects, turtles, spiders or squamata in an escape-proof enclosure;
(e) a maximum of five (5) non-venomous snakes, non-venomous lizards or spiders in one (1) residential area owned or occupied by that person;
(f) any lagomorph, marsupial or rodent in an approved enclosure; or
(g) a provincially authorized wildlife custodian with statutory authorization.

(3) No person may keep exotic animals enumerated in Schedule “A” unless they are part of an agricultural operation and specifically enumerated in Schedule “B”.

(4) Exotic animals may be kept on lands and premises where exotic animals are kept for public exhibition and display as part of a commercial establishment provided such lands and premises are enumerated in Schedule “B”.

(5) Exotic animals may be kept at a Rehabilitation Centre provided the Rehabilitation Centre is specifically listed in Schedule “B".

(6) Any person may apply to Council to have lands or premises added to Schedule “B", and the application may only be approved if he or she satisfies Council that the exotic animal(s) will only be kept for the purposes of an agricultural operation, public exhibition and display, or Rehabilitation Centre.

(7) All exotic animal registrations in effect prior to the passage of this By-law shall remain valid subject to the following conditions:
(a) any person possessing an exotic animal registration shall immediately notify the Licence Agent of the loss, death, or sale of the exotic animal; and
(b) failure to notify the Licence Agent pursuant to Clause 23(7)(a) shall lead to the cancellation of the registration.

(8) All registrations for exotic animals are non-transferable.

(9) If an exotic animal is seized or impounded pursuant to this By-law, the owner shall pay to the Poundkeeper any and all fees, costs and charges involving the capture, care, transportation, disposal of, and veterinary services of the animal seized or impounded, in addition to all other fees and charges payable under the Town’s Fees and Charges By-law No. 40-09, as amended or replaced.

PART VIII:

24. LICENCE SUSPENSIONS, REFUSALS, AND REVOCATIONS

(1) A Licence Agent may refuse to issue a licence, or may suspend or revoke a licence, if:

(a) the owner has been found guilty of an offence or failed to comply with a provision under this By-law on at least two (2) occasions within the preceding twelve (12) months;
(b) there are reasonable grounds to believe that the licensee or applicant will not comply with this By-law;
(c) the licensee or applicant refuses to permit an inspection; or

(d) a veterinarian confirms an outbreak of a disease that would require any form of quarantine.

PART VIII:

25. APPEALS

(1) A dog owner may appeal an Order designating a dog as a potentially dangerous dog or as a dangerous dog.

(2) An appeal shall be made in writing and delivered to the Clerk within fifteen (15) days of the owner receiving notice of the Order, including the prescribed appeal fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(3) If an appeal is received after the prescribed appeal period, the Clerk may dismiss the appeal with written notification to the parties. The Clerk, in his or her sole discretion, may accept a late appeal provided it is received within thirty (30) days and there is compelling proof of extraordinary circumstances that caused the failure to appeal within the prescribed period.

(4) An appeal does not operate as a stay. The Order remains in force and all conditions must still be fulfilled pending disposition of the appeal.

(5) The Clerk shall give an appellant at least five (5) days written notice of a Hearing by delivering a Notice of Hearing by registered mail or e-mail to the addresses shown in his or her appeal. The Notice of Hearing shall include:

(a) a statement setting out the time, place, and manner in which the Committee will convene for the appeal hearing; and

(b) a statement that, if the owner does not attend the hearing, the Committee will proceed with the hearing in the absence of the owner.

(6) Every appeal shall be considered at a public Hearing held before the Committee, and may be held electronically pursuant to the *Statutory Powers Procedure Act,* R.S.O. 1990, S.22.

(7) A Hearing shall be held pursuant to the *Statutory Powers Procedure Act*.

(8) At the conclusion of a Hearing in respect to Subsection 25(1), the Committee shall consider the following:

(a) the dog's behaviour;

(b) the seriousness of the injuries caused by the bite or attack on a person or a domestic animal;
(c) extraordinary circumstances or mitigating factors;
(d) the likelihood that a similar attack will be repeated;
(e) the dog's physical potential for inflicting harm;
(f) the seriousness of the owner's previous convictions under this By-law, any other by-law or statute;
(g) the steps taken by the owner to comply with this By-law and avoid further violations; and
(h) any agreed statement of facts or joint resolution tendered by the parties.

(9) The Committee shall consider the evidence presented at a Hearing and has the authority to make one (1) of the following Rulings with Reasons:

(a) confirm the Order;
(b) confirm the Order with modified conditions;
(c) change the designation from dangerous to potentially dangerous, subject to the provisions of Section 19, with conditions;
(d) change the designation from potentially dangerous to dangerous, subject to the provisions of Section 19, with conditions; or
(e) quash the Order.

(10) The Clerk shall deliver to the appellant the Ruling of the Committee with Reasons by registered mail or e-mail to the addresses shown on his or her appeal and to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer within fifteen (15) days of the Committee's Ruling.

(11) The Ruling of the Committee shall be final and binding.

(12) Nothing in this By-law, nor any decision of the Committee shall preclude a court of competent jurisdiction from imposing an Order under any other applicable law. The Ruling of the Committee shall terminate if a court of competent jurisdiction makes an Order respecting the Order of the Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Licence Agent.

(13) An appeal to the Dangerous Dogs Appeals Committee that was commenced under By-law No. 176-2001, as amended by By-law No. 33-04, but not disposed of before passage of this By-law, shall be continued and disposed of under the same provisions of By-law No. 176-2001, as amended, as if those By-laws were still in force and effect.

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26. SERVICE

(1) An Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent shall serve any Decision, Notice or Order by handing it to the person, failing which the Order shall be served:

(a) by handing it to an adult person on the property of the owner or occupant and by sending a copy by registered mail to the address last known to the Town;
(b) by posting it in a conspicuous place at the property of the owner or occupant and by sending a copy by registered mail to the address last known to the Town; or
(c) by sending it by e-mail and by registered mail to the person to the addresses last known to the Town.

(2) Any Decision, Notice or Order issued by the Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent, or Appeal Ruling of the Committee by the Clerk, or appeal filed by a person pursuant to this By-law shall be deemed received as follows:

(a) by registered mail: five (5) days after the date of mailing by registered mail;
(b) by e-mail delivered before 5:00pm on a weekday: the same business day;
(c) by e-mail delivered after 5:00pm on a weekday: the next business day;
(d) by e-mail delivered on a weekend or a holiday: the next business day.

PART IX:

27. ENFORCEMENT AND RIGHT OF ACCESS

(1) This By-law shall be enforced by the Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper and the Licence Agent.

(2) Subject to sections 436 and 437 of the *Municipal Act*, *2001,* an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, at all reasonable times, enter upon any place to ensure compliance with this By-law, any Decision or Order issued pursuant to this By-law, or licence conditions. Any animal that is perceived as a threat or potential threat, may be restrained during the course of the inspection.

(3) Subject to sections 436 and 437 of the *Municipal Act*, *2001,* an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, at all reasonable times, enter upon any place if he or she has reasonable grounds to believe an animal is in critical distress.

(4) The Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, for the purposes of an inspection under Subsections 27(2) or 27(3):

(a) require the production for inspection of relevant documents or things;
(b) inspect, remove, and make copies or extracts of relevant documents or things;
(c) require information from any person concerning a matter relevant to the inspection;
(d) make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
(e) be accompanied by persons possessing special or expert knowledge related to the purpose of the inspection.

(5) Subject to section 438 of the *Municipal Act, 2001*, if an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has been prevented from carrying out an inspection, he or she may undertake an inspection pursuant to a judicial order .

(6) Subject to section 439 of the *Municipal Act*, *2001,* an Animal Control Officer or Municipal Law Enforcement Officer may apply for a search warrant to carry out an inspection of a place.

(7) If an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has reasonable grounds to believe a contravention of this By-law has occurred, he or she may issue an Order requiring any person who contravened the By-law, or who caused or permitted the contravention, to discontinue the contravention.

(8) If an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has reasonable grounds to believe a contravention of this By-law has occurred, he or she may make an Order requiring the person to do work to correct the contravention.

(9) No person shall hinder or obstruct, or attempt to hinder or obstruct an Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent in carrying out his or her duties under this By-law.

(10) No person shall neglect or refuse to produce or provide any information or thing requested by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent in carrying out his or her duties under this By-law.

(11) No person shall knowingly make, participate in, assent to, or acquiesce, in the provision of false information in a statement, affidavit, application, appeal or other document prepared, submitted or filed under this By-law.

(12) No shall person shall fail to comply with an Order issued pursuant to this By-law.

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PART X:

28. PENALTIES

(1) Every person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and, upon conviction, is liable to a fine and such other penalties, as provided for in the *Provincial Offences Act*, S.O. 1990, c. P.33 and the *Municipal Act, 2001*.

(2) Pursuant to Section 429 of the *Municipal Act, 2001*, every person who is guilty of an offence under this By-law shall be subject to the following penalties:

(a) Upon a first conviction, to a fine of not less than $500 and not more than $50,000;

(b) Upon a second or subsequent conviction for the same offence, to a fine of not less than $500 and not more than $100,000;

(c) Upon conviction for a continuing offence, to a fine of not less than $100 and not more than $10,000 for each day or part thereof that the offence continues. The total daily fines shall not exceed $100,000; and

(d) Upon conviction for a multiple offence, for each offence included in the multiple offence, to a fine of not less than $100 and not more than $10,000. The total of all fines for each included offence is not limited to $100,000.

(e) If a person convicted of an offence is a corporation, the corporation is liable to a fine of not less than $500 and not more than $100,000.

29. ADMINISTRATIVE MONETARY PENALTIES

(1) Instead of laying a charge under the *Provincial Offences Act* for failure to comply with any provision of this By-law, an Order, or any licence condition, an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may issue an administrative monetary penalty to a person who has contravened this By-law, subject to Section 434.1 of the *Municipal Act, 2001*.

(2) An Animal Control Officer, Manager, or Municipal Law Enforcement Officer possesses the discretion to decide whether to pursue a charge under the *Provincial Offences Act* or issue an administrative monetary penalty.

(3) If an administrative monetary penalty is issued to a person for failure to comply with a provision in this By-law, no charge shall also be laid under the *Provincial Offences Act* against the same person for the same non-compliance.

(4) Every person who has contravened any provision of this By-law is liable to the corresponding administrative monetary penalty enumerated in Schedule “C” herein, in accordance with the Town’s Administrative Penalty By-law No. 111-2019, as amended or replaced.

30. COLLECTION OF UNPAID FINES

(1) The Town may recover its expenses of remedying a contravention of this By-law by invoicing the person who engaged in the contravention, by instituting legal proceedings, or by adding the cost, including interest, to the tax roll in the same manner as municipal taxes.

(2) An administrative monetary penalty issued to a person in accordance with the Town’s Administrative Penalty By-law No. 111-2019, as amended or replaced, may be added to the municipal tax roll and collected in the same manner as municipal taxes.

PART XI:

31. MODIFICATIONS

The Clerk of the Town is authorized to effect 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.

32. SEVERABILITY

If a Court of competent jurisdiction declares any Section or part of a Section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

33. IMMUNITY

No Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper, or Licence Agent, is personally liable for any act or omission done in good faith in the execution or intended execution of the person’s powers or duties under this By-law.

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34. REPEAL

By-law Nos. 119-97, 156-97, 23-2000, 82-2001, 146-2001, 176-2001, 81-2003, 32-04, 33-04, 135-10, 58-12, 106-2015, 107-2015, 74-2018, and 13-20 are repealed in their entirety.

35. FORCE AND EFFECT

This By-law shall take effect on the date of enactment.

Read a first, second and third time and finally passed this day of , 2021.

_____
Mayor

_____
Clerk

I, Carol Schofield, the Clerk of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. XX-2021 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

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Schedule "A"

Animal Species Classifications

1. The following non-exhaustive list of animal classes shall be considered exotic animals:

(a) All Anseriformes (e.g. ducks, geese, swans and screamers), except if located on rural or agricultural premises zoned under a Town zoning by-law permitting such a use;

(b) All Artiodactyla (e.g. cattle, goats, sheep, pigs, deer, elk, alpacas and llamas, antelopes, giraffes and hippopotamuses), except if located on rural or agricultural premises zoned under the Town's zoning by-law permitting such a use;

(c) All Birds, the keeping of which is prohibited in the *Migratory Birds Convention Act,* S.C. 1994 c.22, and regulations thereto; and all animals, the keeping of which is prohibited in the *Fish & Wildlife Conservation Act,* S.O. 1997, c.41 and regulations thereto including but not limited to:

- (i) Anseriformes (such as ducks, geese, swans, screamers);
- (ii) Galliformes (such as pheasants, grouse, guinea fowls, turkeys);
- (iii) Gruiformes (such as cranes, rails);
- (iv) Phoenicopteriformes (such as flamingos);
- (v) Sphenisciformes (such as penguins); and
- (vi) Struthioniformes (flightless ratites such as ostriches, rheas, cassowaries, emus, kiwis).

(d) All Canidae (such as coyotes, wolves, foxes, hybrid wolf dogs) except Canis Familiaris (domestic dog);

(e) All Carnivora (e.g. otters, wolves, bears, coyotes, foxes, tigers, leopards, cougars, lions, lynx, mink, skunks, weasels, badgers, mongooses and raccoons), except dogs, cats and ferrets;

(f) All Chiroptera (bats such as fruit bats, myotis, flying foxes);

(g) All Crocodylia (such as Alligators, Gavials, Caymans and Crocodiles);

(h) All Dermoptera (all Lemurs);

(i) All Diurnal and Nocturnal Raptors (such as Eagles, Hawks and Owls) unless authorized by the Ministry of Natural Resources and Forestry;

(j) All Edentates (such as Anteaters, Sloths and Armadillos);

(k) All Felidae (such as tigers, leopards, cougars) except the Felidae Domesticus (domestic cat);

(l) All Galliformes (e.g. pheasants, grouse, guinea fowls, turkeys, chickens and peafowls), except if located on rural or agricultural premises zoned under a Town zoning by-law permitting such use;

(m) All Hyaenidae (such as hyenas);

(n) All Hyracoidea (such as all Hyrax);

(o) All Lagomorpha (such as Hares and Pikas), except domestic Rabbits;

(p) All Marsupialia (e.g. koalas, kangaroos, opossums and wallabies), except sugar gliders derived from self-sustaining captive populations;

(q) All Mustelidae (such as mink, skunks, weasels, otters, wolverines, badgers) except ferrets;

(r) Non-human primates (such as chimpanzees, gorillas, monkeys, lemurs);

(s) All Perissodactyla (e.g. horses, donkeys, jackasses, mules, zebras and ponies), except if located on rural or agricultural premises zoned under a Town zoning by-law permitting such a use;
(t) All Pholidota (such as all Pangolin);
(u) All Pinnipeds (such as Seals, Fur Seals and Walruses);

(v) All Non-human Primates (e.g. chimpanzees, gorillas, monkeys and lemurs);
(w) All Procyonidae (such as Raccoons, Coatis and Cacomistles);
(x) All Proboscidea (such as Elephant, Rhinoceros and Hippopotamus);
(y) All snakes of the families Pythonidae and Boidae (such as pythons, boa constrictors and anacondas);
(z) All Venomous Reptiles (such as front or rear fanged snakes and helodermid lizards);
(aa) All Rodentia (e.g. porcupines, prairie dogs, nutria and chinchillas) except Rodentia:

(i) where neither the female nor the male of the species exceeds or will exceed fifteen hundred (1,500) grams in weight before or at maturity; and
(ii) that are derived from a self sustaining captive population;

(bb) All other Venomous or Poisonous Animals except Grammostola rosea (Chilean Rose), Brachypelma smithi (Mexican Red-Knee) and Avicularia avicularia (Pink-Toe) Tarantulas;
(cc) All Sciuridae (such as Flying Squirrels and Red Squirrels);
(dd) All families of Venomous Snakes, even if de-venomized;
(ee) All families of Venomous Spiders, except Tarantulas;
(ff) All Squamata (e.g. lizards and snakes) except:
(i) non-venomous snakes where neither the female nor the male of the species exceeds or will exceed three (3) metres in length from nose to tip of tail before or at maturity; and
(ii) non-venomous lizards (not including Iguana) where neither the female nor the male of the species exceeds or will exceed two (2) metres in length from nose to tip of tail before or at maturity;

(gg) All odd-toed Ungulates (such as zebras, wild asses, rhinoceroses and tapirs) except domestic horses, donkeys, asses and domestic horse or donkey hybrids;
(hh) All Ursids (such as bears);
(ii) Varanus komodoensis (Komodo Dragon); '
(jj) All viverrids (such as civets, binturongs and fossas)

Schedule "B"

Exotic Animal Exceptions

1. Agricultural Operations;
2. Public Exhibition and Display;
3. The lands and premises at 2821 Stevensville Road, Fort Erie, Ontario L0S 1S0 (commonly called Safari Niagara) and being more particularly described as PIN 64245-0189 (LT), and 4206 Fox Road, Fort Erie, Ontario, L0S 1S0 (commonly called Safari Niagara) and being more particularly described as PINs 64245-0194 (LT) and 642460191(LT);
4. Rehabilitation Centres

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Schedule "C"

Administrative Monetary Penalties

For the purposes of this By-law:

Column 1 ("Description of Offence") in the table sets out the short form wording to be used in a Penalty Notice for a contravention of the designated provisions listed.

Column 2 ("Section") in the table lists the specific section of the provision that has been contravened.

Column 3 ("Penalty Tier 1") sets out the Administrative Monetary Penalty amounts that are payable for contraventions of the designated provisions listed in Columns 1 and Column 2.

Column 4 ("Penalty Tier 2") sets out the Administrative Monetary Penalty amounts that are payable for a second (2nd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Column 5 ("Penalty Tier 3") sets out the Administrative Monetary Penalty amounts that are payable for a third (3rd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Fail to notify Poundkeeper of address change in prescribed period of time	5(15)(b)	$200	$300	$450
Fail to notify Poundkeeper of or ownership change in prescribed period of time	5(15)(c)	$200	$300	$450
Failure to provide a rabies certificate	5(9)	$250	$350	$500
Fail to ensure that identification tag corresponding to the licence issued for dog or cat is attached to the dog or cat at all times	6(3)	$250	$350	$500
Fail to obtain kennel licence	7(1)	$500	$650	$750
Construct, erect, or maintain a kennel not in accordance with Town By-laws	7(4)	$300	$450	$750
Fail to ensure standards of care regarding Kennel Care	7(16)	$300	$450	$750
Fail to maintain a log of all dogs on premise	7(18)	$250	$350	$500
Admit a dog into the kennel without rabies immunization	7(19)	$250	$350	$500

No person shall own, possess or harbour in any one (1) household or on any premises more than three (3) dogs	8(1)	$250	$350	$500
No owner shall keep or permit to be kept on any one (1) premise owned or occupied by them more than six (6) cats in a residential area	8(2)	$250	$350	$500
Fail to obtain a dog or cat licence	8(3)	$250	$350	$500
No person shall breed or offer for sale dogs without a kennel license or pet shop license	8(4)	$300	$450	$650
No person shall possess or harbour a rescue foster dog without a licence	8(5)	$250	$350	$500
Permit a dog to be on or in any cemetery, public beach, or park within the Town	8(7)	$200	$300	$450
No owner shall allow, permit or cause any animal to be running-at-large	9(1)	$250	$500	$750
Fail to keep dog on a leash of no more than 182cm (6ft)	9(2)	$200	$300	$450
Permit dog in off leash area where muzzle order issued	9(4)	$400	$550	$750
Fail to provide a Basic Standard of Care	11(1)	$300	$450	$750
Fail to adhere to an obligation to report	11(4)	$250	$350	$500
Fail to provide a standard of care for a dog outdoors	12(1)	$250	$350	$500
Fail to provide an animal with adequate sanitary conditions	13(1)	$250	$350	$500
Fail to remove and dispose of animal excrement	13(5)	$250	$300	$450
Fail to remove animal excrement on property within prescribed period of time	13(4)	$200	$300	$450
Fail to provide an animal with a proper pen or enclosure	15(1)	$250	$350	$500
Fail to provide a proper enclosure for an animal outdoors for more than 30 minutes	15(2)	$250	$350	$500
Tether an animal not in accordance with the provisions in the by-law	16(1)	$300	$450	$600
Leave animal unattended in vehicle not in accordance with the By-law	17(1)	$350	$500	$750
Fail to ensure dog or cat immunized against rabies	17(5)	$250	$350	$500
No owner shall permit or allow the persistent barking, calling, whining or other similar persistent sound	18(1)	$250	$350	$500

Fail to ensure a dog does not bite or attack another person or domestic animal	19(1)	$350	$500	$750
Fail to comply with a dangerous dog order	19(9)	$350	$500	$750
Offer dangerous dog for adoption	19(17)	$350	$500	$750
Use, set, or maintain a leg hold trap, a killing trap, or snare trap	20(1)	$500	$650	$750
No person shall keep livestock on any premises unless permitted.	22(1)	$250	$500	$750
No person shall own, breed, harbour, possess, keep, sell or offer for sale any exotic animal	23(1)	$350	$500	$750
Fail to comply with an Order	27(12)	$350	$500	$750
No person shall hinder or obstruct an authorized person in the administration of the by-law	27(19)	$350	$500	$750
Permit a dangerous dog to be running-at-large	28(24)	$350	$500	$750

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Interoffice Memorandum

Date: May 11, 2021
File No. 310109

To: Mayor and Council
From: Paul Chudoba
Subject: **REPORT PDS-17-2021 ANIMAL BY-LAW AMENDMENTS**

At the Regular Council meeting March 22nd, 2021, Report No. PDS-17-2021 was postponed to May 10, 2021, under Resolution No. 3D. The postponement was to provide time to include revisions to the draft Animal By-law proposed by Council and delegations.

At the Regular Council meeting March 22nd, 2021, under Resolution 3C, Council directed staff to provide a revision of the Draft Animal By-law to only permit a Board registered veterinary technician or veterinarian to perform euthanasia. There was a concern identified regarding the welfare of a sick or injured animal, where transporting to a veterinary technician or veterinarian may not be a humane course of action. It was recommended by the veterinarian retained by the Town that in circumstances where transportation was not possible, or humane, that euthanasia only be performed by a person trained by a veterinarian in euthanasia specific to the animal species being euthanized.

In a memorandum to Council May 10th, 2021, staff requested that Report No. PDS-17-2021 be postponed until the May 17th, 2021, Council-in-Committee meeting to receive additional review from animal lawyer Jennifer Friedman and veterinarian Dr. Heinrich.

Attached as Appendix "1" is a Red-line Revision of the Draft Animal By-law**.** The following is a list of changes made to the attached Draft Animal By-law:

- 3(l) re-positioned from 3(n) - alphabetical order.
- Definition “dispose of”: COMPLETELY DELETED - based on legal advice.
- 3(r) ADD: re-positioned from 3(q) – alphabetical order.
- New 3(hh) sequence change from 3(ii) but shows 3(a) – formatting and sequence
- 3(uu) formatting change from “i-v” to letters to reflect clause 3(uu)(e) “(a) to (d) above”
- New 3(hhh) sequence change from 3(iii) but shows 3(a) - formatting and sequence
- 3(nnn) change “of” to “or” – wrong word.
- 3(ppp) change “dog or cat” to “ animal (all inclusive).
- 3(www) remove “strong” – not required.
- 5(18) “herein” removed – not required.
- 7(16) “specifed” to “specified” – spelling correction.
- 7(16)(h) DELETE “strong” ADD “unhealthy” – word correction.
- 7(16)(p) DELETE “strong” ADD “unhealthy” – word correction.
- 7(16)(p) ADD “excessive” – dogs bark by nature, but to ensure that some controls are in place both inside and outside.

- 7(25) Clause to ensure controls are in place for kennel operations not staffed 24/7.
- 10(1)(c) moved to 10(2) Provision to allow for euthanasia on site for those properly trained. There are times when it is not humane to transport an animal to a vet or vet tech for euthanasia.
- 10(3) DELETE “Clerk” add “Poundkeeper” – correction regarding wrong entity.
- 10(8) ADD “registered veterinary technician” and remove authorized person.
- 10(9) DELETE 1 attempt and ADD 2 attempts – increased number of attempts needed for contacting animal owner.
- 11(1)(c)(i) ADD “full range of” - based on delegation.
- 11(1)(c)(v) ADD according to species-specific needs – based on delegation.
- 12(1) DELETE: “every person who has the custody or control of an unsterilized cat or dog shall keep the animal indoors while the animal is in heat” – provision extremely difficult to enforce.
- 13(4) ADD “Animal excrement shall be stored in a waste receptacle with a properly fitting and secure cover” – aesthetic and yard maintenance provision.
- 14(1) DELETE “killed” ADD “euthanized”.
- 14(3) Provision modified so when not possible to bring an animal to a veterinarian or veterinary technician as it would be inhumane or cause further suffering to an animal, that it could be performed on site by a qualified person.
- 16(1) DELETE “an” ADD “the”.
- 16(1)(f) ADD for longer than 30 minutes – to allow a period of time that constant supervision is not required
- 17(2) Provision added so that if an animal is in distress in a motor vehicle, the animal may be removed from the conditions and take possession of the animal
- 19(2) ADD “erinarian” for the full profession name.
- 19(3) Provision modified to provide clarity to witness statements in a dog bite.
- 19(16) ADD registered veterinary technician.
- 21(3) Provision modified to ensure that euthanasia for feral cats be brought to a veterinarian or veterinary technician for examination and if necessary euthanasia.
- 22(7)(b) Provision modified to remove euthanasia as an option for the Poundkeeper based on impoundment of livestock.
- 23(2) ADD Comprehensive and a reference to “Schedule A” in the provision.
- 23(2)(d), 23(2)(e), and 23(2)(f): ADD “permitted” to create synergy with Schedule A.
- 23(2)(h) language clarity.

SCHEDULE A

- 1(a): ADD amphibians - delegation request.
- 1(b): ADD Anseriformes – delegation request.
- 1(c): ADD domesticated as an exception – delegation request.
- 1(d): DELETE sections (i)-(vi) as the birds are not listed in the referenced Acts – delegation request.
- 1(g): ADD Chelydridae – delegation request.
- New 1(j) (was h) : DELETE all lemurs – delegation request
- 1(l): ADD Erinacidae – delegation request.
- 1(j): MOVED to 1(ss) as Edentates are re-classified as Xenarthra – delegation request.
- 1(m): ADD Savannah Cats – veterinarian Dr. Heinrich request.
- 1(n) ADD domesticated as an exception – delegation request.

- 1(o): ADD Gruiformes – delegation request.
  1(r): ADD exception to Oryctolagus – delegation request.
- 1(s): ADD Marbled crayfish – delegation request.
- 1(u): ADD Mustela putorius furo – delegation request.
- 1(v): DELETED – duplication.
- 1(w): ADD domesticated as an exception – delegation request.
- 1(s): Change to 1(x) and ADD Phoenicopteriformes – delegation request.
- 1(x): Change to 1(cc) and ADD Psittaciformes exceot budgie, cockatiel, monk parakeet, Rosy-faced lovebird, yellow-collared lovebird, Fisher's lovebird – delegation request.
- 1(y): Change to 1(ee) ADD Red-eared slider – delegation request.
- 1(z): Change to 1(gg) ADD domesticated species – delegation request.
- 1(ee): Change to 1(mm) and add in accordance with 1(hh) for Tarantulas – delegation request.
- 1(ff): Change to 1(nn) and DELETE not including Iguana from 1(nn)(ii) – delegation request.
- 1(gg): DELETE – species already covered – delegation request.
- 1(jj): ADD All Spenisciformes – delegation request.
- 1(kk): ADD Struthioniformes – delegation request.
- 1(oo): ADD All Teiidae – delegation request.
- 1(ii): Change to (qq) and DELETE Varanus komodoensis ADD all Varanidae lizards – delegation request.
- ADD Section 2. To include all endangered or protected animals – delegation request.

SCHEDULE "C"

- Change offence section 11(4) to 11(3) – section correction.
- Change offence section 27(19) to 27(9) – section correction.
- DELETE offence section 28(24) – duplicate to dog running at large.

Should Council be satisfied with the redline changes proposed in Appendix "1" to this Memorandum, Council should amend Recommendation No. 3 in PDS-17-2021 to read as follows:

> **That:** Council approves the draft Animal By-law attached as Appendix "1" to the Memorandum dated May 11, 2021, subject to the revisions required to implement Council's choice of Option No. 3 for the licensing of cats.

All of which is respectfully submitted

Original Signed

Paul Chudoba
Coordinator, Law Enforcement
PC
Attach. Appendix "1" Red-line Revision of the Draft Animal By-law - FINAL

The Municipal Corporation of the Town of Fort Erie

By-law No. XX-2021

Being an Animal Welfare By-law, Governing the Care, Licensing, and Regulating of Dogs, Cats, and Other Animals, and to Repeal By-law Nos. 119-97, 156-97, 23-2000, 82-2001, 146-2001, 176-2001, 81-2003, 32-04, 33-04, 135-10, 58-12, 106-2015, 107-2015, 74-2018, and 13-20

Whereas the Municipal Council ("Council") of The Corporation of the Town of Fort Erie (the "Town") enacted By-law No. 119-97 on July 21, 1997, as amended, to regulate and restrict the keeping of dogs, and prohibit the running-at-large of dogs in the Town; and

Whereas Council enacted By-law No. 146-2001 on August 20, 2001, as amended, to regulate and prohibit the keeping of exotic animals in the Town; and

Whereas Council enacted By-law No. 176-2001 on September 24, 2001, as amended, to regulate dangerous dogs in the Town; and

Whereas at the Special Council meeting held on November 18th, 2020, Council considered and approved Resolution No. 8, as amended, postponed from August 24, 2020, to create a comprehensive animal by-law in respect to all animal species to ensure safe animal harbour, handling and protection; and

Whereas Subsection 8(3) of the *Municipal Act, 2001,* S.O. 2001, c. 25 grants municipalities broad powers to govern, regulate, and licence in accordance with Section 11 of the *Municipal Act, 2001;* and

Whereas Subsection 10(2) of the *Municipal Act, 2001* authorizes municipalities to enact by-laws in respect to animals; and

Whereas Subsections 11(2) and 11(3) of the *Municipal Act, 2001* authorizes lower tier municipalities to enact by-laws respecting the health, safety and well-being of persons, and the protection of persons and property; and

Whereas Subsection 103(1) of the *Municipal Act, 2001* confers the power upon municipalities to enact by-laws governing the seizure and impoundment of animals being at large or trespassing, and the subsequent disposition of impounded animals subject to conditions; and

Whereas Section 105 of the *Municipal Act, 2001* requires municipalities to convene for a Hearing, subject to prescribed conditions, if an animal owner is aggrieved by a muzzling order; and

Whereas Section 425 of the *Municipal Act, 2001* authorizes a municipality to enact by-laws making it an offence to contravene a by-law; and

Whereas Subsection 434.1 of the *Municipal Act, 2001* confers the power upon municipalities to enact by-laws to impose administrative monetary penalties for failure to comply with by-law provisions; and

Whereas the *Municipal Act, 2001* further authorizes the Town to enact by-laws to provide for, without limitation, delegation of its authority, imposition of fees, entry on land, inspections, and appeals; and

Whereas the *Animals For Research Act,* R.S.O. 1990, c. A.22 generally provides for the redemption and destruction of impounded animals; and

Whereas the *Pounds Act,* R.S.O. 1990, c. P.17 generally provides for the appointment of a Poundkeeper, and for the recovery of expenses associated with impounding animals running-at-large; and

Whereas the *Dog Owners Liability Act*, R.S.O. 1990, c. D. 16 generally provides for owner liability for dog attacks or bites; and

Whereas the *Provincial Animal Welfare Services Act*, S.O. 2019, c. 13 generally provides for greater animal protection and humane treatment of animals; and

Whereas Council approved the initiative to enact a comprehensive new animal by-law;

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

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1. SHORT TITLE

This By-law may be referred to as the "Animal By-law".

2. APPLICABILITY AND SCOPE

(1) The provisions of this By-law apply to the entire geographic area and boundaries of the Town.

(2) If there is a conflict between a provision of this By-law and any other by-law of the Town, or a provincial or federal statute or regulation, the one that is most restrictive prevails.

(3) The provisions of this By-law do not apply to:

(a) bees;

(b) any display held by an agricultural or horticultural organization incorporated under the *Agricultural and Horticultural Organizations Act*, R.S.O. 1990, c.A.9.;

(c) the lands and premises being utilized as a zoo, and lawfully permitted to operate as such;

(d) an animal hospital or clinic lawfully operated and supervised by a veterinarian.

(e) an Activity permitted under the *Fish and Wildlife Conservation Act,* S.O. 1997,

(f) an Activity regarding agricultural animal care, management or husbandry carried on in accordance with:

(i) any standards of care or administrative requirements that expressly provide that they apply to that Activity; or

(ii) if no standards of care or administrative requirements expressly provide that they apply to that Activity, the reasonable and generally accepted practices of agricultural animal care, management or husbandry.

3. DEFINITIONS:

For the purpose of this By-law:

(a) "accredited veterinary facility" means a veterinary facility as defined in the *Veterinarians Act,* R.S.O. 1990, c.V.3, and is accredited under the *Veterinarians Act.*

(b) "agricultural operation" means a business operated outside the Town's Urban Boundary in an agriculturally zoned area for the principal purposes of producing and processing agricultural products and operating abattoirs, and which involves commitment of finances, time, size, and scope and with a reasonable expectation of profit.

(c) "animal" means any member of the animal kingdom other than human.

(d) "Animal Control Officer" means a person or a corporation, including said corporation's employees, agents, and representatives, that has entered into a contract with the Town for the control and regulation of animals within the Town, including Poundkeeper services, or who are employed by the Town for the control and regulation of animals within the Town, and includes a Municipal Law Enforcement Officer, a police officer, and any other party contracted by the Town to provide such services.

(e) "appeal" means an application by an individual or entity aggrieved by conduct initiated in accordance with this By-law.

(f) "attack(ed)" means physical contact, other than friendly or accidental contact, by an animal that results in bleeding, bone breakage, bruising, a scratch or a sprain to a person or an animal.

(g) "bite" means piercing or puncturing of skin inflicted by the tooth or teeth of an animal.

(h) "business day" means a weekday, excluding a day that is a holiday recognized by the Town.

(i) "cat" means a domesticated male or female feline of any breed or crossbreed, other than a Savannah cat, of the species Felis catus.

(j) "Clerk" means the Clerk of the Town or his or her designate.

(k) "commercial kennel" means a premise of an establishment where more than two (2) dogs are boarded, bred, kept or trained for remuneration, and includes a duly licensed pet daycare and similar in-home pet boarding facility.

~~(k)~~

(l) "Committee" means a Committee consisting of three (3) members of Council convened to hear an Appeal under this By-law known as the "Dangerous Dogs Appeals Committee".

~~(l)~~(m) "control" means the ability to manage, direct, restrict, and restrain the movements of an animal at all times.

~~(m)~~(n) "Council" means Town Council.

~~(n) "Committee" means a Committee consisting of three (3) members of Council convened to hear an Appeal under this By-law known as the "Dangerous Dogs Appeals Committee".~~

(o) "critical distress" means distress that requires immediate intervention to prevent serious injury and/or to preserve life.

~~(p)~~ (p) "dangerous dog" means any dog, other than a police work dog or guard dog, who has, in the absence of any mitigating factor, attacked, bitten, or caused injury or death to a person or animal; and as more particularly described in Section 19 herein.

~~(q) "dog" means any male or female domesticated canine of any breed or crossbreed, other than wolf-dogs or coy-dogs, of the species Canis familiaris, but does not include a police work dog, a guard dog, or a guide dog.~~

~~"dispose of" means burial or cremation. This is not the contemplated definition and it is unduly limiting. For instance, "dispose" is used in this By-law in relation to excrement. Please let me know if you would like to discuss further.~~
~~(r)~~

~~(s)~~(q) "distress" means the state of being:

(i) in need of proper care, water, food or shelter; or

(ii) injured, sick, in pain or suffering; or

(iii) abused or subject to undue physical or psychological hardship, privation or neglect.

~~(iii)~~

(r) "dog" means any male or female domesticated canine of any breed or crossbreed, other than wolf-dogs or coy-dogs, of the species Canis familiaris, but does not include a police work dog, a guard dog, or a guide dog.

~~(t)~~(s) "dwelling" means a place occupied by at least one (1) person as an independent home or residence with a private entrance, which contains food preparation and sanitary facilities for the exclusive use of the occupant/s thereof.

~~(u)~~(t) "exotic animal" means any animal or class of animals enumerated in Schedule "A" herein.

~~(v)~~(u) "feral cat" means any cat found in Town with no owner and which cat is not socialized and exhibits fear and resistance to humans.

(v)"guard dog" means any dog trained and duly licenced to inflict injury, maim, immobilize or display a threatening or aggressive disposition for security purposes on licensed industrial or commercial use lands.

~~(x)~~(w) "guide dog" means a dog duly designated in the *Accessibility for Ontarians with Disabilities Act,* S.O. 2005, c.11 and *Blind Persons Rights Act*, R.S.O. 1990, c.B.7, as amended.

~~(y)~~(x) "Hearing" means an administrative proceeding held pursuant to the *Statutory Powers and Procedures Act* R.S.O. 1990 c. S. 22, and more particularly described in Section 27 herein.

~~(w)~~(y) "hunting" means lying and waiting for, searching for, being on the trail of, pursuing,

chasing or shooting at wildlife, whether or not the wildlife is killed, injured, captured or harassed and does not include trapping.

(zaa) "identification tag" means a disc or other shape of metal or plastic issued and dispensed by the Town or Poundkeeper further to an approved cat or dog license application and registration.

(aabb) "impound" means to confiscate, confine, hold or take possession.

(bbcc) "keep" means to have temporary or permanent control or possession of an animal, and the word "harbour" has a similar meaning.

(ccdd) "kennel" means a purebred kennel or commercial kennel with at least two (2) dogs over sixteen (16) weeks of age, being boarded, bred, kept or trained, but excludes:

(i)a. a veterinary clinic or veterinary hospital;

(ii)b. a public pound or animal shelter used by the Town for impounding animals;

(iii)c. any premises duly licensed under any statute of the Province of Ontario or the Government of Canada, which permits the keeping of dogs and other animals under certain conditions; or

(iv) a licensed pet shop.

(ddee) "leash" means a tether, rope, chain, line or similar device for leading or restraining an animal and shall be of sufficient strength and design to allow a person to restrain and control the animal.

(eeff) "Licence Agent" means the Town or any employee thereof, or such person or organization as is authorized to act on behalf of the Town, to maintain, enforce, and administer this By-law.

(ffgg) "licence fee" means a fee imposed upon the owner of a dog or kennel in accordance with the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(gghh) "livestock" means any domestic or farmed animal, including, but not limited to, poultry, cattle, swine, horses, mink or other furbearing animals, rabbits, sheep, goats and other types of animals listed in the Agricultural Code of Practice of the Ontario Ministry of Agriculture, Food and Rural Affairs.

(a)(hh) "Manager" means the Director, Planning and Development Services or his or her designate, or a delegate authorized by Council to act on behalf of the Town, to maintain, enforce, and administer this By-law.

(iijj) "menace" means intimidating, aggressive, threatening demeanour toward people or animals without any mitigating factor/s.

(kkjj) "microchip" means an approved Canadian standard encoded identification device implanted into an animal, which contains a unique code that permits or facilitates access to owner information, including the name and address of the owner of the animal.

~~(ll) "mitigating factor" means a consideration that excuses aggressive behaviour of a dog, and as more particularly described in Section 19 herein.~~

~~(mm) "Municipal Law Enforcement Officer" means a person duly appointed by the Town to enforce the provisions of this By-law, and includes any police officer appointed pursuant to the *Police Services Act,* R.S.O. 1990, c. P.15.~~

(kk~~nn~~) "minor owner or custodian" means if the owner or custodian of an animal is a minor, the owner or custodian of the animal is deemed to be the minor's parent or guardian.

(ll) "mitigating factor" means a consideration that excuses aggressive behaviour of a dog, and as more particularly described in Section 19 herein.

(mm) "Municipal Law Enforcement Officer" means a person duly appointed by the Town to enforce the provisions of this By-law, and includes any police officer appointed pursuant to the *Police Services Act,* R.S.O. 1990, c. P.15.

(nn~~oo~~) "most humane course of action" means euthanasia of an animal if:

~~(i)~~a. immediate veterinary treatment cannot prolong the animal's life; or

~~(ii)~~b. prolonging the animal's life would result in undue suffering for the animal.

(oo~~pp~~) "muzzle" means a strong and well-fitted covering device that securely fastens over the dog's mouth to prevent the dog from biting but does not interfere with the dog's vision or ability to breath, drink, and pant.

(pp~~qq~~) "neutered" means a male ~~dog or cat~~animal with its generative organs removed or vasectomized.

(qq~~rr~~) "officer" means an Animal Control Officer, a Municipal Law Enforcement Officer, or police officer.

(rr~~ss~~) "owner" means:

(i) a person who has control of an animal;
(ii) a person who owns, keeps, possesses or harbours an animal;
(iii) a person who owns a premise; or
(iv) the parent or guardian of the minor owner of an animal.

(ss~~tt~~) "person" includes an owner, individual, partnership, association, firm or corporation, business entity or club, or any other incorporated or unincorporated group or organization to whom the context can apply in accordance with the *Interpretation Act,* R.S.O. 1985, c.1-21.

(tt~~uu~~) "pet shop" means an establishment engaged in the retail sale of animals excluding a kennel.

~~(x)~~ (uu) "Pit Bull" dog includes:

(a) a pit bull terrier;

(b) a Staffordshire bull terrier;
(c) an American Staffordshire bull terrier;
(d) an American pit bull terrier;
(e) a dog for which a veterinarian attests has an appearance and physical characteristics that are substantially similar to the dog breeds referred to in (a) to (d) above

(vv~~ww~~) "place" includes any land, building, vehicle or vessel.

(~~xx~~ww) "point of reception" means any point on a premise where the barking, calling, whining or other similar persistent sound originating from other than that premise is received.

(xx~~yy~~) "police work dog" means a dog trained and duly licensed for and actually engaged in law enforcement for the Niagara Regional Police or other law enforcement agency.

(yy~~zz~~) "potentially dangerous dog" means a dog that, in the absence of any mitigating factor, chases or approaches any domestic animal or person, anywhere other than on the property of its owner, in a menacing fashion or apparent attitude of attack, including but not limited to, behaviour such as growling or snarling; and as more particularly described in Section 19 herein.

(zz~~aaa~~) "pound" means such premises and facilities designated by the Town further to a contract with the Town for the detention, maintenance or disposal of animals on behalf of the Town.

(aaa~~bbb~~) "Poundkeeper" means the Town or any employee thereof, or such person or organization as is appointed by Council to act on behalf of the Town, to maintain, enforce, and administer this By-law (elaborate).

(bbb~~ccc~~) "premise" means a vacant or occupied lot, building or a part thereof, including a dwelling unit, and any land appurtenant.

(ccc~~ddd~~) "prescribed" means a provision or requirement according to this By-law.

(ddd~~eee~~) "protective care" means the temporary, time-limited keeping of an animal by the Town as a result of an owner eviction, incarceration, fire, or medical emergency.

(eee~~fff~~) "Public Health Inspector" means a public health professional with Niagara Region Public Health, appointed under the *Health Protection and Promotion Act,* R.S.O. 1990, c.H.7.

(fff~~ggg~~) "purebred kennel" means a premise where more than two (2) purebred dogs, which are officially recognized breeds by the Canadian Kennel Club or other international registry, and shall have the same meaning as a "commercial kennel".

(ggg~~hhh~~) "redemption period" means the period of time within which the animal owner has the right to redeem an impounded animal subject to the satisfaction of conditions.

~~(a)~~(hhh) "Rehabilitation Centre" means a facility established for the care and treatment of injured, sick or orphaned animals, with the objective of restoring the animals to their former capacity or function and then returning and releasing them to their natural habitat.

(iii~~jjj~~) "residential" means any property zoned as such within the current applicable Zoning By-law and shall include all lands within the Municipal Boundary, Neighbourhood Boundary, Urban Boundary, Hamlet Boundary and Secondary Plan Schedule as identified and designated in the Town Official Plan.

(jjj~~kkk~~) "restrained" (in relation to a potentially dangerous dog or a dangerous dog), means being kept inside a premise in an enclosed six (6) sided pen of sufficient dimension and strength to be humane and secure to prevent a dog from coming in contact with or making a real and substantial threat of attack on a person other than the owner of the dog, or invitee of the owner, and includes keeping such dog securely on a leash of not more than one (1) meter in length when outside of such pen.

(kkk~~lll~~) "restricted pit bull" means a pit bull owned by an Ontario resident on August 29, 2005 or born by November 30, 2005, and more particularly described in the *Dog Owners' Liability Act*.

(~~mmm~~lll) "running-at-large" means to be found in any place other than the premises of the owner of the dog, not under the control of any person, and where there is no consent to be in that place.

(mmm~~nnn~~) "sell" means offer for sale or adoption, expose for sale o~~f~~r

adoption. (nnn~~ooo~~) "service animal" means:

(i) the animal is required by a person with a disability; and

(ii) the person has documentation from one (1) of the regulated health professionals enumerated in the *Accessibility for Ontarians with Disabilities Act,* S.O. 2005, c.11 confirming the person requires the animal for reasons relating to their disability:

(ooo~~ppp~~) "spayed" means a female ~~dog or cat~~animal whose ovaries and/or uterus have been removed.

(ppp~~qqq~~) "Standard of Care" means a Standard of Care prescribed by this By-law.

(qqq~~rrr~~) "sterilization" means to spay or neuter a cat or dog.

(rrr~~sss~~) "tag" means a method of identifying a licensed dog or cat.

(sss~~ttt~~) "tether" means a rope, chain or similar device, attached to a fixed point, used for restraining an animal that prevents an animal from moving away from a localized area.

(tttuuu) "Town" means The Municipal Corporation of the Town of Fort Erie.

(uuuvvv) "trap, neuter, return program (TNR)" means to trap, sterilize, and attempt to return feral cats to locations in which they were found.

(vvvwww) "unsanitary" means the accumulation of urine or fecal matter, strong odour, insect infestation, or rodent attractants that may endanger animal or human health.

(wwwxxx) "veterinarian" means a person licensed as a veterinarian by the College of Veterinarians of Ontario.

4. INTERPRETATION

The requirements of this By-law are in addition to the requirements contained in any other applicable by-laws of the Town or applicable provincial or federal statutes or regulations.

PART II:

5. LICENSING OF CATS AND DOGS

(1) Every owner whose cat or dog is aged sixteen (16) weeks or older shall make application for a licence on the prescribed form within ten (10) days of the date the animal comes into his or her possession.

(2) Despite Subsection 5(1), no licence shall be required for a dog being temporarily kept at a kennel in Town, or a private residence where there is no remuneration for keeping the dog, if the dog, when not being kept at the kennel or private residence, is kept at premises located outside of the Town.

(3) Every owner of a dog or cat applying for a licence shall submit to the Poundkeeper a completed application together with the prescribed licence fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(4) The licence application shall include the following, as applicable:

(a) the name, address, telephone number, and e-mail address of the owner;

(b) the name, breed, colour and sex of the dog or cat;

(c) the address of the premises where the dog or cat is to be kept in Town;

(d) veterinary proof of a current rabies vaccination;

(e) veterinary proof that the animal has been sterilized as applicable;

(f) microchip identification;

(g) if the dog is a pit bull, proof satisfactory to the Poundkeeper that the dog is a restricted pit bull;

(h) whether the dog is attack trained, a guide dog, a guard dog, or a service dog;

(i) the names, addresses and telephone numbers of up to three (3) alternate persons who may be contacted in the case of animal impoundment;

(j) whether the dog is designated as a "dangerous dog";

(k) whether the dog is designated as a "potentially dangerous dog";

(l) whether the dog will be kept in a kennel;

(m) acquisition information, including country of origin if foreign; and

(n) such additional information as may be reasonably requested by the Poundkeeper.

(5) The Licence Agent is authorized to issue licences only to applicants.

(6) Upon issuance of a licence, the owner shall be furnished with an identification tag.

(7) The Licence Agent may issue up to three (3) licences per applicant to dogs being legitimately used as guard dogs.

(8) The Licence Agent shall maintain a current record of every dog or cat registered pursuant to this By-law, which includes:

(a) the date of licence issuance or renewal;
(b) the name, address, telephone number, and email address of the owner;
(c) the description of the animal;
(d) the registration number; and
(e) the fee paid.

(9) Failure to provide a rabies certificate except for a dog or cat with immune-mediated disease, shall constitute an offence under this By-law and, in addition to any other penalty or action provided herein, the Poundkeeper shall immediately report this information to Niagara Region Public Health.

(10) An application for a licence for a prohibited pit bull shall not be processed, and will be returned to an applicant.

(11) Every licence is valid for the calendar year in which it is issued, and automatically expires on December 31 of each year.

(12) The Poundkeeper shall ensure annual renewal applications are available to the public on November 1. Every owner shall complete the licence renewal on or before January 1.

(13) All renewal applications received after January 1 of each year shall be subject to the prescribed late payment fee, in addition to the prescribed licence fee, as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(14) In the absence of updated information indicated on the renewal application, every person who submits a renewal application acknowledges that the information provided on the original application is still current.

(15) Every owner of a dog or cat shall notify the Poundkeeper within ten (10) days of any change in:

(a) the name, address, telephone number, or e-mail address of the owner of the dog or cat;
(b) the address of the premises where the dog or cat is being kept by a new owner; or
(c) the ownership of the dog or cat.

(16) Failure to notify the Poundkeeper of ownership changes in accordance with Subsection 5(15) may lead to the cancellation of the licence.

(17) The Poundkeeper may revoke any cat or dog licence issued in error.

(18) Cat and dog licences are not transferable~~, herein~~.

(19) Despite any other provision in this By-law, there shall be no licence fee payable to the Town for a duly licensed police animal, guide dog, or service animal.

6. IDENTIFICATION TAGS

(1) Upon approval of a cat or dog licence application or renewal application (including a police animal, guide dog, or service animal), an identification tag shall be issued to the owner of the dog or cat.

(2) Identification tags shall be sequentially numbered and indicate the year of issuance. The Poundkeeper shall keep a record of each identification tag issued, including the serial number of the identification tag, and the name, address and telephone number of the owner of the dog or cat.

(3) Every owner shall ensure that the current identification tag is securely attached to their dog or cat at all times;

(a) Subsection 6(3) does not apply to an owner of a dog when such dog is actively participating in a sanctioned dog show, provided that the dog can be identified

by another means such as a tattoo or microchip and such identification has already been provided to the Poundkeeper.

(b) Subsection 6(3) does not apply to an owner of a dog when such dog is being lawfully used for hunting provided that the owner has the identification tag on his or her person at all times.

(4) The Poundkeeper shall provide the owner of a "potentially dangerous dog", "dangerous dog" or "attack trained dog" with an identification tag of a distinct colour differentiating them from other dogs.

(5) If an identification tag is lost, damaged or destroyed, an owner of a cat or dog shall immediately apply for a replacement identification tag by submitting to the Poundkeeper a completed replacement tag application, together with the prescribed identification tag replacement fee as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(6) Upon the death of a licensed dog or cat, the owner may transfer the identification tag to a new dog at no additional charge provided the owner submits to the Poundkeeper an application for the new dog or cat.

(7) Identification tags issued by another municipality are not recognized by the Town, and are not transferable.

7. KENNELS

Licensing

(1) Every owner or operator of a kennel shall make application for a kennel licence on the prescribed form.

(2) Every applicant for a kennel licence shall submit to the Licence Agent a completed application together with the prescribed licence fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(3) The kennel licence application shall include the following, as applicable:

(a) the name, address, telephone number, and e-mail address of the applicant;

(b) the address of the kennel;

(c) the maximum number of dogs at the kennel, excluding any dogs sixteen (16) weeks of age or under;

(d) if the application is for a new kennel, a detailed drawing of the premises showing the location of the kennel in relation to the dwelling unit, neighbouring dwelling, dog runs, fencing, and other buildings on the premises;

(e) if the applicant is not the owner of the lands, written permission from the registered owner of the lands where the kennel is located, confirming that such registered owner permits the kennel use; and

(f) such additional information as may be required by the Poundkeeper.

(4) In addition to satisfaction of Subsections 7(1) to 7(3), the Licence Agent shall only issue or renew a kennel licence further to a satisfactory inspection performed by the Licence Agent and/or Poundkeeper, including:

(a) certification that the kennel meets the standards and requirements of the Town and the Niagara Regional Health Department;

(b) proof of compliance with the Town's Comprehensive Zoning By-law No. 129-90, as amended or replaced, and

(c) proof of adherence to all by-laws of the Town and the *Building Code Act*, S.O. 1992, c. 23 pertaining to, without limitation, construction and kennel maintenance.

(5) The Licence Agent is only authorized to issue kennel licences to applicants.

(6) A kennel licence is valid for the calendar year in which it is issued, and automatically expires on December 31 of each year.

(7) The Licence Agent shall ensure annual kennel licence renewal applications are available to the public on November 1. Every owner or operator shall complete the licence renewal on or before January 1.

(8) All kennel licence renewal applications received after January 1 of each year shall be subject to the prescribed late payment fee, in addition to the prescribed licence fee, as set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(9) In the absence of updated information indicated on the kennel licence renewal application, every applicant for a kennel licence acknowledges that the information provided on the original application is still current.

(10) Failure to notify the Licence Agent of ownership changes in accordance with Subsection 7(9) may lead to the cancellation of the licence.

(11) The Licence Agent may revoke any kennel licence issued in error.

(12) Kennel licences are not transferable.

Kennel Licence Numbers

(13) Upon approval of a kennel licence application or renewal application, a kennel licence number shall be issued to the owner or kennel operator.

(14) Kennel licence numbers shall be sequentially numbered and indicate the year of issuance. The Licence Agent shall keep a record of each kennel licence number issued, including the licence number, and the name, address, telephone number and e-mail address of the applicant.

(15) Kennel licence numbers issued by another municipality are not recognized by the Town, and are not transferable.

Kennel Operations

(16) Every owner and operator of a kennel shall ensure that:

(a) all dogs are adequately fenced or caged to prevent running-at-large;

(b) all dogs are kept in cages of adequate size to allow the animal to extend their legs, stand, sit, turn around, and lie down in a fully extended position, in accordance with the following provisions:

Minimum primary enclosure space requirements:

Height of the dog measured at the shoulder of the dog (cm)	Area (m2)	Width (m)	Height (m)
70 or greater	15	2.40	1.80
40 to 70	10	1.80	1.80
20 to 40	6	1.40	1.20
5 to 20	4	1	1.20

Minimum primary enclosure space requirements apply to the keeping of one adult dog. Dams and their puppies up to eight weeks of age are provided with an additional space of 10% per puppy. If two or more adult dogs are kept in one enclosure, the minimum dimensions for the enclosure ~~specifed~~specified herein are increased by
1.5 square metres for each dog kept in the enclosure.

(c) all dogs must be provided with daily physical activity out of a cage;

(d) all dogs are fed and watered regularly;

(e) all dogs are kept in a sanitary environment free from vermin and disease;

(f) all floors are constructed using impermeable materials;

(g) all cages are constructed of metal and/or wire with impermeable floors;

(h) all droppings, soiled bedding and waste from which ~~strong~~unhealthy odour might arise are promptly removed;

(i) all cages and floors are thoroughly cleaned at least once (1) per day;

(j) electric lighting illuminates the premises;

(k) windows offer suitable ventilation;

(l) a heating system adequately heats the premises;

(m) a cooling system adequately cools the premises;

(n) hot and cold potable running water is available at all times;

(o) a sanitary food preparation and storage area is on the premises;

(p) the kennel does not become a nuisance by reason of ~~strong~~unhealthy odour, excessive noise from barking or otherwise to a proximate residentially used property;

(q) maintain an environment in which the average sound level is less than 85 decibels; and

(r) the perimeter of the dog run shall be enclosed by a fence, having a minimum height of two (2) meters, and shall be of closed board construction to act as a visual barrier or other natural visual barrier or construction around the dog run or of closed construction if the dog run has or may become a nuisance, and to be approved by the Poundkeeper.

(17) The fence of a dog run of a licensed kennel owner, which was approved before this By-law took effect is deemed to comply with Clause 7(16)(p) provided it does not conflict with Town Fence By-law No. 70-2013, as amended or replaced.

(18) Every owner or operator of a kennel shall maintain a log of all dogs on the premises, including the name and address of the dog owner or custodian. Such log shall be available for review during an inspection by a Licence Agent, Animal Control Officer, Manager, or Municipal Law Enforcement Officer.

(19) Every owner or operator who holds a kennel licence shall not admit a dog into the kennel unless veterinary proof of current rabies immunization is produced, or veterinary proof is provided that a dog cannot be vaccinated due to a medical condition.

(20) If a veterinarian confirms that a kennel has an outbreak of distemper, hepatitis, rabies, parvo-virus, or any infectious or contagious disease, the kennel shall be closed forthwith and the licence shall be temporarily suspended by the Licence Agent, Poundkeeper, Public Health Inspector, or such other person as may be appointed by Council.

(21) Further to any closure and/or licence suspension imposed pursuant to Subsection 7(5), the kennel may reopen and have its licence reinstated by the Licence Agent, the Poundkeeper, Municipal Law Enforcement Officer, Public Health Inspector, or such other person as may be appointed by Council only upon a written report from a veterinarian that the potential danger of disease transmission has subsided.

(22) Every owner or operator of a kennel shall permit the Licence Agent, Poundkeeper, Municipal Law Enforcement Officer, Animal Control Officer, Manager, Chief Building Official or designate, or such other person as may be appointed by Council, to enter and inspect the Kennel at all reasonable times, upon production of proper identification, for the purpose of determining compliance with this By-law.

(23) If a kennel deviates from the minimum standards pursuant to this By-law or the Town's Property Standards By-law No. 186-08, as amended or replaced, the Lot Maintenance By-law No. 92-2019, as amended or replaced, or any other applicable law, the Licence Agent, Municipal Law Enforcement Officer, Manager, or designate may revoke the kennel licence, and seize and impound all animals, until such time as the Manager or designate is satisfied that the kennel has come into compliance.

(24) Every owner or operator of a kennel shall have a right to appeal any licence suspension, refusal, or revocation.

~~(24)~~(25) Kennel operations that are not staffed 24-hours a day, shall provide the Licence Agent with a policy document stipulating how ~~animals are taken care of outside staffed hours, including how~~the ~~satisfactory~~prescribed standards of care enumerated in Clauses 7(16)(a)-(r) herein ~~and sanitary conditions~~ are ~~provided~~fulfilled ~~to the animals~~after hours.

PART III:

8. KEEPING OF CATS AND DOGS

(1) Except as otherwise permitted, no person shall own, possess, or harbour more than three (3) dogs in any one (1) household or on any premises irrespective of the ownership of the dogs.

(2) Except as otherwise permitted, no person shall own, possess, or harbour more than six (6) cats in any one (1) household or on any premises irrespective of the ownership of the cats.

(3) No person shall own, possess or harbor a dog or cat unless a licence for the dog or cat has been issued under this By-law.

(4) No person shall breed or offer for sale dogs without a kennel licence, rescue foster dog licence, or a pet shop licence.

(5) No person shall possess or harbour a rescue foster dog without a licence.

(6) Exceptions to Subsection 8(1) are as follows:

(a) Subsection 8(1) does not apply to any person keeping a licensed kennel of dogs in accordance with this By-law;

(b) The maximum provided for in Subsection 8(1) may be exceeded for the purpose of fostering rescue dogs on agricultural property subject to the following:

(i) completion of the prescribed application form accompanied by written documentation from a bona-fide registered not-for-profit animal rescue organization registered with Canada Revenue Agency attesting to the suitability of the foster family applicant;
(ii) payment of the prescribed rescue foster dog licence fee for up to five (5) dogs pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.
(iii) for agricultural property: a minimum of five (5) acres of land;
(iv) up to five (5) rescue foster dogs on agricultural property and up to three (3) rescue foster dogs on non-agricultural property in addition to the prescribed three (3) dog limit for a maximum period of twelve (12) consecutive months;
(v) foster dog licences and identification tags are transferable from adopted dogs to new foster dogs;
(vi) immediate written notification to the Poundkeeper if a rescue foster dog gives birth while in the foster home; and
(vii) the foster family shall wean and adopt out all puppies within eight (8) to ten (10) weeks of birth and provide written proof of adoption to the Poundkeeper.

(7) No person shall permit a dog to be on or in any cemetery, public beach, or park within the Town, except for the following parks: Lions Sugarbowl Park, Battle of Ridgeway Park, and The Friendship Trail.

9. ANIMALS RUNNING-AT-LARGE

(1) No animal owner shall allow, permit or cause that animal to be running-at-large in the Town.

(2) Every owner of a dog, and every person who has a dog under care, custody or control, shall restrain the dog on a leash measuring no more than six (6) feet, when the dog is at every place other than:

(a) on the property of the owner; or
(b) on the property of any other person with consent of that person.

(3) No person shall permit a dog to be in any public park described in Subsection 8(7) except on a leash measuring no more than six (6) feet and only on the grassy areas of said parks.

(4) A person may permit a licensed dog to be running-at-large in an off-leash dog area only in a place referred to in Subsection 8(7), except if the dog is required to be muzzled pursuant to this By-law and/or the *Dog Owners' Liability Act*, as amended or replaced.

(5) Any animal found running-at-large may be captured and impounded by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer.

10. ANIMAL IMPOUNDMENT

(1) If an Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer captures or impounds an animal running-at-large, that official may at his or her sole discretion:

(a) deliver the animal to the Poundkeeper; or
~~(b)~~ release the animal to its owner.~~; or~~
~~(c) euthanize the animal if the animal is injured and it is the most humane course of action, and the owner cannot be found based on the following criteria:~~

~~(c) When possible, a Animal Control Officer, Manger, Municipal Law Enforcement Officer, or police officer may bring sick or injured animal to a veterinarian or registered veterinary technician, to determine if the state of disease or injury means euthanasia is the most humane course of action.~~
~~i.~~(b) ~~Bringing to a veterinarian to determine if the state of disease or injury means euthanasia is the most humane course of action is not practicable or would cause further unnecessary suffering to the animal; and~~
~~ii. The Animal Control Officer, Manger, Municipal Law Enforcement Officer, or police officer performing euthanasia are trained by a veterinarian in the methods appropriate for the particular species.~~

(2) If an Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer captures or impounds an injured or sick animal running-at-large, that official shall:

(a) when possible, bring the sick or injured animal(s) to a veterinarian or registered veterinary technician to determine if euthanasia is the most humane course of action given the state of disease or injury; or
(b) if the owner cannot be found and if it is not possible to bring the sick or injured animal(s) to a veterinarian or registered veterinary technician and they are trained to perform euthanasia as per Section 14 herein, euthanize the animal(s) if it is the most humane course of action given the state of disease or injury.

~~(1)~~(3) If a Town resident impounds an animal running-at-large, the resident shall notify the ~~Clerk~~ Poundkeeper and arrange for delivery to or pick-up from the Poundkeeper within two (2) days.

~~(2)~~(4) The Poundkeeper shall keep a record of every animal impounded, including:

(a) the date of impoundment;
(b) a description of the animal;
(c) the particulars of the identification tag for the animal, if applicable;
(d) the date disposed of; and
(e) the nature of the disposition made with respect to the animal.

~~(3)~~(5) If an animal is impounded for running-at-large, the owner of the animal shall pay to the Poundkeeper reimbursement of its expenses with respect to the animal including:

(a) the prescribed redemption fees for the animal being at large and impounded pursuant to the Town's Fees Charges By-law No. 40-09, as amended or replaced;

(b) any additional costs incurred by the Town as a result of impoundment, including fees from a veterinarian or a specialized animal handler; and
(c) costs for having the animal sterilized or implanted with a microchip.

~~(4)~~(6) Every owner shall retrieve the impounded animal from the Poundkeeper within four (4) days of the date of impoundment, excluding the day of impoundment, pound closures, and any statutory holidays.

~~(5)~~(7) If an owner seeks to secure the release of a dog from the Poundkeeper, the owner shall:

(a) provide proof of the dog's current licence; or
(b) obtain a current licence before the dog is released; and
(c) pay the prescribed impound fees pursuant to the Town's Fees Charges By-law No. 40-09, as amended or replaced, and any other applicable damages, fines and expenses.

~~(6)~~(8) If an animal is not claimed by its owner within the prescribed redemption period, the Poundkeeper is deemed to be the owner and may sell, dispose of, or have a veterinarian or registered veterinary technician ~~an authorized person who is trained by a veterinarian in euthanasia~~ to euthanize the unclaimed animal.

~~(7)~~(9) Notwithstanding Subsection 10(7), if an animal bears identification, a microchip or an identification tag, the Poundkeeper shall make at least ~~one (1)~~two (2) reasonable attempts to contact the owner prior to selling or otherwise disposing of the animal.

~~(8)~~(10) Upon becoming entitled to sell or dispose of an animal, the Poundkeeper may, in his or her sole discretion, arrange to have the animal sterilized and/or identified by means of a microchip, and the cost of these services shall be added to the costs recoverable from the owner pursuant to Subsection 10(4).

~~(9)~~(11) If a dog has been impounded and it is alleged that the dog bit or attacked a person or domestic animal and proceedings have been commenced against the owner of the dog under the *Dog Owners' Liability Act*, the Poundkeeper shall hold the dog pending the disposition of the matter. The Poundkeeper may only release the dog in accordance with a decision made under the *Dog Owners' Liability Act*. In such circumstances, the owner of the dog shall pay the costs set out in this By-law for the time the dog has been impounded regardless of whether the dog is returned to the owner.

(a) Every effort should be made to ensure the dog does not experience undue suffering while being held. In accordance with ensuring all basic standards of care are provided, each dog shall be provided with time outdoors and environmental enrichment. A veterinarian, certified animal behaviourist (excluding a dog trainer) or animal welfare scientist shall be involved in continuously monitoring the situation with each dog, assessing quality of life

and how it can be maintained and improved with human contact or contact with other dogs on a case by case basis.

~~(10)~~(12) An impounded animal not wearing an identification tag for the current year may be given an inoculation, as recommended by a veterinarian, to provide temporary immunization against common diseases.

~~(11)~~(13) (a) If any animal has bitten an animal or a person, or it is alleged that the animal has bitten an animal or a person, the Poundkeeper, Animal Control Officer, Manager, Municipal Law Enforcement Officer, or any person acting under his or her authority delegated by the Town, may impound the animal for the purpose of quarantine.

(b) If any animal has bitten an animal or a person, or it is alleged that the animal has bitten an animal or a person, the Poundkeeper may release the animal to the owner only if the Poundkeeper is satisfied that the owner will:

(i) take immediate steps to quarantine the animal;
(ii) ensure the animal will be properly contained so as not to be found running-at-large;
(iii) muzzle the animal;
(iv) adhere to any written conditions issued by the Poundkeeper; and
(v) pay the prescribed fees set out in the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

~~(12)~~(14) If an owner forfeits or surrenders an animal and it is evidenced in writing, the Poundkeeper shall take the animal into care and shall have the authority to deal with the animal as if the owner.

PART IV:

11. BASIC STANDARDS OF CARE

(1) Every person who keeps an animal within the Town's boundaries shall ensure that the animal is provided with:

(a) adequate, appropriate, and sufficient quantity and quality of food and potable water to allow for normal growth and maintenance of body weight;

(b) adequate care necessary for its general welfare, which includes care sufficient to preserve its health and well-being;
(c) adequate and appropriate space to enable the animal access to:

(i) full range of natural movement and exercise;

(ii) rest and sleep;
(iii) sanitary conditions free from excess waste, urine or fecal matter, or any other contaminants that could affect the animal's health;
(iv) ventilation;
(v) regular diurnal lighting cycles of either natural or artificial light according to species-specific needs;
(vi) air temperature suitable for the health of the animal;
(vii) protection from the elements, including harmful temperatures;
(viii) reasonable medical attention and veterinary care to relieve distress from injury, neglect or disease; and
(ix) current immunization against rabies for every dog or cat sixteen (16) weeks of age or over.

(d) transportation in a manner that ensures its physical safety and general welfare, and excludes transport of an animal outside the passenger compartment of a vehicle unless the animal is:

(i) in a fully enclosed and adequately ventilated trailer or crate that securely fastened to the bed of the vehicle; or
(ii) securely and humanely tethered to prevent jumping or ejection from the vehicle, strangulation, and access to the outside edges of the vehicle; and
(iii) reasonably protected from extreme temperatures.

(2) Subsection 11(1) does not apply in respect of an activity regarding agricultural animal care, management or husbandry carried on in accordance with the reasonable and generally accepted practices of agricultural animal care, management or husbandry.

(3) Every animal owner or person in care and control of an animal, who has reasonable grounds to believe that an animal is being abused, subject to undue physical or psychological hardship, privation or neglect shall report his or her belief to an Animal Welfare Inspector in accordance with the *Provincial Animal Welfare Services Act*.

12. STANDARDS OF CARE FOR ANIMALS LIVING OUTDOORS

(1) If an animal, other than a cat, lives outdoors for continuous periods of time exceeding thirty (30) minutes, the animal owner or person having custody and control of the animal shall provide a structurally sound enclosure for the animal's use at all times. That enclosure shall be:

(a) weather-proofed and insulated sufficient to protect the animal from wind, rain, snow and sun;
(b) equipped with adequate bedding to protect against inclement conditions; and
(c) of proper size and design adequate and appropriate for the animal species.

~~Every person who has the custody or control of an unsterilized cat or dog shall keep the animal indoors while the animal is in heat.~~

13. STANDARDS OF CARE REGARDING UNSANITARY CONDITIONS

(1) No person shall keep an animal within the Town in an unsanitary condition.

(2) For the purposes of Subsection 13(1), an unsanitary condition is characterized by the accumulation of urine or fecal matter, a strong odour, insect infestation or rodent attractants, and where the accumulation of any of the aforementioned are likely to endanger the health of any person or animal, or which is likely to disturb the enjoyment, comfort or convenience of any person or animal, in or about any place.

(3) Every owner who keeps an animal shall ensure that waste material and excrement is handled and disposed of in a sanitary manner.

(4) Every owner who keeps an animal shall remove waste excrement at least once (1) weekly from December 1 to April 1, and at least twice (2) weekly from April 2 to November 30. Animal excrement shall be stored in a waste receptacle with a properly fitting and secure cover.

~~(4)~~(5) Every owner of an animal shall immediately remove and dispose of any feces left by the dog or cat on any premises other than those owned or occupied by the owner.

~~(5)~~(6) Subsections 13(4) and 13(5) do not apply to an owner storing, removing or disposing of excrement in accordance with Regulation 267/03 of the *Nutrient Management Act*, S.O. 2002, c.4.

14. EUTHANASIA

(1) Every animal must be ~~killed~~ euthanized by the most humane course of action. An animal's pain and distress are deemed to be minimized if the animal is ~~killed~~ euthanized by a method that produces irreversible unconsciousness, and prompt subsequent death.

(2) A veterinarian may exercise his or her sole discretion to euthanize an animal if:

(a) the animal is suffering; and
(b) the animal's owner or custodian cannot be found promptly, or the veterinarian reasonably believes that:
  (i) the animal does not have an owner or custodian, or
  (ii) the animal's owner or custodian has abandoned the animal; and
(c) in the veterinarian's opinion, euthanasia is the most humane course of action.

(3) When possible, a person~~, Poundkeeper, Animal Control Officer, Manger, Municipal Law Enforcement Officer, or police officer may~~ shall bring a sick or injured animal to a

veterinarian or registered veterinary technician, to determine if the state of disease or injury means euthanasia is the most humane course of action.

(a) If bringing a sick or injured animal to a veterinarian or registered veterinary technician or veterinarian to determine if the state of disease or injury would require necessitates euthanasia is not practicable or would cause further harm or suffering to an animal, If euthanasia may be performed by a person, Poundkeeper, Animal Control Officer, Manager, Municipal Law Enforcement Officer, or police officer who are performing euthanasia they need to has been trained to do so by a veterinarian in the methods appropriate for the particular species.

PART V:

15. PENS AND ENCLOSURES

(1) If an animal, except wildlife, is confined to a pen or other enclosed structure or area, the following requirements must be met:

(a) the pen or other enclosed structure or area, and any structures or material in it, must be in a state of good repair;

(b) the pen or other enclosed structure or area, and any surfaces, structures and materials in it, must be made of and contain only materials that are:

(i) safe and non-toxic for the animal; and
(ii) of a texture and design that will not bruise, cut or otherwise injure the animal; and

(c) the pen or other enclosed structure or area must not contain one (1) or more other animals that may pose a danger to the animal.

(d) "invisible fence" systems are not an effective or animal welfare-friendly means of ensuring that an animal is prevented from running-at-large, and are prohibited.

(2) If kept outside on the owner's premises for any continuous period exceeding thirty (30) minutes, the person having the custody or control of the animal shall provide for a weather-proofed and insulated enclosure for that animal's use that includes sufficient space to allow for the normal postural and behavioural adjustments, adequate amounts of ventilation, and intensity of light for the animal at all times.

16. TETHERS

(1) Every person who has tethered an animal shall ensure, at all times, that an the animal:

(a) is tethered on a chain, rope or similar device of less than three (3) metres in length;

(b) has unrestricted movement within the range of the tether, and cannot suffer injury or strangulation resulting from the tether;

(c) is tethered in a manner that constrains the animal to the property to which the animal is tethered;

(d) has access to adequate and appropriate food, water and shelter;

(e) is not tethered if a choke collar, choke chain, pronged collar or any similar device forms part of the tether;

(f) is not unsupervised on a tether for longer than 30 minutes.

(g) is not hitched, tied or fastened to a fixed object where a rope, chain, or cord is tied directly around the animal's neck; and

(h) is not hitched, tied or fastened to a fixed object as the primary means of confinement under circumstances that can be reasonably deemed to be inhumane.

17. UNATTENDED ANIMALS IN A VEHICLE

(1) Every person who leaves an unattended animal in a motor vehicle in the Town shall ensure:

(a) the avoidance of contact between the animal and persons and other animals outside of the vehicle;

(b) the animal has suitable ventilation; and

(c) the animal is not exposed to extreme temperatures.

~~(c)~~

(2) ~~A prescribed person~~ The Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer who has reasonable grounds to believe that there is an animal in critical distress in a motor vehicle shall, if possible, immediately contact Police for assistance. Subject to the direction from the Police, the prescribed person may enter the motor vehicle for the purpose of relieving the animal from critical distress.

(3) Subsection (2) does not authorize a prescribed person to enter a motor vehicle that is being used as a dwelling as defined in the *Planning Act, R.S.O. 1990, c.P13*, as amended, unless the occupier of the dwelling consents to the entry.

(4) The Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer, may cause damage to the motor vehicle that is

reasonably necessary ~~in order~~ to enter ~~it~~ and relieve the animal from critical distress.

(5) The Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer may take possession of the animal and take reasonable steps to relieve its critical distress.

(6) The Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer who takes possession of an animal under subsection 17(5) herein shall promptly notify an animal welfare inspector if the owner or custodian of the animal is not present and cannot be found promptly.

(7) No person shall obstruct a Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer exercising a power under this section to enter a motor vehicle for the purpose of taking an animal into his or her possession and relieving its critical distress.

(8) The owner or custodian of the animal is responsible for any costs incurred by the Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer in taking steps to relieve the animal's critical distress, and the amount may be recovered as a debt due and owing to the Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Police Officer.

18. ANIMAL NOISE

(1) No owner shall permit persistent barking, calling, whining or other similar persistent sound made by any domestic pet or any other animal kept or used for any purpose other than agriculture, which sound is clearly audible at a point of reception.

(2) Agricultural operations and domestic farm animals are exempt from Subsection 18(1).

PART VI:

19. POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG

(1) No owner shall permit or allow his or her dog to bite or attack a person or domestic animal.

(2) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer trained by a veterinarian or animal behaviourist on recognition of dangerous dogs shall have the authority to designate a dog as a potentially dangerous dog or a dangerous dog but before issuing such a designation shall take into consideration any mitigating factors.

(a) Mitigating factors include, without limitation, the following:

(i) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a person;
(ii) the dog was, at the time of the aggressive behaviour, acting in defence to an attack by a domestic animal;
(iii) the dog was, at the time of the aggressive behaviour, acting in defence of the animal's young;
(iv) the dog was, at the time of the aggressive behaviour, reacting to a person trespassing on the property of the owner;
(v) the dog was, at the time of the aggressive behaviour, reacting to a domestic animal trespassing on the property of the owner; and
(vi) the dog was, at the time of the aggressive behaviour, being teased, provoked, or tormented.

(3) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall be empowered to declare a dog potentially dangerous or dangerous upon receipt of a ~~signed~~n affidavit ~~, and in the case of designating a dangerous dog, upon receipt of a signed affidavit,~~ attested to and signed by a ~~witness~~person~~,~~ who actually ~~saw~~ witnessed the ~~alleged~~ dog bite a person and/or domestic animal (and, for the purposes of this Subsection, the affiant may not be the subject of the bite)~~, or saw the results of same~~. The declaration must specifically identify the dog, the dog owner and their address.

(4) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer may, either on his or her own initiative or as a result of a complaint from any person, conduct a reasonable inquiry into whether a dog should be designated as a potentially dangerous dog or a dangerous dog.

(5) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall issue an Order designating a dog as a potentially dangerous dog if the dog:

(a) in the absence of any mitigating factor, has demonstrated a reasonable propensity, tendency or disposition to attack, bite, or cause injury to a person or domestic animal;
(b) has on at least (1) occasion behaved in a manner that poses a menace to the safety of a person or domestic animal;

(c) has been previously designated by another municipality as a potentially dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements;
(d) is a restricted pit bull and the dog's owner has failed, on at least one (1) occasion, to comply with one (1) or more of the requirements of this By-law or the regulations respecting restricted pit bulls; or
(e) in the opinion of an Animal Control Officer, Poundkeeper, Manager, or Municipal Law Enforcement Officer creates a reasonable concern for the well-being or safety of another animal or person.

(6) The Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer shall issue an Order designating a dog as a dangerous dog if the dog:

(a) in the absence of any mitigating factor, has attacked, bitten, or caused injury to a person or domestic animal;
(b) in the absence of any mitigating factor, has killed a person or domestic animal;
(c) has been previously designated by the Town as a potentially dangerous dog or a dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements;
(d) has been previously designated by another municipality as a potentially dangerous dog or as a dangerous dog, and is kept or permitted to be kept by its owner in violation of the prescribed requirements; or
(e) is a restricted pit bull and the dog's owner has failed, on at least one (1) occasion, to comply with one (1) or more of the requirements of this By-law or the regulations respecting restricted pit bulls.

(7) Subject to Subsections 19(5) and (6), the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer may issue and serve an Order upon an owner, requiring the owner to do any or all of the following:

(a) muzzle the dog at all times when off the owner's premises using a muzzle that will not cause injury to the dog or interfere with the dog's vision or respiration;
(b) leash the dog at all times when off the owner's premises using a leash not to exceed one (1) meter in length;
(c) keep the dog securely confined on the owner's premises either indoors, or if outdoors, in addition to the provisions listed in Section 15 of this By-law, in a six (6)-sided enclosure at least two (2) metres by four (4) metres capable of preventing the entry of children and other animals and constructed to prevent the dog from escaping;
(d) allow a Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer, to inspect the enclosure required in Clause (19)(7)(c) or to make whatever inquiry is reasonable to ensure compliance with this By-law;
(e) conspicuously display a sign on the property where the dog is kept that states there is a potentially dangerous dog or a dangerous dog on the property;
(f) confine the dog to allow lawful entry onto the premises of the dog owner without the fear of attack by the dog;

(g) further restrain the dog by whatever means is deemed reasonable and humane by the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer.
(h) ensure such dog is sterilized; or
(i) have implanted in such dog a microchip, and provide such microchip information to the Poundkeeper.

(8) Any Subsection 19(7) Order shall include:

(a) a statement that the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer has reason to believe that the owner's dog has bitten or attacked a person or domestic animal;
(b) a requirement that the owner muzzle the dog;
(c) information on restrictions of acquiring additional dogs;
(d) instructions on the process for having the potentially dangerous declaration removed pursuant to Subsection 19(10), if applicable; and
(e) a statement that the owner may request and is entitled to appeal the Order.

(9) Any Order issued pursuant to Subsection 19(8) takes effect immediately upon receipt, and the dog owner shall comply with all of the elements of the Order.

(10) A potentially dangerous dog designation shall be lifted if an owner submits proof of the following to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer:

(a) successful completion of a recognized dog obedience course after the issuance of the Order;
(b) successful completion of a recognized dog handling course after the issuance of the Order; and
(c) a recommendation from a veterinarian or certified animal behaviourist to lift the designation.

(11) Notwithstanding Subsection 19(10), any subsequent designation as a potentially dangerous dog shall not be lifted other than further to a decision on Appeal.

(12) An owner of a potentially dangerous dog shall be precluded from acquiring and licensing additional dogs until such owner submits proof of the following to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer:

(a) Successful completion of a recognized dog obedience course within the past thirty (30) days;
(b) Successful completion of a recognized dog handling course within the past thirty (30) day; and;
(c) a recommendation from a veterinarian.

(13) An owner of a dangerous dog may not acquire and license additional dogs.

(14) An owner, whose dog has been designated as a potentially dangerous dog or a dangerous dog shall immediately advise the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer of the particulars pertaining to any ownership transfer of the dog or address change.

(15) If a dangerous dog or potentially dangerous dog is not restrained and the owner or custodian cannot be readily located, the Poundkeeper, Manager, Animal Control Officer or Municipal Law Enforcement Officer may remove the dog from the property if it is reasonable to preserve public safety, including the well-being of another animal.

(a) All reasonable costs incurred by the Town to facilitate this removal shall be borne by the owner of the dog.

(16) If an owner whose dog has been designated as a dangerous dog is unwilling or unable to comply with the requirements herein, and the owner has surrendered the dog to the Poundkeeper, and evidenced in writing, the dog shall then be humanely euthanized by ~~trained Poundkeeper staff or~~a veterinarian or registered veterinary technician after a ten (10) day holding period.

(17) Any dog designated as a dangerous dog under this By-law shall not be offered for adoption or sale.

(18) The cost of humanely euthanizing a dangerous dog shall be borne by the owner unless the dog owner surrendered the dog to the Poundkeeper.

PART VII:

20. ANIMAL TRAPS

(1) No person shall use, set or maintain a leg hold trap, a killing trap or a snare trap unless licensed to do so by the Ministry of Natural Resources and Forestry.

(2) Subsection 20(1) does not apply to:

(a) reasonable use by agricultural operations to protect livestock, crops, and the agricultural operation overall;
(b) reasonable efforts to control and eliminate rodents and pests, such as mice and rats, in relation to a residential, commercial, industrial, or public space property; or
(c) a pest control company or agency which has been hired to address an identified issue utilizing reasonable and humane common trade practices and procedures.

21. FERAL CATS

(1) An Animal Control Officer, Poundkeeper, Manager, or Municipal Law Enforcement Officer may operate a "trap, neuter, return program" in respect of any feral cat or feral cat colony, and shall maintain a record of feral cat sterilizations.

(2) Any feral cat may be sterilized and subsequently released, at the sole discretion of the Poundkeeper.

(3) If, in the opinion of the Poundkeeper, a feral cat is injured or ill and euthanasia is the most humane course of action, the feral cat shall -be brought to a veterinarian or registered veterinary technician for examination.~~be euthanized~~. If the veterinarian or registered veterinary technician concur with the opinion of the Poundkeeper, the feral cat shall be euthanized.

22. LIVESTOCK

(1) No person shall keep livestock on any premises in Town unless the premises are zoned to permit the keeping of livestock by the Town's Comprehensive Zoning By-law No. 129-90, as amended or replaced.

(2) No owner of livestock shall permit any livestock to be running-at-large in the Town.

(3) Livestock shall be deemed to be running-at-large if found in any place other than the premises of the owner of the livestock, and not under the control of any person.

(4) An Animal Control Officer, Manager, Municipal Law Enforcement Officer, police officer or the Poundkeeper may seize and impound any livestock running-at-large in the Town.

(5) Any livestock seized pursuant to Subsection 22(4) shall be considered impounded at the time and place of the seizure by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, police officer, or the Poundkeeper.

(6) The Poundkeeper shall make reasonable efforts to determine the identity of the owner of the impounded livestock, and inform the owner that the livestock has been impounded in accordance with this By-law and the *Pounds Act*.

(7) Further to impoundment of livestock, the Poundkeeper shall:

(a) provide such veterinary or other care for any injured or ill impounded livestock necessary to preserve life or relieve distress;

(b) ~~(b) euthanize bring~~deliver any impounded livestock without delay to a veterinarian or registered veterinary technician ~~to be euthanized~~for examination, if the owner cannot be found and, in the opinion of the Poundkeeper, ~~such action~~euthanasia is the most humane course of action. If the veterinarian or registered veterinary technician concur with the opinion of the Poundkeeper, the impounded

livestock shall be euthanized.

~~(b) Euthanasia shall only be performed by a person trained to administer it.~~

(c) be entitled to recover from the owner of the impounded livestock all reasonable costs of veterinary or other care provided while the livestock was impounded; and
(d) be entitled to recover from the owner of the impounded livestock any reasonable fees for the redemption of the livestock.

(8) Every owner shall retrieve the impounded livestock from the Poundkeeper within four (4) days of the date of impoundment, excluding the day of impoundment, pound closures, and any statutory holidays.

(9) The owner of any impounded livestock may secure the release of livestock during the redemption period subject to:

(a) payment of all reasonable costs and fees incurred by the Pound; and
(b) fulfillment of any other action in relation to the care or control of the impounded livestock that the Town or Poundkeeper may direct.

(10) If the owner of the livestock fails to comply with Subsection 22(8) or (9), the Poundkeeper is deemed to be the owner of the livestock and possesses the sole discretion to decide whether to keep, sell, or otherwise dispose of the impounded livestock.

(11) The Poundkeeper shall keep a record of all impounded livestock pursuant to Subsection 10(3).

23. EXOTIC ANIMALS

(1) No person shall own, breed, harbour, possess, keep, sell or offer for sale any exotic animal listed in Schedule "A" herein unless through statutory authorization.

(2) Notwithstanding Subsection 23(1) herein and Section 6.22 of the Town's Comprehensive Zoning By- law No. 129-90, as amended or replaced, no person shall keep an exotic animal within the Town except in the following places or circumstances and in accordance with Schedule "A":

(a) a veterinary hospital under the care of a veterinarian;
(b) on the lands and premises of the Poundkeeper or authorized agency to house or shelter exotic animals, on a temporary basis, due to spatial or other special requirements;
(c) on the lands and premises listed under Schedule "B" herein;
(d) permitted non-venomous snakes, non-venomous lizards, insects, turtles, spiders, ~~or~~ or squamata in an escape-proof enclosure~~, save and except the animal is not prohibited in accordance with Schedule "A"~~;
(e) a maximum of five (5) permitted non-venomous snakes, non-venomous lizards or spiders in one (1) residential area owned or occupied by that person;
(f) any permitted lagomorph, marsupial or rodent in an approved enclosure; or
(g) a provincially authorized wildlife custodian with statutory authorization.

~~(3)~~(h) ~~No person may keep exotic animals enumerated in Schedule "A" unless they~~animals that are part of an agricultural operation and specifically enumerated in Schedule "B".

~~(4)~~(3) Exotic animals may be kept on lands and premises where exotic animals are kept for public exhibition and display as part of a commercial establishment provided such lands and premises are enumerated in Schedule "B".

~~(5)~~(4) Exotic animals may be kept at a Rehabilitation Centre provided the Rehabilitation Centre is specifically listed in Schedule "B".

~~(6)~~(5) Any person may apply to Council to have lands or premises added to Schedule "B", and the application may only be approved if he or she satisfies Council that the exotic animal(s) will only be kept for the purposes of an agricultural operation, public exhibition and display, or Rehabilitation Centre.

~~(7)~~(6) All exotic animal registrations in effect prior to the passage of this By-law shall remain valid subject to the following conditions:

(a) any person possessing an exotic animal registration shall immediately notify the Licence Agent of the loss, death, or sale of the exotic animal; and
(b) failure to notify the Licence Agent pursuant to Clause 23(7)(a) shall lead to the cancellation of the registration.

~~(8)~~(7) All registrations for exotic animals are non-transferable.

~~(9)~~(8) If an exotic animal is seized or impounded pursuant to this By-law, the owner shall pay to the Poundkeeper any and all fees, costs and charges involving the capture, care, transportation, disposal of, and veterinary services of the animal seized or impounded, in addition to all other fees and charges payable under the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

PART VIII:

24. LICENCE SUSPENSIONS, REFUSALS, AND REVOCATIONS

(1) A Licence Agent may refuse to issue a licence, or may suspend or revoke a licence, if:

(a) the owner has been found guilty of an offence or failed to comply with a provision under this By-law on at least two (2) occasions within the preceding twelve (12) months;
(b) there are reasonable grounds to believe that the licensee or applicant will not comply with this By-law;
(c) the licensee or applicant refuses to permit an inspection; or

(d) a veterinarian confirms an outbreak of a disease that would require any form of quarantine.

PART VIII:

25. APPEALS

(1) A dog owner may appeal an Order designating a dog as a potentially dangerous dog or as a dangerous dog.

(2) An appeal shall be made in writing and delivered to the Clerk within fifteen (15) days of the owner receiving notice of the Order, including the prescribed appeal fee pursuant to the Town's Fees and Charges By-law No. 40-09, as amended or replaced.

(3) If an appeal is received after the prescribed appeal period, the Clerk may dismiss the appeal with written notification to the parties. The Clerk, in his or her sole discretion, may accept a late appeal provided it is received within thirty (30) days and there is compelling proof of extraordinary circumstances that caused the failure to appeal within the prescribed period.

(4) An appeal does not operate as a stay. The Order remains in force and all conditions must still be fulfilled pending disposition of the appeal.

(5) The Clerk shall give an appellant at least five (5) days written notice of a Hearing by delivering a Notice of Hearing by registered mail or e-mail to the addresses shown in his or her appeal. The Notice of Hearing shall include:

(a) a statement setting out the time, place, and manner in which the Committee will convene for the appeal hearing; and

(b) a statement that, if the owner does not attend the hearing, the Committee will proceed with the hearing in the absence of the owner.

(6) Every appeal shall be considered at a public Hearing held before the Committee, and may be held electronically pursuant to the *Statutory Powers Procedure Act,* R.S.O. 1990, S.22.

(7) A Hearing shall be held pursuant to the *Statutory Powers Procedure Act*.

(8) At the conclusion of a Hearing in respect to Subsection 25(1), the Committee shall consider the following:

(a) the dog's behaviour;

(b) the seriousness of the injuries caused by the bite or attack on a person or a domestic animal;
(c) extraordinary circumstances or mitigating factors;
(d) the likelihood that a similar attack will be repeated;
(e) the dog's physical potential for inflicting harm;
(f) the seriousness of the owner's previous convictions under this By-law, any other by-law or statute;
(g) the steps taken by the owner to comply with this By-law and avoid further violations; and
(h) any agreed statement of facts or joint resolution tendered by the parties.

(9) The Committee shall consider the evidence presented at a Hearing and has the authority to make one (1) of the following Rulings with Reasons:

(a) confirm the Order;
(b) confirm the Order with modified conditions;
(c) change the designation from dangerous to potentially dangerous, subject to the provisions of Section 19, with conditions;
(d) change the designation from potentially dangerous to dangerous, subject to the provisions of Section 19, with conditions; or
(e) quash the Order.

(10) The Clerk shall deliver to the appellant the Ruling of the Committee with Reasons by registered mail or e-mail to the addresses shown on his or her appeal and to the Poundkeeper, Manager, Animal Control Officer, or Municipal Law Enforcement Officer within fifteen (15) days of the Committee's Ruling.

(11) The Ruling of the Committee shall be final and binding.

(12) Nothing in this By-law, nor any decision of the Committee shall preclude a court of competent jurisdiction from imposing an Order under any other applicable law. The Ruling of the Committee shall terminate if a court of competent jurisdiction makes an Order respecting the Order of the Poundkeeper, Manager, Animal Control Officer, Municipal Law Enforcement Officer, or Licence Agent.

(13) An appeal to the Dangerous Dogs Appeals Committee that was commenced under By-law No. 176-2001, as amended by By-law No. 33-04, but not disposed of before passage of this By-law, shall be continued and disposed of under the same provisions of By-law No. 176-2001, as amended, as if those By-laws were still in force and effect.

26. SERVICE

(1) An Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent shall serve any Decision, Notice or Order by handing it to the person, failing which the Order shall be served:

(a) by handing it to an adult person on the property of the owner or occupant and by sending a copy by registered mail to the address last known to the Town;
(b) by posting it in a conspicuous place at the property of the owner or occupant and by sending a copy by registered mail to the address last known to the Town; or
(c) by sending it by e-mail and by registered mail to the person to the addresses last known to the Town.

(2) Any Decision, Notice or Order issued by the Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent, or Appeal Ruling of the Committee by the Clerk, or appeal filed by a person pursuant to this By-law shall be deemed received as follows:

(a) by registered mail: five (5) days after the date of mailing by registered mail;
(b) by e-mail delivered before 5:00pm on a weekday: the same business day;
(c) by e-mail delivered after 5:00pm on a weekday: the next business day;
(d) by e-mail delivered on a weekend or a holiday: the next business day.

PART IX:

27. ENFORCEMENT AND RIGHT OF ACCESS

(1) This By-law shall be enforced by the Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper and the Licence Agent.

(2) Subject to sections 436 and 437 of the *Municipal Act*, *2001,* an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, at all reasonable times, enter upon any place to ensure compliance with this By-law, any Decision or Order issued pursuant to this By-law, or licence conditions. Any animal that is perceived as a threat or potential threat, may be restrained during the course of the inspection.

(3) Subject to sections 436 and 437 of the *Municipal Act*, *2001,* an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, at all reasonable times, enter upon any place if he or she has reasonable grounds to believe an animal is in critical distress.

(4) The Animal Control Officer, Manager, or Municipal Law Enforcement Officer may, for the purposes of an inspection under Subsections 27(2) or 27(3):

(a) require the production for inspection of relevant documents or things;
(b) inspect, remove, and make copies or extracts of relevant documents or things;
(c) require information from any person concerning a matter relevant to the inspection;
(d) make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
(e) be accompanied by persons possessing special or expert knowledge related to the purpose of the inspection.

(5) Subject to section 438 of the *Municipal Act, 2001*, if an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has been prevented from carrying out an inspection, he or she may undertake an inspection pursuant to a judicial order.

(6) Subject to section 439 of the *Municipal Act*, *2001,* an Animal Control Officer or Municipal Law Enforcement Officer may apply for a search warrant to carry out an inspection of a place.

(7) If an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has reasonable grounds to believe a contravention of this By-law has occurred, he or she may issue an Order requiring any person who contravened the By-law, or who caused or permitted the contravention, to discontinue the contravention.

(8) If an Animal Control Officer, Manager, or Municipal Law Enforcement Officer has reasonable grounds to believe a contravention of this By-law has occurred, he or she may make an Order requiring the person to do work to correct the contravention.

(9) No person shall hinder or obstruct, or attempt to hinder or obstruct an Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent in carrying out his or her duties under this By-law.

(10) No person shall neglect or refuse to produce or provide any information or thing requested by an Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper or the Licence Agent in carrying out his or her duties under this By-law.

(11) No person shall knowingly make, participate in, assent to, or acquiesce, in the provision of false information in a statement, affidavit, application, appeal or other document prepared, submitted or filed under this By-law.

(12) No shall person shall fail to comply with an Order issued pursuant to this By-law.

PART X:

28. PENALTIES

(1) Every person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and, upon conviction, is liable to a fine and such other penalties, as provided for in the *Provincial Offences Act*, S.O. 1990, c. P.33 and the *Municipal Act, 2001*.

(2) Pursuant to Section 429 of the *Municipal Act, 2001*, every person who is guilty of an offence under this By-law shall be subject to the following penalties:

(a) Upon a first conviction, to a fine of not less than $500 and not more than $50,000;

(b) Upon a second or subsequent conviction for the same offence, to a fine of not less than $500 and not more than $100,000;

(c) Upon conviction for a continuing offence, to a fine of not less than $100 and not more than $10,000 for each day or part thereof that the offence continues. The total daily fines shall not exceed $100,000; and

(d) Upon conviction for a multiple offence, for each offence included in the multiple offence, to a fine of not less than $100 and not more than $10,000. The total of all fines for each included offence is not limited to $100,000.

(e) If a person convicted of an offence is a corporation, the corporation is liable to a fine of not less than $500 and not more than $100,000.

29. ADMINISTRATIVE MONETARY PENALTIES

(1) Instead of laying a charge under the *Provincial Offences Act* for failure to comply with any provision of this By-law, an Order, or any licence condition, an Animal Control Officer, Manager, or Municipal Law Enforcement Officer may issue an administrative monetary penalty to a person who has contravened this By-law, subject to Section 434.1 of the *Municipal Act, 2001*.

(2) An Animal Control Officer, Manager, or Municipal Law Enforcement Officer possesses the discretion to decide whether to pursue a charge under the *Provincial Offences Act* or issue an administrative monetary penalty.

(3) If an administrative monetary penalty is issued to a person for failure to comply with a provision in this By-law, no charge shall also be laid under the *Provincial Offences Act* against the same person for the same non-compliance.

(4) Every person who has contravened any provision of this By-law is liable to the corresponding administrative monetary penalty enumerated in Schedule "C" herein, in accordance with the Town's Administrative Penalty By-law No. 111-2019, as amended or replaced.

30. COLLECTION OF UNPAID FINES

(1) The Town may recover its expenses of remedying a contravention of this By-law by invoicing the person who engaged in the contravention, by instituting legal proceedings, or by adding the cost, including interest, to the tax roll in the same manner as municipal taxes.

(2) An administrative monetary penalty issued to a person in accordance with the Town's Administrative Penalty By-law No. 111-2019, as amended or replaced, may be added to the municipal tax roll and collected in the same manner as municipal taxes.

PART XI:

31. MODIFICATIONS

The Clerk of the Town is authorized to effect 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.

32. SEVERABILITY

If a Court of competent jurisdiction declares any Section or part of a Section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

33. IMMUNITY

No Animal Control Officer, Manager, Municipal Law Enforcement Officer, Poundkeeper, or Licence Agent, is personally liable for any act or omission done in good faith in the execution or intended execution of the person's powers or duties under this By-law.

34. REPEAL

By-law Nos. 119-97, 156-97, 23-2000, 82-2001, 146-2001, 176-2001, 81-2003, 32-04, 33-04, 135-10, 58-12, 106-2015, 107-2015, 74-2018, and 13-20 are repealed in their entirety.

35. FORCE AND EFFECT

This By-law shall take effect on the date of enactment.

Read a first, second and third time and finally passed this day of , 2021.

_____
Mayor

_____
Clerk

I, Carol Schofield, the Clerk of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. XX-2021 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

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Schedule "A"

Animal Species Classifications

1. The following non-exhaustive list of animal classes shall be considered exotic animals:

(a) All Amphibians

~~(a)~~(b) All Anseriformes (e.g. ducks, geese, swans and screamers), except domesticated Anseriformes if located on rural or agricultural premises zoned under ~~a Town zoning by-law~~the Town's Comprehensive Zoning By-law, as amended or replaced, permitting such a use;

~~(b)~~(c) All Artiodactyla (e.g. cattle, goats, sheep, pigs, deer, elk, alpacas and llamas, antelopes, giraffes and hippopotamuses), except domesticated Artiodactyla if located on rural or agricultural premises zoned under the Town's zoning by-law permitting such a use;

~~(c)~~(d) All Birds, the keeping of which is prohibited in the *Migratory Birds Convention Act,* S.C. 1994 c.22, and regulations thereto; and all animals, the keeping of which is prohibited in the *Fish & Wildlife Conservation Act,* S.O. 1997, c.41 and regulations thereto ~~including but not limited to:~~.

~~(i) Anseriformes (such as ducks, geese, swans, screamers);~~
~~(ii) Galliformes (such as pheasants, grouse, guinea fowls, turkeys);~~
~~(iii) Gruiformes (such as cranes, rails);~~
~~(iv) Phoenicopteriformes (such as flamingos);~~
~~(v) Sphenisciformes (such as penguins); and~~
~~(vi) Struthioniformes (flightless ratites such as ostriches, rheas, cassowaries, emus, kiwis).~~

~~(d)~~(e) All Canidae (such as coyotes, wolves, foxes, hybrid wolf dogs) except Canis Familiaris (domestic dog);

(f) All Carnivora (e.g. otters, wolves, bears, coyotes, foxes, tigers, leopards, cougars, lions, lynx, mink, skunks, weasels, badgers, mongooses and raccoons), except dogs, cats and ferrets;

~~(e)~~(g) Chelydridae (Common snapping turtle, Alligator snapping turtle)

~~(f)~~(h) All Chiroptera (bats such as fruit bats, myotis, flying foxes);

~~(g)~~(i) All Crocodylia (such as Alligators, Gavials, Caymans and Crocodiles);

~~(h)~~(j) All Dermoptera ~~(all Lemurs)~~;

(k) All Diurnal and Nocturnal Raptors (such as Eagles, Hawks and Owls) unless authorized by the Ministry of Natural Resources and Forestry;

~~(i)~~(l)Erinacidae (hedgehog)

~~(j) All Edentates (such as Anteaters, Sloths and Armadillos);~~

~~(k)~~(m) All Felidae (such as tigers, leopards, cougars, and Savannah Cats) except the ~~Felidae~~ Felis ~~Domesticus~~ catus(domestic cat);

(n) All Galliformes (e.g. pheasants, grouse, guinea fowls, turkeys, chickens and peafowls), except domesticated Galliformes if located on rural or agricultural premises zoned under ~~a Town zoning by-law~~the Town's Comprehensive Zoning By-law, as amended or replaced permitting such use;

~~(l)~~(o) All Gruiformes (such as cranes, rails);

~~(m)~~(p) All Hyaenidae (such as hyenas);

~~(n)~~(q) All Hyracoidea (such as all Hyrax);

~~(o)~~(r) All Lagomorpha (such as Hares and Pikas), except domestic ated (Oryctolagus cuniculus domesticus) Rabbits;

(s) Marbled crayfish (Procambarus virginalis)

(t) All Marsupialia (e.g. koalas, kangaroos, opossums and wallabies), except sugar gliders derived from self-sustaining captive populations;

~~(p)~~

~~(q)~~(u) All Mustelidae (such as mink, skunks, weasels, otters, wolverines, badgers) except domesticated ferrets (Mustela putorius furo);

~~(r)~~(v) Non-human primates (such as chimpanzees, gorillas, monkeys, lemurs);

(w) All Perissodactyla (e.g. horses, donkeys, jackasses, mules, zebras and ponies), except domesticated Perissodactyla if located on rural or agricultural premises zoned under ~~a Town zoning by-law~~the Town's Comprehensive Zoning By-law, as amended or replaced, permitting such a use;

~~(s)~~(x) Phoenicopteriformes (such as flamingos);
~~(t)~~(y) All Pholidota (such as all Pangolin);
(z) All Pinnipeds (such as Seals, Fur Seals and Walruses);
~~(u)~~

~~(v) All Non-human Primates (e.g. chimpanzees, gorillas, monkeys and lemurs);~~
~~(w)~~(aa) All Procyonidae (such as Raccoons, Coatis and Cacomistles);
(bb) All Proboscidea (such as Elephant, Rhinoceros and Hippopotamus);
~~(x)~~(cc) Psittaciformes (parrots), except budgie, cockatiel, monk parakeet (Quaker parrot), Rosy-faced lovebird, Yellow-collared lovebird, Fischer's lovebird.
(dd) All snakes of the families Pythonidae and Boidae (such as pythons, boa constrictors and anacondas);
~~(y)~~(ee) Red-eared slider (Trachemys scripta elegans)
(ff) All Venomous Reptiles (such as front or rear fanged snakes and helodermid lizards); ~~(aa)~~
~~(z)~~(gg) All Rodentia (e.g. porcupines, prairie dogs, nutria and chinchillas) except domesticated species of Rodentia:

(i) where neither the female nor the male of the species exceeds or will exceed fifteen hundred (1,500) grams in weight before or at maturity; and
(ii) that are derived from a ~~self-sustaining~~self-sustaining captive population;

~~(ii)~~

(hh) ~~(bb)~~ All other Venomous or Poisonous Animals except Grammostola rosea (Chilean Rose), Brachypelma smithi (Mexican Red-Knee) and Avicularia avicularia (Pink-Toe) Tarantulas;
(ii) ~~(cc)~~ All Sciuridae (such as Flying Squirrels and Red Squirrels);
(jj) All Sphenisciformes (such as penguins);
(kk) All Struthioniformes (flightless ratites such as ostriches, rheas, cassowaries, emus, kiwis).
(ll) ~~(dd)~~ All families of Venomous Snakes, even if de-venomized;
(mm) ~~(ee)~~ All families of Venomous Spiders, except Tarantulas in accordance with subsection 1(hh);
(nn) ~~(ff)~~ All Squamata (e.g. lizards and snakes) except:
(i) non-venomous snakes where neither the female nor the male of the species exceeds or will exceed three (3) metres in length from nose to tip of tail before or at maturity; and
~~(ii)~~ non-venomous lizards ~~(not including Iguana)~~ where neither the female nor the male of the species exceeds or will exceed two (2) metres in length from nose to tip of tail before or at maturity;

~~(gg) All odd-toed Ungulates (such as zebras, wild asses, rhinoceroses and tapirs)~~

~~except domestic horses, donkeys, asses and domestic horse or donkey hybrids;~~

(oo)~~(hh)~~ All Teiidae (tegu lizards)

(pp) All Ursids (such as bears);

(qq)~~(ii)~~ All Varanidae (monitor) lizards~~Varanus komodoensis~~ (e.g. Komodo Dragon); '

(rr) ~~(jj)~~ All viverrids (such as civets, and binturongs~~ and fossas~~)

(ss) All Xenarthra (such as Anteaters, Sloths, and Armadillos);

2. All endangered or protected animals, whether native or non-native to Canada, whose possession, sale or trade is prohibited because they are designated as protected, endangered, threatened, vulnerable or of special concern pursuant to an international, federal, provincial law, regulation, rule or agreement.

Schedule "B"

Exotic Animal Exceptions

1. Agricultural Operations;
2. Public Exhibition and Display;
3. The lands and premises at 2821 Stevensville Road, Fort Erie, Ontario L0S 1S0 (commonly called Safari Niagara) and being more particularly described as PIN 64245-0189 (LT), and 4206 Fox Road, Fort Erie, Ontario, L0S 1S0 (commonly called Safari Niagara) and being more particularly described as PINs 64245-0194 (LT) and 642460191(LT);
4. Rehabilitation Centres

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Schedule "C"

Administrative Monetary Penalties

For the purposes of this By-law:

Column 1 ("Description of Offence") in the table sets out the short form wording to be used in a Penalty Notice for a contravention of the designated provisions listed.

Column 2 ("Section") in the table lists the specific section of the provision that has been contravened.

Column 3 ("Penalty Tier 1") sets out the Administrative Monetary Penalty amounts that are payable for contraventions of the designated provisions listed in Columns 1 and Column 2.

Column 4 ("Penalty Tier 2") sets out the Administrative Monetary Penalty amounts that are payable for a second (2nd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Column 5 ("Penalty Tier 3") sets out the Administrative Monetary Penalty amounts that are payable for a third (3rd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Fail to notify Poundkeeper of address change in prescribed period of time	5(15)(b)	$200	$300	$450
Fail to notify Poundkeeper of or ownership change in prescribed period of time	5(15)(c)	$200	$300	$450
Failure to provide a rabies certificate	5(9)	$250	$350	$500
Fail to ensure that identification tag corresponding to the licence issued for dog or cat is attached to the dog or cat at all times	6(3)	$250	$350	$500
Fail to obtain kennel licence	7(1)	$500	$650	$750
Construct, erect, or maintain a kennel not in accordance with Town By-laws	7(4)	$300	$450	$750
Fail to ensure standards of care regarding Kennel Care	7(16)	$300	$450	$750
Fail to maintain a log of all dogs on premise	7(18)	$250	$350	$500
Admit a dog into the kennel without rabies immunization	7(19)	$250	$350	$500

No person shall own, possess or harbour in any one (1) household or on any premises more than three (3) dogs	8(1)	$250	$350	$500
No owner shall keep or permit to be kept on any one (1) premise owned or occupied by them more than six (6) cats in a residential area	8(2)	$250	$350	$500
Fail to obtain a dog or cat licence	8(3)	$250	$350	$500
No person shall breed or offer for sale dogs without a kennel license or pet shop license	8(4)	$300	$450	$650
No person shall possess or harbour a rescue foster dog without a licence	8(5)	$250	$350	$500
Permit a dog to be on or in any cemetery, public beach, or park within the Town	8(7)	$200	$300	$450
No owner shall allow, permit or cause any animal to be running-at-large	9(1)	$250	$500	$750
Fail to keep dog on a leash of no more than 182cm (-6ft)	9(2)	$200	$300	$450
Permit dog in off leash area where muzzle order issued	9(4)	$400	$550	$750
Fail to provide a Basic Standard of Care	11(1)	$300	$450	$750
Fail to adhere to an obligation to report	11(34))	$250	$350	$500
Fail to provide a standard of care for a dog outdoors	12(1)	$250	$350	$500
Fail to provide an animal with adequate sanitary conditions	13(1)	$250	$350	$500
Fail to remove and dispose of animal excrement	13(5)	$250	$300	$450
Fail to remove animal excrement on property within prescribed period of time	13(4)	$200	$300	$450
Fail to provide an animal with a proper pen or enclosure	15(1)	$250	$350	$500
Fail to provide a proper enclosure for an animal outdoors for more than 30 minutes	15(2)	$250	$350	$500
Tether an animal not in accordance with the provisions in the by-law	16(1)	$300	$450	$600
Leave animal unattended in vehicle not in accordance with the By-law	17(1)	$350	$500	$750
Fail to ensure dog or cat immunized against rabies	17(5)	$250	$350	$500
No owner shall permit or allow the persistent barking, calling, whining or other similar persistent sound	18(1)	$250	$350	$500

Fail to ensure a dog does not bite or attack another person or domestic animal	19(1)	$350	$500	$750
Fail to comply with a dangerous dog order	19(9)	$350	$500	$750
Offer dangerous dog for adoption	19(17)	$350	$500	$750
Use, set, or maintain a leg hold trap, a killing trap, or snare trap	20(1)	$500	$650	$750
No person shall keep livestock on any premises unless permitted.	22(1)	$250	$500	$750
No person shall own, breed, harbour, possess, keep, sell or offer for sale any exotic animal	23(1)	$350	$500	$750
Fail to comply with an Order	27(12)	$350	$500	$750
No person shall hinder or obstruct an authorized person in the administration of the by-law	27(~~1~~9)	$350	$500	$750
~~Permit a dangerous dog to be running-at-large~~	~~28(24)~~	~~$350~~	~~$500~~	~~$750~~

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Planning and Development Services

Prepared for	Council-in-Committee	**Report No.**	PDS-39-2021
Agenda Date	May 17, 2021	**File No.**	130103

Subject

477 RIDGE ROAD NORTH – UPDATE No. 2

Resolutions

THAT Council receives for information purposes Report No. PDS-39-2021 regarding 477 Ridge Road North.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

The Corporation of the Town of Fort Erie
Residents of the Town of Fort Erie
Municipal Heritage Standing Committee
Owner of 477 Ridge Road North

Prepared by:	Submitted by:	Approved by:
Original Signed	***Original Signed***	***Original Signed***
Lindsay Richardson, MCIP, RPP Senior Community Planner	Kira Dolch, MCIP, RPP, CNU-A Director, Planning and Development Services	Tom Kuchyt, CET Chief Administrative Officer

Purpose of Report

The purpose of this report is to provide Council with a further update on discussions that have taken place with the owner of 477 Ridge Road North, with respect to development options and restoration work to the designated heritage dwelling on the site. A detailed chronology of events is attached as **Appendix "1"** to this report.

Analysis

Background

At its January 11, 2021 meeting, Council passed the following resolutions:

- That: Council directs staff to discuss with Mr. Long his proposal with respect to the property and report back to Council within 2 months, and further

- That: Council directs that the monthly fines be suspended until staff reports back to Council.

Staff met with Mr. Long 2 times after this resolution was passed and provided an update on March 8, 2020 through PDS-22-2021. This report provided a summary of the 2 meetings that had occurred to date and detailed the next steps for the property. During these meetings, Mr. Long clarified his proposal and expressed an interest in adding dwelling units to the property and Staff provided the appropriate zoning information and process requirements including the requirement for a Heritage Impact Assessment for any proposed development.

Additionally, Mr. Long indicated that he was attempting to engage the services of Mark Shoalts, a structural engineer who specialized in heritage properties to address the deficiencies outlined in the property standards order which was registered on title on August 8, 2019 and remains in effect to date.

During the discussions, Town Staff encouraged Mr. Long to address the property standards order first, prior to the development matters, by fixing the deficiencies and bringing the structure back into compliance with the building code. Mr. Long expressed that the property standards issues could be rectified by the end of March.

Upon receipt of Report PDS-22-2021, Council passed the following resolution:

- That: Council receives for information purposes Report No. PDS-22-2021 regarding 477 Ridge Road North.

Update to Report PDS-22-2021

Since Council received Report PDS-22-2021, Staff has been in regular contact with Mr. Long, by phone, email and through zoom meetings. Updates of these communications are summarized below for Council's information:

- Mr. Long indicated that he had been unable to engage the services of Mr. Shoalts.

- Mr. Long had been in discussion with a party who expressed interest in purchasing and restoring the property. Mr. Long indicated the purchaser backed away due to the restoration not being economically feasible.

- Mr. Long indicated that he was going to move forward with the preparation of an HIA and meeting with local contractors but that likely due to the pandemic and the demand on local contracting companies, finding a suitable company has been difficult.

- Mr. Long indicated that he has spoken with Leah Wallace, a well-respected Heritage Planner in the Region, about his options on the property. He indicated that she would be happy to prepare a heritage impact assessment once a development concept is determined.

Staff met with Mr. Long on May 6, 2021 to go over the existing situation and discuss the next steps. It was reiterated that addressing the property standards order is the Town's number one concern and priority, before any development options are considered. Staff communicated that if steps are not taken to rectify the issues as stated in the Property Standards Order and identified in the engineer's report that was prepared in 2019, the Town, under Section 15.4 of the Building Code Act, 1992, S.O. 1992, C.23, may consider the process of restoration at the owner's expense.

The property standard fines have been held in abeyance since January 2021 and until staff is further directed by Council, and Mr. Long continues to be charged for the safety fencing that surrounds the unsafe structure.

Property Standards Order and Fines

A Property Standards Order was issued on June 6, 2019 with a 20-day appeal period. No appeals were received and the order was registered on title August 12, 2019. An engineer's report prepared by ACA Engineering Services was undertaken by the Town, at the owner's expense in August of 2019, to clearly identify the property standards issues and potential restoration costs. To date, no work has been done to bring the property into compliance with the order. Six Administrative Monetary Penalty Notices (AMPS) have been issued at $200 each for a total of $1,200, since December of 2020. The cost of the engineers' report and the additional fines have not been paid by the owners and have been transferred to the tax account after non-payment.

By-law Enforcement Staff has indicated that the Town is able to serve an AMPS violation to an owner every day they have not complied. From the last ticket in January to now, the owners could have been fined $400 per day totaling over $40,000.

Financial/Staffing Implications

The Engineer that was hired by the Town to provide a professional opinion on the condition of the dwelling located at 477 Ridge Road North was consulted in order to prepare a response in January, 2021 and the following was included in a memo prepared for Council:

While they indicated they are not a cost consultant and noted that contractor costs are on the rise for this type of project and therefore could be elevated even more, they provide the following for consideration.

The structural repairs are estimated to cost a minimum of $50,000 and $60,000 with additional costs of $20,000 to $30,000 for interior works, for a total estimated cost of $90,000. The Engineer further indicated that this estimated cost would be considered low and if the repairs and replacement pieces were to be done to maintain the historical features, the costs could be higher than the estimate.

The Chief Building Official has indicated that with any type of repair or reconstruction project there are unknowns until the project gets underway. When dealing with a house of this age and condition, these unknowns may have a large impact on the budget. For example, foundation repairs are required for a portion of the building; the extent of this repair is unknown which may increase costs as the scope of the repair changes.

Demolition of the dwelling would cost between $12,000 and $16,000 based on other similar work the Town has done in the past.

Staff time and resources for either restoration or demolition, meetings with Mr. Long and continuing to issue AMPS fines, will be covered by the existing staffing budget but due to heavy volume in By-law, Building and Planning any further work could impact customer service initiatives of the Town.

Polices Affecting the Proposal

In accordance with the Town's Official Plan, the Town will actively promote cultural heritage and conservation in all applicable municipal activities in recognition of the non-renewable nature of cultural heritage resources, as well as the contribution they make to the character, civic pride, tourism potential, economic benefits and historical appreciation of the community.

Comments from Relevant Departments/Community and Corporate Partners

None.

Communicating Results

No communication is required at this time.

Alternatives

While this report is intended for information purposes, Council may consider the following actions, relative to this matter:

1. Fines - Property Standards Administrative Monetary Penalty Notices (AMPS)

   Council may consider reinstating the fines that were initiated in December of 2020 and held in abeyance until staff reported back to Council. Reports were provided to Council on March 8, 2021 and through this report.

   Recommendation: **That:** Council directs that the AMPS fines that have been held in abeyance since January 11, 2021, be reinstated.

2. Completion of Work Under Section 15.4 of the *Building Code Act, 1992*, S.O. 1992, C.23

   Council may rectify the property standards issues through Section 15.4 of the *Building Code Act, 1992*. This section refers to the "power of municipality if order not complied with" and:

   - Permits the Town to restore or demolish in accordance with the Property Standards Order;
   - Permits employees or agents of the Town to enter the property at any reasonable time, without a warrant, in order to repair or demolish the property; and
   - Permits the Town to register a lien on the land for the amount spent on the repair or demolition and the amount shall have priority lien status as described in section 1 of the Municipal Act, 2001.

   Recommendation: **That:** Council directs Staff to initiate the process under Section 15.4 of the Building Code Act, 1992, S.O. 1992, C.23 to address the deficiencies outlined in the ACA Engineering Services Report dated August 31, 2019; and further

   That: Council directs that pursuant to Section 15.4 of the *Building Code Act, 1992*, S.O. 1992, C.23, the work shall be completed by the Town at the expense of the Owner and the costs may be collected in the same manner as property taxes in accordance with the *Municipal Act, 2001*.

Any work done that will exceed $50,000 will require Council approval in accordance with the Town's purchasing policy.

Attachments

Appendix "1' – Chronology

477 Ridge Road - Chronology of Events

Date	Event	Summary
Aug 19, 1999	Designation	Property designated under Part IV of the *Ontario Heritage Act* through By-law 135-99.
2006	Ownership Change	Current owners purchased the property.
March 12, 2019	MHSC Meeting	MSCH passed a resolution that the Town use whatever resources at their disposal to encourage the existing owner to make the necessary repairs to preserve the building.
May 12, 2019	MHSC Meeting	Committee met with the Town's CBO to hear about various options available to attempt to bring the structure into compliance, including a property standard order.
June 6, 2019	Property Standards Order	An Order to Comply was sent to the owners, requiring a professional engineer report and any repairs identified would need to be carried out following application and issuance of a building permit.
June 25, 2019	Appeal to Property Standards Order	The owners had until June 25 to register an appeal, no communication was received and no appeal was registered.
August 12, 2019	Property Standards Order	The order was registered on title.
August 20, 2019	Site Inspection	Building and By-law Officials met with ACA Engineering Services to inspect the present condition of the dwelling and prepare an engineer's report.
August 31, 2019	Engineer's Report	The engineer's report from ACA Engineering Services was submitted to the Town. A number of deficiencies were identified and the report was sent to the owners.
October 15, 2019	Final Notice to Comply	Owners were sent a final Notice to Comply, there was no response and the work continues to remain outstanding. What is the difference between Order to Comply and Notice to Comply? Be consistent, if they are the same thing.
October 18, 2019	MHSC Meeting	The CBO discussed the options for next steps and the Committee was provided a copy of the engineer's report. The MHSC agreed that while it would be unfortunate to lose the dwelling, the potential liability, cost of rehabilitation and safety concerns raised in the report conclude that

		demolition is the most appropriate option.
January 2020	Owner Contact	The owners contacted the Town and indicated they would work with the Town but noted that restoration would be too costly for them to undertake.
June 19, 2020	Email from Owner	Staff received an email from Mr. Long requesting permission to demolish the dwelling on the property at their expense to comply with the 2019 Order to Comply.
September 14, 2020	Council-in-Committee PDS-39-2020 (Report to Amend the Designating By-law) and Council Resolution	Staff brought a report to Council requesting an amendment to Schedule A of the designating by-law (135-99) to remove the heritage designating on the dwelling, while maintaining the overall designation on the property as the birthplace of Dr. Edmund J. Zavitz the "Father of Reforestation in Ontario". This request was made in order to facilitate the owner's request to demolish. This report was tabled by Council until October 5, 2020 for the owner to address Council on any questions they may have with respect to the property.
September 21, 2020	Registered Letter	Staff sent registered mail and an email to invite the owners to appear as a delegation at Council on October 5, 2020. No response was received.
October 5, 2020	Council-in-Committee Meeting – Council Resolution	Council passed the following resolution: That: PDS-39-2020 be postponed until the owner attends a Council meeting to respond to questions regarding the property.
October 7, 2020	Registered Letter	Staff sent registered mail and an email to invite the owners to appear as a delegation at Council at a date to be determined. A copy of the remaining 2020 Council schedule was attached as well as the primer on appearing as a delegation.
November 16, 2020	Regular Council - Owner Delegation	Mr. Long appeared as a delegation and advised that he purchased the heritage designated property in 2005 to fully restore the dwelling. Mr. Long advised that the project was held up due to financial issues, and the dwelling remained vacant for many years. He stated that after being approached by the Town about a year ago, an Engineering Firm evaluated the dwelling, confirming the need for extensive work. Mr. Long advised that the necessary renovations identified by the Engineer would not be feasible as it would require full reassembly.

November 16, 2020	Regular Council - Council Resolution	Council passed the following resolution: That: Report No. PDS-39-2020 be further postponed to January 11, 2021 to allow the Chief Building Official to advise as to the salvagability of the property, and Mr. Long to speak to the party who has expressed an interest in buying the property.
January 11, 2021	Council-in-Committee Owner Delegation	Mr. Long reiterated his previous comments of the November 16, 2020 Council Meeting. Mr. Long provided a proposal to Council including the following: • that the fines owed be forgiven; and • that, with the financial relief of forgiven fines, the dwelling be restored with the assistance of an engineer that specializes in historical restoration; and • that living quarters be permitted above the garage; and • that an additional dwelling be allowed on the property for rental income.
January 11, 2021	Council-in-Committee – Council Resolution	Council passed the following resolution: That: Council directs staff to discuss with Mr. Long his proposal with respect to the property and report back to Council within 2 months; and That: Council directs that the monthly fines be suspended until staff reports back to Council.
January 21, 2021	ZOOM Meeting – Town Staff and Owner	Mr. Long clarified his proposal and expressed an interest in adding dwelling units in the form a tri-plex and/or secondary unit in the existing detached garage. Staff provided the necessary zoning information and advised that his proposal would require a zoning amendment and require the preparation of a Heritage Impact Assessment (HIA). A follow up email with the information discussed was provided by Staff and a second meeting was scheduled.
February 4, 2021	ZOOM Meeting – Town Staff and Owner	Mr. Long advised Staff that he had engaged the services of Mark Shoalts, a structural engineer who specializes in heritage properties. He further indicated that he will be addressing the property standards issues as soon as he can meet with his engineer and go over the structure and the deficiencies more thoroughly. He anticipated this occurring in the next several weeks and noted he would update Staff accordingly. Staff advised that any work would require a building permit and heritage permit

		from the Town and reiterated the priority of dealing with the property standards issues prior to any development discussions taking place. Mr. Long inquired as to site specific zoning that would permit his proposed development alternatives, however staff indicated the HIA would be required prior to making that determination.
March 8, 2021	Council-in-Committee – PDS-22-2021 Information update and Council Resolution	Staff brought a update report to Council relative to discussions that have taken place with the owner of 477 Ridge Road North with respect to development options and restoration work to the designated heritage dwelling on the site. Council passed the following resolution: That: Council receives for information purposes Report No. PDS-22-2021 regarding 477 Ridge Road North.
March/April	Staff/Owner Contact	Staff have been in regular contact with Mr. Long as summarized: - Unable to engage Mark Shoalts; - Was engaging with a party interested in purchasing and restoring the property but after 3 weeks, the purchaser backed away due to the restoration not being economically feasible; - Wants to move forward with the preparation of an HIA - Meeting with local contractors to begin restoration but because of the current demand has had difficulty finding a suitable company
May 5, 2021	ZOOM Meeting – Town Staff and Owner	- Discussion on next steps: - Staff reiterated that addressing the property standards order is the number one priority, before any development options are discussed. - If steps are not taken to rectify the issues as stated in the Property Standards Order and identified in the engineer's report that was prepared in 2019, the Town, under Section 15.4 of the Building Code Act, 1992, S.O. 1992, C.23, has the authority to begin the process of restoration at the owner's expense.

The Municipal Corporation of the Town of Fort Erie

Business Status Report

Planning and Development Services

May 17, 2021

Forecasted Reports	Source	Status
Heritage Permit – 546 Ridge Road Shed Demolition Request	Committee	May 31, 2021
Urban Area Boundary Expansion Addendum 2 and Recommendation Report	Staff Initiative	May 31, 2021
1485 Garrison Road – ZBA – Recommendation Report (tentative)	Application	May 31, 2021
315 Garrison, Draft Plan of Standard Condominium- Recommendation Report	Application	May 31, 2021
Gorham Road LCBO Trailer Temp ZBA – Recommendation Report (tentative)	Application	May 31, 2021
Personal Signs Recommendation Report	Council Request	May 31, 2021
255 High Street - By-law	By-law	May 31, 2021
Spears Park Construction Award of Contract	Capital	June 14, 2021
Crystal Ridge Park Phase 2 Award of Tender	Capital	June 14, 2021
2020 CIP Program Update	Legislative Update	June 14, 2021
Crystal Beach Secondary Plan Information Report & Public Meeting	Legislative	June 14, 2021
Final Site Plan Approval - 2043 Garrison Road (postponed from February 8)	Application	June 14, 2021
Schooley Road Condominium Extension of Draft Plan Approval Recommendation Report	Application	June 14, 2021
Nigh Road Subdivision Extension of Draft Plan Approval Recommendation Report	Application	June 14, 2021
0-13365 Pettit Road – ZBA – Information Report Addendum (PDS-19-2021)	Application	June 14, 2021

EAC Recommendation Report	Committee	June 14, 2021
By-law - Final Site Plan Approval - 2043 Garrison Road (tentative)	By-law	June 21, 2021
Peace Bridge Village Phase 3 ZBA & Draft Plan of Condominium – Recommendation Report	Application	June 21, 2021
Municipal Land Sale Request - 0 Dickens Crescent - Recommendation Report	Application	June 21, 2021
Creekside Estates Extension of Draft Plan Approval Recommendation Report	Application	June 21, 2021
1485 Garrison Road – By-law	By-law	June 21, 2021

Prepared By:

Original Signed

Kira Dolch, MCIP, RPP, CNU-A
Director, Planning & Development Services

Respectfully Submitted By:

Original Signed

Tom Kuchyt, C.E.T.,
Chief Administrative Officer

Infrastructure Services

Prepared for	Council-in-Committee	**Report No.**	IS-18-2021
Agenda Date	May 10, 2021	**File No.**	360509

Subject

ERIE ROAD ON-STREET PARKING CHANGES TO ACCOMMODATE ECONOMIC DEVELOPMENT

Recommendations

THAT Council approves the changes to the on-street parking and road line painting regime on Erie Road between Ashwood and Cambridge Road West; and further

THAT Council directs that businesses wishing to occupy an on-street parking space reimburse the Town for the cost of providing concrete barriers for patron safety through the Temporary Outdoor Patio Regulations; and further

THAT Council directs that By-law No. 2000-89 be amended to accommodate the following changes to the parking regime along Erie Road:

a) Remove all on-street parking on the south side of Erie Road from Cherrywood Avenue to Oxford Avenue and update Schedule C;
b) Install on-street parking on the north side of Erie Road from Cambridge Road West to Oakwood Avenue and update Schedule C;
c) Designate the first parking space on Ashwood, Oakwood, Elmwood, Maplewood and Oxford Avenues and Cambridge Road West at the corner Erie Rd as 15-minute limit parking spaces to accommodate take-out restaurant opportunities in Schedule E; and further

THAT Council directs that the crosswalk on Erie Road and Maplewood at the south-east corner be eliminated.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: **4: Promoting Business, Economic Growth and Employment Opportunities**

Objective: Implementing an effective Economic Development strategy that promotes and improves Fort Erie's competitive advantage, invests in strategic infrastructure and ultimately supports business development, job growth, talent attraction and the local labour market

Initiative: 4.1 Review Economic Development service delivery models (options) to identify the best model that meets the Town's economic development objectives

- Economic Development strategy development
- Business resources/supports for existing businesses

List of Stakeholders

1. Crystal Beach Business Improvement Area
2. Users of Erie Road
3. Planning and Development Services
4. Economic Development and Tourism Services
5. Other BIA's and Businesses

Prepared Jointly by:	Submitted by:	Approved by:
Original Signed:	*Original Signed:*	*Original Signed:*
Daniel Turner, B. A. Economic Development Officer	Kelly M. Walsh, P.Eng. Director, Infrastructure Services	Tom Kuchyt, CET Chief Administrative Officer
Original Signed:		
Kelly M. Walsh, P. Eng. Director, Infrastructure Service		

Purpose of Report

The purpose of this report is to outline changes required to the on-street parking and road line painting regimes to suit a request from the Crystal Beach Business Improvement Area (CBBIA) for accommodation of use of the public areas for business expansion.

Analysis

Through the month of April, Infrastructure and Economic Devolvement and Tourism Services Departments have had discussions with the CBBIA on how to enhance business opportunities through the use of Erie Road.

The BIA had presented a number of wishes to the Town on improving business during the summer. They mainly focused on creating a 'promenade' type atmosphere such as closing Erie Road entirely on the weekends or converting Erie Road to a one-way street to allow for additional walkway space and social distancing. Primarily due to traffic flow requirements (Erie is the only collector type road to the beach) these were not feasible.

An outcome of the request for Erie Road is that Infrastructure Services can support a weekend closure such as occurs on Ridge Road for Ridge Fest.

The other outcome and agreement of the discussions is to change the on-street parking and line painting regimes to switch the parking to the north side of the street between Ashwood and Cambridge Road West. The switch will also require a shift in the centre line marking southerly. This change will allow eating establishments to temporarily add or increase the size of their patios once they are permitted to open. In 2020, the Town of Fort Erie Temporary Outdoor Patio Program was established in response to the Covid-19 pandemic. The program is intended to support local eating establishments by providing flexibility while at the same time ensuring health and safety standards remain in place.

There are currently 14 on-street parking spaces between Ashwood and Oxford. The flip to the north will result directly in the loss of 5 spaces as result of clearances required to three side streets and five cross walks. The elimination of the south-east cross walk at Erie/Maplewood will reduce the loss to 3 spaces, resulting in 11 over all.

There are currently two driveway drops in which the driveways have been converted to permanent patios; parking stalls will be painted in front of the driveways with the owners' permission. A change of future use may necessitate the removal of the parking stall.

Once the switch occurs, eating establishments can apply through EDTS to assume a parking space or spaces to expand into a patio-like atmosphere through the Town of Fort Erie Temporary Outdoor Patio Program. A platform is required for temporary patios within municipal parking spaces.

Staff are recommending that there is no cost to a business for the occupancy of the parking space itself, but any costs incurred by the Town be reimbursed by the business owner. The cost for setup, rental and teardown of the concrete 'jersey' barriers is approximately $700 per unit for the season. It will take 4 units to provide safety on one parking spot.

If the event proves successful, IS will budget for the purchase of barriers that can be used for not only this purpose but also for better and safer temporary closures of roads for weekend festivals, etc. in the coming years.

In addition to switching the parking locations, the CBBIA has requested that the first on-street parking location on each north-south street north of Erie Road be designated as a 15-minute parking area to facilitate take-out pickups throughout the day when parking is at a premium. This request will be reflected in the updated by-law.

This request would typically go through Traffic Coordinating Committee but due to the urgent nature was performed outside of it. Most members of TCC were however involved in the process in some form or another.

Financial/Staffing and Accessibility (AODA) Implications

The conversion and semi-permanent occupancy of parking spaces is not expected to create any accessibility impediments.

The cost to scrub the existing and repaint the pavement markings is estimated to be an unbudgeted $10,000 and will be accommodated with the current IS budget (account 32500-2195 RLINEP) through a negative variance.

Costs for the program (specifically the barriers) will be completed as part of the Temporary Patio application intake process.

Depending on the discussion of alternative cost allocations, the Town may be responsible for up to an estimated $10,000 unbudgeted cost for the rental of concrete barriers on Erie Road. Although there were no other restaurants in other areas taking advantage of this opportunity, there may be more that come forward seeking the same benefits.

The Town has received funding from the Province of Ontario for the purpose of Covid-19 operating costs and pressures. Should Council decide for the Town to absorb the barrier rental costs, it is expected that the costs would meet eligibility requirements of this funding. There is a risk that choosing to fund this initiative would reduce funds available for other purposes, however, as the Province has provided a set-amount of funding.

It is expected that any staff time requirements will be absorbed within current budgets.

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan. This report supports Council's Strategic Plan, Strategic Priority 4: Promoting Business, Economic Growth and Employment Opportunities. Implementing an effective Economic Development strategy that promotes and improves Fort Erie's competitive advantage, invests in strategic infrastructure and ultimately supports business development, job

growth, talent attraction and the local labour market. Along with 4.1 Review Economic Development service delivery models (options) to identify the best model that meets the Town's economic development objectives:

- Economic Development strategy development
- Business resources/supports for existing businesses

By-law 2000-89 being a By-law to regulate traffic and parking on the highways of the Town of Fort Erie.

Comments from Relevant Departments/Community and Corporate Partners

This project and report has been developed jointly between IS and EDTS.

The president and secretary of the CBBIA have been collaborative in the development of the program and have provided positive feedback on the project and report.

Very late in the process an email was received from four business owners requesting that the crosswalk on the southwest corner of Oxford/Erie be removed to provide more parking. The Director of Infrastructure Services does not support this request. With the removal of the Maplewood crosswalk, there is a consistent pattern of formal crossing locations along Erie that provide a safer environment for pedestrians as the regular motoring public will be familiar with the pattern; the change request provides for only one more space.

Planning and Development Services

The Crystal Beach Parking Study prepared by Paradigm Transportation Solutions Limited in November of 2019 assessed the current and future parking needs to 2041. The review looked at three areas of Crystal Beach: Area A which consists of the beach area; Area B which is the commercial core area; and Area C which is the remainder of the Crystal Beach area. The on-street parking spaces to be removed/relocated through this initiative are located in Area A.

Area A currently has 431 on-street parking spaces and 806 total parking spaces. The study did identify that Ashwood to Oakwood did contain 35 parking spots which had been reduced to 14 spaces with the addition of cross walks on Erie Road during the Bay Beach improvements in 2019. This reduction resulted in a revised surplus of 38 spaces to the year 2041. Using the surplus and subtracting the possible loss of all the on-street parking from Ashwood to Oakwood would still result in a parking surplus of 24 spots.

Planning and Development Services staff have no objection to the relocation and reduction of the parking spots or the possible temporary removal of the spots to accommodate patios during the summer months.

Communicating Results

If approved, the CBBIA will be notified along with the Bridgeburg and Ridgeway BIA's. In addition, this program will be available to any eating establishment in Fort Erie that wishes to occupy an on-street parking space.

This initiative, along with the Town of Fort Erie Temporary Patio Program will be communicated through a press release, Community News updates, social media channels and website.

Alternatives

Council has the opportunity to deny the recommendations in this report in its entirety, leaving the traffic and parking regime as-is.

Council has the opportunity to amend the charges to the business owner, such as to a 50-50 split, or absorbing the costs entirely. This may be viewed by some as providing preferential service to one business over another.

Conclusion

The recommendations within this report have been a collaborative effort between many groups and it is hoped that it will be successful in improving business in the Crystal Beach area.

Attachments

Appendix '1' – Town of Fort Erie – Temporary Outdoor Patio Regulations as of January 27, 2021

Appendix '2' – Erie Road Line Painting – Parking Stalls

Temporary Outdoor Patio Regulations

Introduction

The Town of Fort Erie (the “Town”) has developed a temporary outdoor patio program in response to the COVID-19 pandemic. The program is intended to support local eating establishments by providing flexibility while at the same time ensuring health and safety standards remain in place.

Background and Purpose

On June 8, 2020, the Province of Ontario notified municipalities of regulatory changes that gives the Alcohol and Gaming Commission of Ontario (AGCO) the discretion to allow licensed establishments to temporarily add or increase the size of their patios once they are permitted to open. These opportunities will be available to all licensed establishments whether or not they currently have a patio, and will be subject to any additional requirements set out by the AGCO and municipality (such as by-laws or other restrictions).

The Town of Fort Erie recognizes that not all eating establishments are licensed. This does not prevent those eating establishments from expanding their existing patios or creating a new patio.

The temporary outdoor patio regulations address existing and new outdoor patios associated with eating establishments. The regulations contained herein may be modified as determined necessary.

Definitions

“Eating Establishment” shall mean a building or part of a building where food is offered for sale or sold to the public for immediate consumption and includes such uses as an eat-in restaurant, take-out restaurant, drive-in restaurant, drivethru restaurant, cafe, cafeteria, ice cream parlour, tea or lunch room, dairy bar, coffee shop, snack bar or refreshment room or stand, but does not include a boarding or lodging house.

“Outdoor Patio” shall mean an outdoor area adjacent to or in any way associated with any eating establishment and/or tavern in any zone where such use is permitted in accordance with the Town’s Comprehensive Zoning By-law No. 129-90, as amended, from time to time.

“Person” shall mean any human being, association, firm, partnership, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person at law.

“Tent” shall mean a portable shelter open on all sides made of fabric or other material stretched over a supporting framework of poles usually stabilized or secured.

Delegated Authority

Pursuant to the regulations and direction of the Province of Ontario Emergency Management and Civil Protection Act, the delegated authority to the Chief Administrative Officer (the "CAO") of the Town of Fort Erie, and the delegated authority to the Director of Planning and Development Services, the provisions of By-law Nos. 46-2014 and 129-90, as amended from time to time, are temporarily suspended for the purposes set out herein.

All Temporary Patio Regulations

1. **General:** Temporary patios permitted under this guideline shall be extended to no later than January 1, 2022 at 3:00 a.m. unless extended in accordance with any future provincial extension through the AGCO. All materials and furniture must be temporary in nature so that they can be removed easily, and the area can be restored to its original condition.

   If a patio is expanded onto or created on Regional property or Niagara Parks Commission property, authorization from these agencies will be required. For further information, please contact Daniel Turner via email at dturner@forterie.ca.

2. **Location:** Permitted either directly in front of the property of the associated eating establishment or adjacent thereto. Extensions in front of adjacent properties may be permitted with the written consent of the adjacent property owner.

3. **Obstructions:** Patios may not obstruct a fire hydrant, fire route, fire department connection, exit facility or pose other safety risks.

4. **Demarcation:** Limits of licensed patios are to be readily distinguishable. Optional patio perimeter fencing, planters, guards, barriers or similar of no more than 1.2m (4ft) high shall be permitted, provided they are secured without endangering any underground utilities and/or municipal surfaces. Where a patio is adjacent to any vehicle movement areas a barrier shall be installed. The height of the barrier shall be measured from the surface of the patio.

5. **Accessibility:** The patio area shall be compliant with Accessibility for Ontarians with Disabilities Act (AODA) standards and shall not obstruct an accessible path of travel. Accessibility must be maintained to, and throughout, the temporary patio.

6. **Umbrellas:** Umbrellas shall stand at least 2.1m (7ft) above the walking surface. Umbrellas shall not extend beyond the perimeter of the patio.

7. **Hay/Straw Bales:** Not permitted in temporary outdoor patios.

8. **Open Air:** Patios shall be open to the air.

9. **Tents:** A tent or group of tents is exempt from the requirement to obtain a Building Permit under Section 8 of the Building Code Act and is exempt from compliance with the Code provided that the tent is, or, group of tents are:
    a. Not more than 60 m^2 in aggregate ground area;
    b. Not attached to a building, and
    c. Construction more than 3m from other structures.

    As per Town of Fort Erie policy, tents shall not be enclosed with sidewalls. If a permit application for a tent, or, group of tents, for winter use were to be received, documentation demonstrating the tent's ability to support a snow load will need to be provided.

10. **Heaters:** Owners and operators are responsible for the safe installation, operation, and maintenance of their portable patio heating units. Heating units must:

    a. Be designed for outdoor use only,
    b. Meet all the requirements laid out in Ontario's building and fire code and TSSA guidelines,
    c. Abide by all safety instructions outlined in the operating manual for their heating appliances, and
    d. Ensure that staff understand how to safely operate the heating units and handle propane cylinders.

    Portable heating units shall NOT be:

    a. Placed under or inside a tent,
    b. Under fire escapes,
    c. Next to, or in the path of, an exit,
    d. Adjacent to or otherwise obstructing firefighting equipment such as fire hydrants or Siamese connections,
    e. Near utilities, trees, or other street components, and
    f. If any electrical wires are placed on the pedestrian clearway.

    Owners and operators are required to follow and consult with the TSSA's Patio Heater Safety Guidelines.

11. **Fire:** Compliance with the Ontario Fire Code is required. A minimum 1.5m (5ft) clearance from fire department connections and hydrants must be maintained on a patio. A fire extinguisher must be available within 15.2m (50ft) of any part of the patio.

12. **Physical Distancing:** Placement of tables and chairs shall provide a minimum 2 metres distance between seating at separate tables in accordance with

Provincial COVID-19 orders including from tables on any neighbouring patios.

13. **Capacity:** For licensed establishments that do not have an existing licensed patio, the capacity of the temporary patio shall not exceed the posted occupancy of the indoor area indicated on the liquor license or 1.11 sq.m. (12.0 sq.ft.) per person, whichever is the lesser.

    For licensed establishments that have an existing licensed patio, the capacity of the combined area of the existing and temporary patio shall not exceed the posted occupancy of the indoor area indicated on the liquor license or 1.11 sq.m. (12.0 sq.ft.) per person, whichever is the lesser.

14. **Business License:** A valid business license from the Town is required prior to approval of a temporary patio expansion.

15. **Other:** Cooking of food and drink preparation is not permitted on temporary patios. Decks, stages and portable toilets shall not be permitted.

16. **Operation:** All Applicants shall operate the patio only in accordance with Town approval, any AGCO requirements and Provincial Guidelines.

17. **Administrative Penalty:** Any person who expands an existing patio or creates a new patio without municipal approval, or is in contravention of these Regulations shall be liable to pay an administrative penalty in the amount of $300.

Temporary Patios on Private Property

1. **Use of Parking Spaces:** Onsite parking spaces may be used for a temporary patio. The required number of designated accessible spaces shall remain available for parking use. Any designated fire routes and sightlines shall be maintained. Any remaining designated parking spaces shall be sufficiently separated from the patio to ensure safety.

2. **Parking:** If a patio is located within any private parking area, the need for staff and patrons to cross drive aisles between the business and patio area should be avoided.

3. **Parking Lots for a Multi-Unit Commercial Building:** Where an eating establishment is located in a building occupied by multiple businesses, the temporary patio shall not occupy more parking spaces than the sum total of the parking spaces allotted to their establishment.

Temporary Patios on a Municipal Sidewalk

1. **Clearance:** An unobstructed pedestrian clearance of 1.8m (5.9ft) shall be maintained between the patio and any physical obstructions, unless otherwise approved by the Town.

2. **Curbside Patio Barriers:** Where a temporary patio is located adjacent to a traffic lane, a perimeter barrier of 1.06m to 1.2m in height shall be provided, with a minimum setback of 0.5m from the curb. Additional physical barriers may also be required to protect the patio space.

3. **Construction:** Patio construction/demarcation shall be portable, to ensure for easy removal. Perimeter fence posts are to be free-standing. Fence posts may be supported on removable plates, which shall not extend beyond the perimeter of the fence and pose no trip hazard to pedestrians. Posts, signs and other features cannot be secured to the municipal sidewalk by use of screws, nails or other fasteners that pierce or otherwise damage the surface of the concrete.

4. **Signage:** Signage shall be kept to a minimum, shall be temporary and shall be contained within the perimeter of the patio.

   Signs cannot be secured to the municipal sidewalk by use of screws, nails or other fasteners that pierce or otherwise damage the surface of the concrete.

5. **Insurance:** The Applicant shall provide public liability insurance in the amount of $5 million naming the Town of Fort Erie as additional insured.

Temporary Patios within Municipal Parking Spaces

1. **Location:** To be located on streets in locations where there is existing on-street parking or surplus pavement width. Patios should be located at least one parking space away from an intersection or driveway. Patios are not permitted in front of a fire hydrant, or in designated accessible parking spaces, and shall not obstruct surface drainage or access to public utilities.

2. **Dimensions:** Patio to be inset at least 0.3m from outside edge of parking space.

3. **Platforms:** Platforms shall be constructed for all patios on municipal spaces.

4. **Perimeter Barriers:** Platform to be enclosed on all sides facing the street or adjacent parking stalls. Barrier shall be open-type construction. Road safety measures shall include a Wa-33R ‘hazard’ marker on the end of the barrier facing traffic.

5. **Platform Construction:** A Building Permit is required for all on-street patio platform structures except for any platform structure of any area that meets the following minimum requirements:
    a. The floor structure shall be constructed of standard dimension lumber floor joists (ex. 35mm x 190mm (2x8), (35mm x 240mm (2x10) etc.) spaced not more than 406mm on-centre (16" o/c) and bearing directly on suitable ground such that no portion of the floor structure is suspended more than 38mm (1.5") above grade and the finished floor elevation shall not exceed 355.6mm (14") from adjacent ground elevation.
    b. Solid blocking shall be provided between floor joists at a spacing of not more than 5 feet on-centre with a minimum of 1 row of blocking for any joist spans that exceed 5 feet.
    c. The floor joists shall be fastened to rim joists around the perimeter of the floor structure with a minimum of four (4) 89mm (3-1/2") inch-long common spiral nails per joist.
    d. The floor structure shall be unenclosed, except that a guard with a height of not less than 914mm (36") but not greater than 1070mm (42") shall be installed around the perimeter of the floor structure in accordance with the requirements states elsewhere in this document.
    e. Where there is a difference in height between the platform and the adjacent sidewalk a 1500mm (59") wide ramp with a maximum slope of 1:8 shall be constructed anywhere along the platform adjacent to the sidewalk as shown in sketch 1 and 2.
    f. Except for patio umbrellas, no overhead structures of any kind are permitted including, but not limited to, any fabric roof coverings, or trellis-type shade structures.

    Posts and other features cannot be secured to the municipal sidewalk by use of screws, nails or other fasteners that pierce or otherwise damage the surface of the concrete.

    Patios shall not interrupt surface drainage along the gutter. Deck supports and/or ramp supports should be located such that they provide for a minimum separation of 0.3m from the curb face.

    Platform shall form one surface from sidewalk and curb for barrier free access.

    Except for patio umbrellas, no overhead structures of any kind are permitted including but not limited to any fabric roof coverings, or trellis-type shade structures.

    All submissions must include a sketch of the proposed construction.

6. **Signage:** Signage shall be kept to a minimum, shall be temporary and shall be contained within the perimeter of the patio with the exception of the road warning sign.

Signs cannot be secured to the municipal sidewalk by use of screws, nails or other fasteners that pierce or otherwise damage the surface of the concrete.

7. **Insurance:** The applicant shall provide public liability insurance in the amount of $5 million naming the Town of Fort Erie as additional insured.

Temporary Outdoor Patio Application Process

1. Determine the size, location, layout and capacity of the proposed patio in accordance with the Town's Regulations.

2. Complete and submit the application/ and the following applicable supporting documentation:
   - ☐ Complete the Temporary Outdoor Patio Application.
   - ☐ Sketch of Proposal – identifies proposed size and dimensions of patio and detail of fencing, barriers and materials to be used.
   - ☐ For leased, private-property premises, provide the landowner's written authorization.
   - ☐ For temporary patios on public property, provide Certificate of Insurance
   - ☐ Submit all materials online or via email to Daniel Turner at dturner@forterie.ca

3. Approval:
   - Once staff confirm the submission satisfies all requirements, approval will be granted.
   - Approvals will be issued via email and considered effective on the date of approval.

DATED at Fort Erie, Ontario, this 27th day of January, 2021.

_____	_____
Tom Kuchyt,	Kira Dolch,
Chief Administrative Officer	Director, Planning & Development Services

Additional Resources

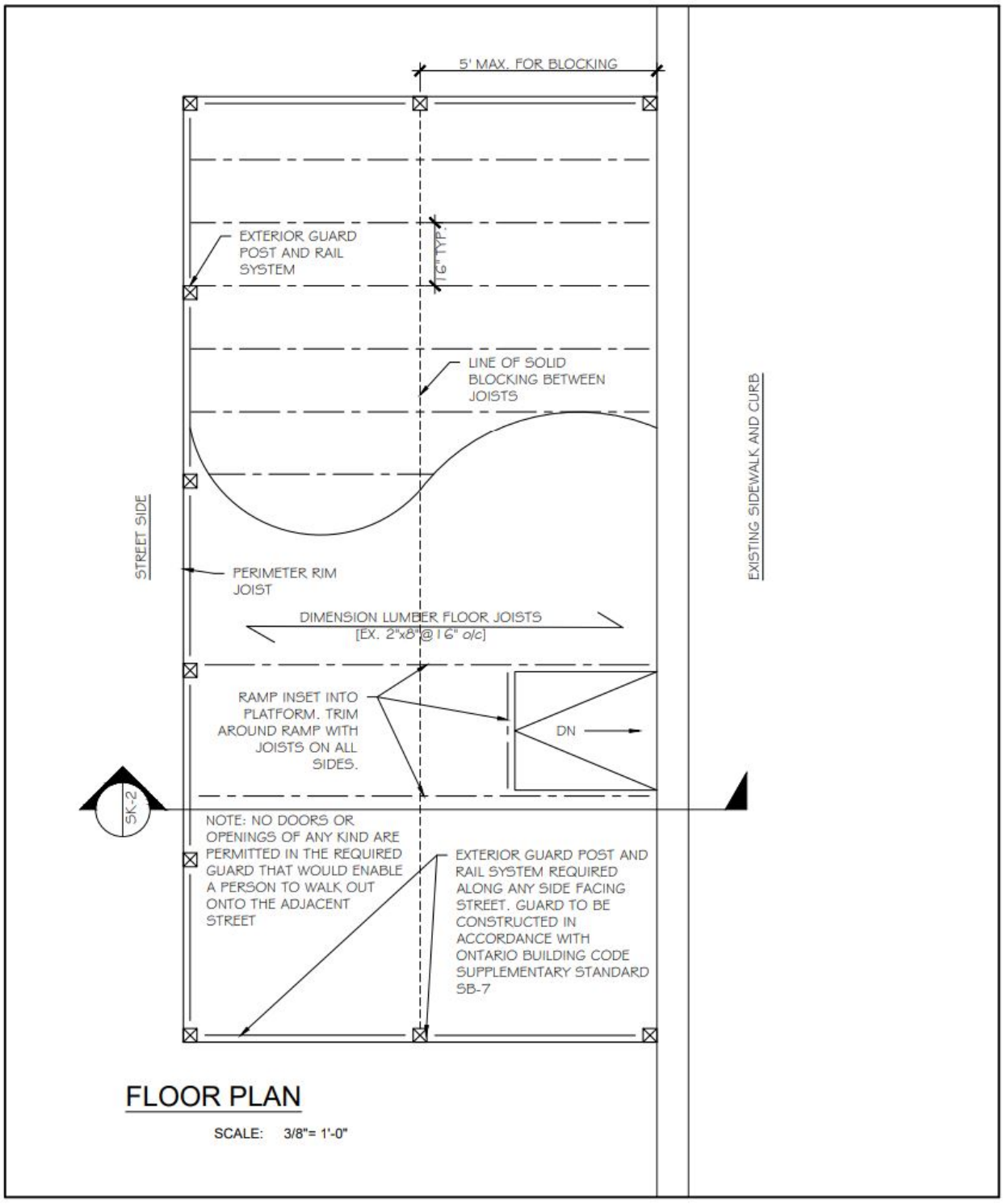
AGCO Update to Existing Licenced Areas

Niagara Region Public Health Sector Specific Guidelines

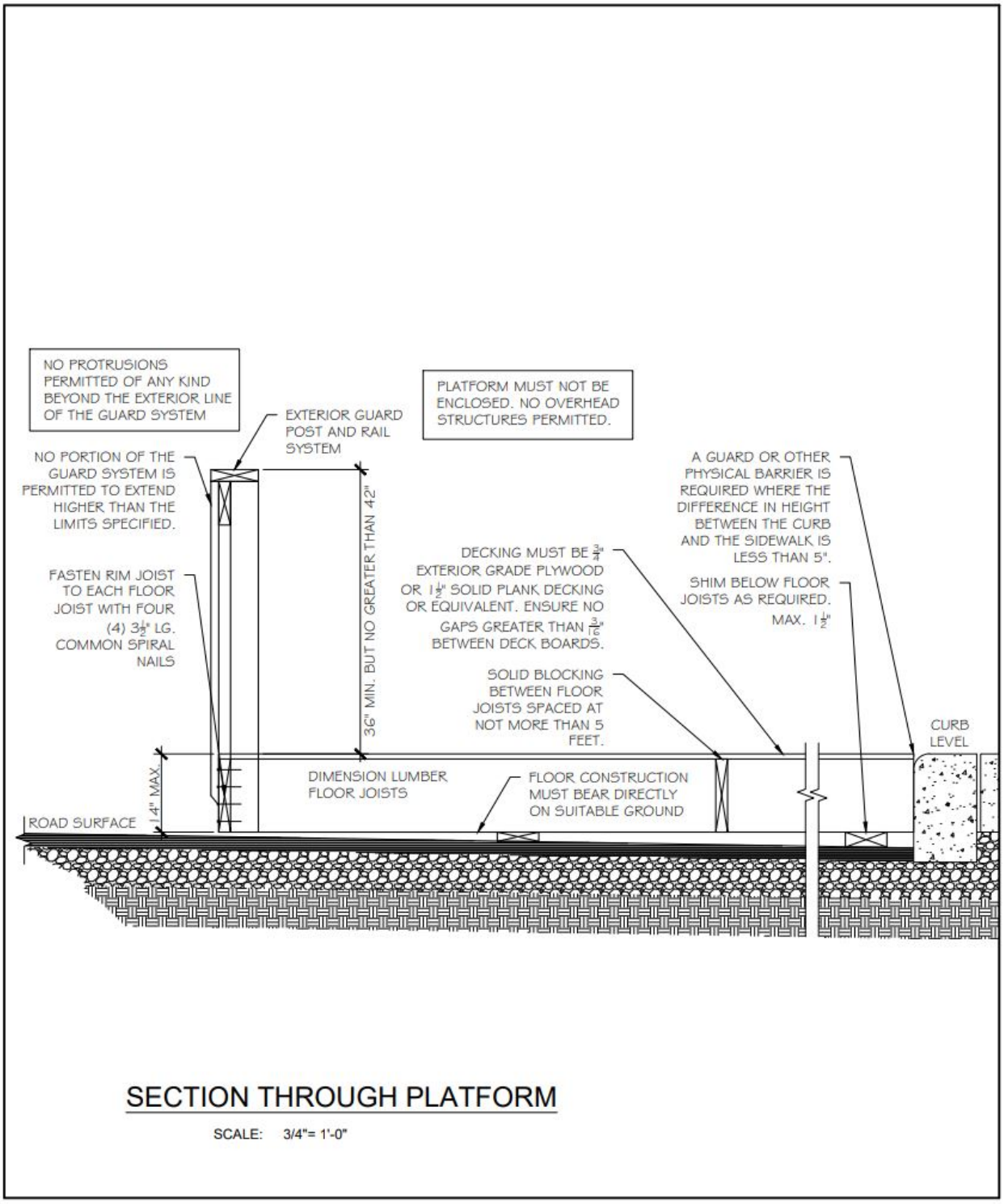
AGCO Information Bulletin

[TSSA Patio Heater Safety Guidelines]

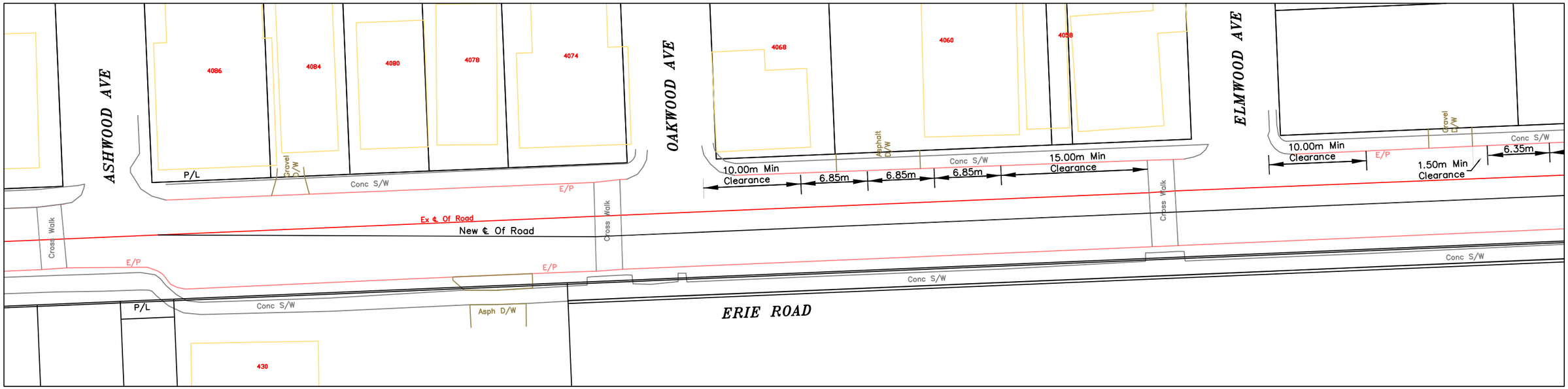
Sketch 1 – Floor Plan Example

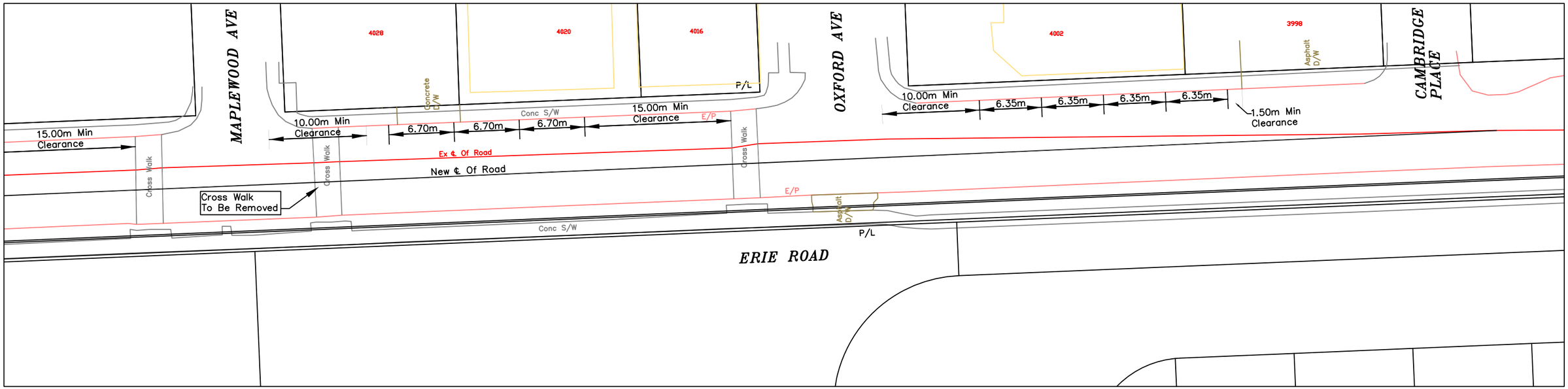


Sketch 2 – Platform Construction Example


NO PROTRUSIONS PERMITTED OF ANY KIND BEYOND THE EXTERIOR LINE OF THE GUARD SYSTEM
EXTERIOR GUARD POST AND RAIL SYSTEM
PLATFORM MUST NOT BE ENCLOSED. NO OVERHEAD STRUCTURES PERMITTED.
NO PORTION OF THE GUARD SYSTEM IS PERMITTED TO EXTEND HIGHER THAN THE LIMITS SPECIFIED.
36" MIN. BUT NO GREATER THAN 42"
A GUARD OR OTHER PHYSICAL BARRIER IS REQUIRED WHERE THE DIFFERENCE IN HEIGHT BETWEEN THE CURB AND THE SIDEWALK IS LESS THAN 5".
DECKING MUST BE 3/4" EXTERIOR GRADE PLYWOOD OR 1 1/2" SOLID PLANK DECKING OR EQUIVALENT. ENSURE NO GAPS GREATER THAN 3/16" BETWEEN DECK BOARDS.
FASTEN RIM JOIST TO EACH FLOOR JOIST WITH FOUR (4) 3 1/2" LG. COMMON SPIRAL NAILS
SHIM BELOW FLOOR JOISTS AS REQUIRED. MAX. 1 1/2"
SOLID BLOCKING BETWEEN FLOOR JOISTS SPACED AT NOT MORE THAN 5 FEET.
CURB LEVEL
14" MAX.
DIMENSION LUMBER FLOOR JOISTS
FLOOR CONSTRUCTION MUST BEAR DIRECTLY ON SUITABLE GROUND
ROAD SURFACE
SECTION THROUGH PLATFORM
SCALE: 3/4"= 1'-0"

Appendix '2' to Administrative Report IS-18-2021





REV.	ISSUE	DATE	BY
1	ISSUE FOR REVIEW	APR 27-2021	LJS

FORT ERIE ONTARIO
Our Focus: Your Future
INFRASTRUCTURE SERVICES

ERIE ROAD
LINE PAINTING – PARKING STALLS

DSN.	DSN. CKD.	DWG.	DWG. CKD.
SCALE HORIZONTAL 1:400		PROJECT NO.	
DATE APRIL, 2021		SHEET 17	REV. 1

C:\Home Work\Erie Rd Parking Stalls\Erie Parking Stalls

Infrastructure Services

Prepared for	Council-in-Committee	**Report No.**	IS-21-2021
Agenda Date	May 17, 2021	**File No.**	230803

Subject

FORT ERIE PUBLIC TRANSIT SERVICES – AWARD OF PROPOSAL FOR THE PROVISION, MAINTENANCE AND OPERATION OF ON-DEMAND / MICRO-TRANSIT

Recommendations

THAT Council accepts and approves the proposal from 1699225 Ontario Inc. o/a Regional Limousine for the Provision, Operation and Maintenance of the Fort Erie On-Demand Public Transit System, Request for Proposal No. ISE-21P-TRANSIT in the amount of $3,152,608.47 (including 13% HST) for a three (3) year term (October 1, 2021 to September 30, 2024); and further

THAT Council directs staff to terminate the current contract with Tokmakjian Inc. in accordance with the terms of the contract to coincide with the start of the new contract with the successful proponent.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: **1. Optimizing Health, Housing and Social well-being through service access and healthy lifestyles; and**
4. Promoting Business, Economic Growth and Employment Opportunities

Goal: 1.5 Investment plan to include health living infrastructure (trails, parks/recreation, transit connections, etc.)

List of Stakeholders

1) Mayor and Council of the Town of Fort Erie
2) Town of Fort Erie Residents
3) Transit Riders
4) Town of Fort Erie Transit Providers
5) Regional Municipality of Niagara
6) 1699225 Ontario Inc., o/a Regional Limousine
7) Remaining Proponents

Prepared by:	Submitted by:	Approved by:
Original signed:	*Original signed:*	*Original signed:*
Jennifer Pennell-Ajie, B.A. EA to Director, IS and Division Coordinator	Kelly M. Walsh, P. Eng. Director, Infrastructure Services	Tom Kuchyt, CET Chief Administrative Officer

Purpose of Report

The purpose of this report is to advise Council of the Request for Proposal (RFP) process for the Provision, Maintenance and Operation of the Fort Erie On-Demand Public Transit System – Request for Proposal No. ISE-21P-TRANSIT, and to request Council's authorization to award the provision of these services for a three (3) year term to 1699225 Ontario Inc. o/a Regional Limousine of Fort Erie, Ontario in the amount of $3,152,608.47 (including 13% HST).

Analysis

Current Service Provision

The Fort Erie Public Transit Service is currently being operated by Tokmakjian Inc. of Vaughn, ON. The Town and the Transit Operating Contractor entered into an Agreement dated September 14, 2012 and authorized by By-law No. 46-12, wherein the Transit Operating Contractor agreed to deliver public transit services for the Town of Fort Erie and the agreement automatically renewed for a further three (3) year term commencing October 1, 2017 and expiring on September 30, 2020 (the "Extended Term") in accordance with Section 1.2 of the Agreement.

At the Council-in-Committee Meeting held on August 10, 2020, Report No. IS-31-2020, was considered and approved to enter into an Extension and Amending Agreement with Tokmakjian Inc. from October 1, 2020 to December 31, 2021 to amend the full-cost model and provide for all revenue to be retained by the Town. This agreement also included a termination clause that allowed an early termination of this contract with 90 days notice in the event the implementation of an On-Demand Service Model.

Then most recently, at the Council-in-Committee meeting on January 11, 2021, Council unanimously passed IS-01-2021 which supported the change over from fixed route services to on-demand services and to issue this RFP to find a capable provider of this service.

Proposal Call Process and Results

Request for Proposal ISE-21P-TRANSIT was issued on February 25, 2021 and was advertised in accordance with the Town's Purchasing By-law. Twenty-nine (29) interested proponents received full proposal packages directly through Biddingo. The closing date for the Request for Proposal was April 1, 2021 with nine (9) proposals being submitted on or before that date.

The RFP required detailed information on the following requirements regarding service provision, vehicle specifications, software and technology needed to provide an On-Demand service:

- Bidder's service delivery plan to become effective October 1, 2021 with a transition plan in place to wind down the current fixed route service and ramp up the On-Demand service over a maximum period of 4-weeks;
- Description and a demonstration of excellence in the staffing/management plan;
- Vehicles, routing software, fare collection processes, marketing plan, green/clean solutions, storage and maintenance of vehicles, and a timetable for service implementation; and
- Insurances, letters of credit, and any value-added items that would be provided to support the service.

The proposals were further rated technically on the Proponent's:

- Implementation (transition period) plan;
- Their service design, customer service planning and delivery scheme;
- Their capability, qualifications and experience;
- The fleet, technologies, facilities and preventative/corrective maintenance plans proposed; and
- Any value-added components or additional levels of service they could provide.

The successful bidder will be contracted to provide On-Demand/Micro Transit along with vehicles and routing software to the Town's satisfaction as well as provide reporting to the Town, keeping their service fully compliant with all provincial legislation. The new service will allow for all of Fort Erie residents to be served by public transit. Currently, only those who live within the current fixed route areas are served.

A proposal evaluation committee was established with staff members from Infrastructure and Corporate Services in order to review and evaluate the submissions on technical services, delivery of services, vehicles and software proposed. In accordance with the RFP's specifications and the Town's Purchasing By-law, electronic submissions were used for this proposal. A two (2) file system was utilized for the proposal submission. The first file contained a technical proposal outlining, in detail, the consultant's services to be provided and the second file contained the potential cost to the Town. The individual evaluation committee members' scores were averaged to form the final technical score for each proposal. The technical/service delivery part of the proposals was scored out of 75 and the pricing part of the proposal was scored out of 25 for a total out of 100. The total score and overall ranking of the proposals was determined by combining the average weighted score with the weighted cost score. As per the terms of the RFP, only the cost 'envelopes' of top three (3) proposals over a minimum score of 55 would be opened in order to ensure that only the most qualified proposals were considered to deliver this critical service.

Should Council wish to review the proposal submissions in detail, each of the proposal submissions can be made available in the Engineering Division office. The following Table 1 summarizes the result of the complete evaluation process:

Table 1: Proposal Evaluation Summary

TOWN OF FORT ERIE – ISE-21P-TRANSIT FORT ERIE ON-DEMAND TRANSIT PROPOSAL EVALUATION SUMMARY				
Company Name	Technical Score (out of 75)	Cost Score (out of 25)	Total Score (out of 100)	Overall Ranking
1699225 Ontario Inc. o/a Regional Limousine	**62**	**25**	**87**	**1**
9139249 Canada Inc. dba Bus.com	60	24	84	2
Tokmakjian Inc.	57	21	78	3
River North Transit LLC o/a Via	55	0	55	4
PWTransit Canada Ltd.	54	0	54	5
947465 Ontario Ltd o/a Voyago	47	0	47	6
BTS Network Inc.	45	0	45	7
Driverseat Niagara	35	0	35	8
Coventry Connections Inc.	19	0	19	9

**Cost envelopes were only opened for the top 3 scores over 55. Cost envelopes were not opened for the remaining submissions as per the terms of the RFP.*

The RFP process also provided for a reference check that would not impact the technical scores. Satisfactory references were obtained for 1699225 Ontario Inc., o/a Regional Limousine.

Successful Proponent - Proposed Service

The Successful Proponent is 1699225 Ontario Inc., o/a Regional Limousine. Regional Limousine has over 10 years of transportation experience, operating a local limousine and shuttle service in Fort Erie and the broader Niagara Region, including cross-border transportation. Per their submission, Regional Limousine has committed to the following in their service, implementation and delivery plan:

Implementation/Transition Plan

Regional Limousine has provided a detailed implementation plan which includes, but is not limited to, bi-weekly meetings with Town staff to go over implementation of the following:

- Ensure their local office site and customer dispatch services are ready;
- Assume the bus hotline telephone number to provide ease of transition for the riders;

- Coordinate Fort Erie Transit into their customer service call centre for after-hours management (monitored by a live customer service agent during transit operating hours and an answering service for after hour calls);
- Software implementation and training on the use of the new and existing systems;
- Hiring and training of staff according to their rigorous standards (supervision, drivers, administrative);
- Finalize and execute an up to four (4) week transition plan from a fixed-route to fully on-demand system in conjunction with Town Staff; and
- Purchase, license and insure the fleet.

Vehicles Proposed

To effectively run the service and provide for the trips requested, Regional Limousine has proposed to buy six (6) Dodge Grand Caravans, two (2) will be accessible (each with spots for 2 wheelchairs). They have proposed that four (4) vans will be in service and two (2) vehicles will be used as back-ups/spares. Regional Limousine has confirmed that they are prepared to keep all six (6) vehicles on the road at a time should demand for the system warrant them. Vehicles will be procured by a local dealership. Regional Limousine could offer Hybrid vehicles as well; however, vehicle manufacturers are currently in short supply of the required safety chipsets due to COVID causing a recent delay and shortages in vehicle availability. Staff will explore this option further with Regional Limousine once supply is feasible.

Fuelling/Maintenance

Fuel and maintenance of the fleet is included in the contracted cost. In case of breakdown, Regional Limousine has a local mechanical garage that they use for their existing fleet and will be using that local garage when needed for repairs for their new vehicles. Regional Limousine employs a comprehensive fleet preventative/corrective maintenance system and has protocols in place with drivers to ensure the safety and lifecycles of their fleet.

Staffing & Training

Regional Limousine has demonstrated a commitment to health & safety, driver training which is legislatively compliant going above and beyond expectations, quality assurance and retention of staff to create a culture of continuity for riders and to engender the confidence of the public. They are a living wage employer in Niagara and have committed to provide “right of first refusal” to the current Fort Erie Transit Drivers, subject to the interview process. Their staff are dedicated to supervising the implementation and delivery of the On-Demand service and are experienced, qualified and committed to providing representation on Town committees as appropriate.

Regional Limousine has contracted with Wally Beck, President, Transit Consulting Network to provide their team with ongoing assistance during the transition to On-Demand Transit as well as throughout the three (3) year term of the agreement. Mr. Beck possesses 46 years of Transit planning and operations experience and is very familiar with Fort Erie Transit through his successful completion of the 2016 Town of Fort Erie Transit Route and Service Plan and 2017 Fort Erie Bus Stop and Facility

Improvement Plan. Mr. Beck is also assisting other small Ontario municipalities with similar challenges and as such, Regional Limousine and the Town of Fort Erie will be able to draw on his past and current experience.

Customer Service & Dispatch

Regional Limousine has partnered with Pantonium to use the EverRun Platform Software as a route optimization, booking, reporting and customer management system. You can view the company's platform at www.pantonium.com. This system, along with onboard GPS and existing TransitFare system in place will provide riders with seamless online or over the phone booking and various fare payment options. It also provides for on-street monitoring and managing on-time delivery of the service for riders. The Pantonium software provides an app that riders will be able to use to rate their trip and driver, giving the Operator and the Town instant access to rider satisfaction for the service. The easiest and most convenient way riders will be able to book rides will be to use the online app on smart devices and/or the website for booking their rides. Riders without access to online booking options or smart devices can also call-in to book rides. Options will be available to pre-book the entire trip ahead of time. When booking a ride, the maximum wait time for pick shall be within 20 mins of a customer requesting that ride (other than pre-booked trips) and riders will not spend more than 45 mins on the vehicle from pick-up to drop-off. In urban areas, the service will be a stop-to-stop service, using the existing bus network, signs and shelters. Curb-to-stop service will be implemented in rural areas without a safe walking network as well as for those after dark to protect rider safety.

An option proposed for ride options, is to use what is called a flex-route option. This allows for the Town to actually have fixed stops (i.e. Walmart) at scheduled times of the day where a vehicle will arrive to pick up passengers, even if they have not pre-booked a ride. The driver will add in their ride and drop off point in the system for the rider. This option is great for those who do not have access to a phone while out and do not know how long they will be at their location to have pre-booked a specified pick-up time.

Regional Limousine has offered to install on-board cameras for safety, as well COVID-19 precautions have been proposed for safety of both the operators and passengers, including extra PPE (masks & hand sanitizer) for passengers, should they forget their mask while riding.

The service proposed by Regional Limousine meets the current level of service for hours of operation. As per the RFP, Regional Limousine has quoted service hours in operation from 06:00 to 21:00 Monday to Saturday excluding Sunday and Statutory Holidays. Regional Limousine is prepared to increase the level of service should the need arise and budget allows to expand the service to include Sunday and late-night service on the weekends.

It should be noted that Tokmakjian Inc. operated the public transit services for the past nine (9) years on behalf of the Town of Fort Erie and did so admirably and with very little complaints or issues over the life of the contract. Staff would like to thank Tokmakjian Inc. and their wonderful staff for making this contract easy to execute and a pleasure to work on. Staff wishes Tokmakjian Inc. well in their future endeavours and will always be

grateful for the service they provided to the Town's residents over these years. They truly have been a partner.

Financial/Staffing Implications

Below are the annual contract costs of the recommended proponent, 1699225 Ontario Inc. o/a Regional Limousine received through the RFP process for ISE-21P-TRANSIT.

Table 2: 1699225 Ontario Inc. o/a Regional Limousine – Proposal Pricing

CONTRACT YEAR	Annual Pricing
October 1, 2021 – September 30, 2022	$929,973.00
October 1, 2022 – September 30, 2023	$929,973.00
October 1, 2023 – September 30, 2024	$929,973.00
SUBTOTAL (1)	**$2,789,919.00**
13% HST	$362,689.47
SUBTOTAL (2) Including 13% HST	**$3,152,608.47**
Net rebatable taxes	$313,586.90
TOTAL	**$2,839,021.57**

The Town of Fort Erie receives provincial gas tax funding annually based on population and transit ridership. In 2021 Fort Erie will receive $293,379 in Provincial Gas Tax for Transit, in which $143,379 is dedicated to the On-Demand System and $150,000 is dedicated to the Specialized System and both are applied to the operating budgets for each system.

Table 3: Current Provider 2021 Transit Operating Budget & 2022 Forecast

Operating Costs	2021 Approved Budget (October 1 – December 31)	2022 Forecast
Current Operating Contract	$350,000.00	$1,400,000.00
Program Funding	**2021 Approved Budget (October 1 – December 31)**	**2022 Projected**
Provincial Gas Tax (Dedicated to Public Transit)	$35,844.75	$143,379.00
Fare Revenue	$26,250.00	$107,100.00
Total Funding	**$62,094.75**	**$250,479.00**
Total Transit Operating Costs	**$287,905.25**	**$1,149,521.00**

Includes non-rebatable HST
Fare revenues budgeted are based on full service/ridership estimates (non-covid restrictions)

Table 4: 2021 Revised Transit Operating Budget based New Contract Proposed Pricing & Revised 2022 Forecast

Operating Budget	2021 Projected Forecast (October 1 – December 31)	2022 Revised Forecast
Proposed Operating Contract	$236,585.13	$946,340.53
Program Funding	**2021 Projected Forecast (October 1 – December 31)**	**2022 Revised Forecast**
Provincial Gas Tax (Dedicated to Public Transit)	$35,844.75	$143,379.00
Fare Revenue	$26,250.00	$107,100.00
Total Funding	**$62,094.75**	**$250,479.00**
Total Transit Operating Budgets	**$174,490.38**	**$695,861.53**

Includes non-rebatable HST
Fare revenues budgeted are based on full service/ridership estimates (non-covid restrictions)

Table 5: Variance Projection 2021 & 2022 Forecast

2021 On-Demand/Micro-Transit (ISE-21P-TRANSIT) (October 1 – December 31)		
Approved Transit Budget	**Proposed Transit Forecast**	**Variance**
$287,905.25	$174,490.38	$113,414.87
2022 On-Demand/Micro-Transit (ISE-21P-TRANSIT)		
Current Transit Forecast	**Proposed Transit Forecast**	**Variance**
$1,149,521.00	$695,861.53	$453,659.47

Includes non-rebatable HST

As noted in Table 3, the 2021 budget for the contracted On-Demand Transit is set at $350,000.00 (October 1 – December 31) and forecasted at $1,400,000.00 in 2022. These annual costs have been reduced in the new costing provided by the successful proponent.

Table 4 shows the revised budget amounts for 2021 and projections for 2022.

Notably in Table 5, the total program savings anticipated are estimated at **$113,414.87** from **October 1 – December 31, 2021** and **$453,659.47 for 2022**. These savings could potentially provide the Town the ability to expand services to Sunday and weekend late nights in order to help residents with transportation in off-peak hours, as there is limited, if any, taxi service within the Town.

Policies Affecting Proposal

By-law No. 124-2018 adopted Council's 2018-2022 Corporate Strategic Plan. This project and the recommendations provided conform to the priorities, goals and initiatives as described herein.

The provision of public transit services is assigned to lower-tier municipalities as an exclusive sphere of municipal jurisdiction under the *Municipal Act 2001*, Section 11(2).

The Town of Fort Erie enters into Letters of Agreement with the Ministry of Transportation, Province of Ontario annually to provide reporting which governs the use of dedicated gas tax funds by municipalities for public transportation.

Comments from Relevant Departments/Community and Corporate Partners

The general public, riders and the Transit Advisory Committee have been consulted throughout the process of changing the service over from a fixed route to an On-Demand service.

Relevant departments were consulted throughout the Request for Proposal development, evaluation process, and report development.

Communicating Results

A Marketing Communications Strategy will be developed and the use of the current Transit Website, www.fetransit.ca along with www.letstalk.forterie.ca, and various social media platforms will be used to advertise and survey current riders and potential riders of the system. Town staff in conjunction with Regional Limousine will develop a marketing and strategy plan in the transition period to ensure riders are aware of the change and that they will know how and feel comfortable using the new On-Demand system.

Alternatives

This service is provided further to provincial legislation and Council's Strategic Plan to optimize health, housing and social well-being through service access and healthy lifestyles; promote businesses, economic growth and employment opportunities with an investment plan to include healthy living infrastructure (trails, parks/recreation, transit connections, etc.). Should Council not accept the recommended proposal, they may direct staff to re-offer an RFP for submissions based on their input for other levels of service to be incorporated. Council should be advised that the lead time for purchasing and/or converting vehicles to deliver this service is fast approaching and delay of this contract could result in the inability to change over the system in 2021.

Council can choose to negotiate with the existing provider to extend existing agreement. Given the cost savings associated with awarding this new contract and the Provincial

Governments push for smaller communities, such as Fort Erie, to consider On-Demand Services, staff does not advise this option.

Conclusion

The Town of Fort Erie is on the edge of the future of Transit for municipalities of this size and structure. It is the goal to be the lead in On-Demand Transit service delivery in the Niagara Region that will bring equal access to transit for **all** the permanent residents, seasonal residents and visitors alike. This new service will also offer those users who may normally apply for the Specialized service another option for transport within Fort Erie.

With the opportunity for future expansion of the service to Sundays and weekend late nights, this service will also offer all residents and visitors the option to take transit during off-peak hours and essentially help to solve the Town's issues with lack of access to taxi services. The goal is to have more and more residents use the On-Demand, shared ride service to visit local businesses, restaurants, bars and other events throughout the Town. The On-Demand system offers a more green and sustainable option for transit services that will save the Fort Erie taxpayers on the cost of the service overall, while giving better access to the service to more residents.

It is staff's recommendation to Council that they accept and approve the entry into a new agreement with 1699225 Ontario Inc. o/a Regional Limousine to provide On-Demand/Micro Transit Public Transportation within the Town of Fort Erie in the amount of **$3,152,608.47** (including 13% HST) for a three (3) year term (October 1, 2021 to September 30, 2024).

Attachments

N/A

Infrastructure Services

Prepared for	Council-in-Committee	**Report No.**	IS-23-2021
Agenda Date	May 17, 2021	**File No.**	110102

Subject

YEAR-ROUND LOAD RESTRICTIONS ON LOW CLASS BITUMINOUS TOWN ROADWAYS

Recommendations

THAT Council directs staff to apply year-round load restrictions of five tonnes per axle on all Town Low Class Bituminous (LCB) roadways; and further

THAT Council directs that Traffic By-Law No. 2000-89, Schedule 'X', be amended accordingly; and further

THAT Council directs Highway Occupancy Policy By-law No. 120-2015 be amended to include load exemptions as identified in Report No. IS-23-2021.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: **2: Sustainable Infrastructure for the Future**

Strategic Objective: Maintaining and investing in sustainable infrastructure that serves the entire community and builds a strong, vibrant and attractive community.

List of Stakeholders

1) Mayor and Council
2) Residents of the Town of Fort Erie
3) Motoring public within the Town of Fort Erie

Prepared by:	Submitted by:	Approved by:
Original Signed:	*Original Signed:*	*Original Signed:*
George Stojanovic, P.Eng. Manager, Roads & Fleet Division	Kelly M. Walsh, P. Eng. Director, Infrastructure Services	Tom Kuchyt, C.E.T. Chief Administrative Officer

Purpose of Report

The purpose of this report is to seek permission from Council to apply year-round municipal load restrictions on low class bitumous (LCB), typically surface treated, roadways.

In addition, staff are recommending to initiate a load exemption permit process by modifying the Highway Occupancy Permit (HOP) process to a Highway Use and Occupancy Permit (HUOP) in order to allow and permit load exceptions and create a mechanism for repair/replacement of damaged roadways as a result of excess loads.

Analysis

The Town restricts weights on some roads to five tonnes per axle during the spring thaw. These restrictions are in place to protect roads from structural damage while the frost is coming out of the ground. These reduced load restrictions are in place between March 1 and April 30 and are prescribed in Section 122 of The Highway Traffic Act, R.S.O. 1990, c. H.8. Enforcement of reduced load restrictions is conducted by MTO and NRP. After the current load restriction season ends, commercial vehicles may carry loads in excess of five tonnes per axle.

Although these restrictions are in place, trucks operating outside of the load restriction season on LCB Town roadways have caused significant roadway failure at a number of locations. In one case on Burger Rd in 2020, the commercial vehicle damage as a result of hauling fill to a residential property has caused significant damage to a newly surface treated roadway and causing over two hundred thousand dollars in pavement damage.

Several other locations across Town on LCB roadways have also experienced pavement failure as a result of commercial vehicles hauling outside of the load restriction season. The primary reason for roadway pavement failure is that LCB roadway bases have not generally been constructed to current Town road base standards.

To provide some context to the loads carried by the most common commercial trucks providing materials to development sites, concrete trucks can weigh up to 32,000 kg and have three axles whereas triaxle dump trucks with four axles can weigh up to 34,000 kg loaded. The loaded weighs are similar to fully loaded garbage trucks which can weigh upwards of approximately 30,000 kg.

Roadway pavement damage has been witnessed occurring through commercial trucks delivering fill/stone to new infill lots for new home builds and for landowners bringing in fill onto their properties in rural areas of Town. Given the continued growth in development of properties in both urban and rural neighbourhoods, a new approach is required in order to minimize impact on the roadway network. In order to limit the roadway damage occurring staff are recommending to apply year-round load restrictions of five tonnes per axle on all Town LCB roadways.

In addition, staff are also recommending that a load exemption permit process be developed to allow exceptions. Staff recommend modifying the Town's Highway Occupancy Permit (HOP) process to a Highway Use and Occupancy Permit (HUOP) process that would allow for permitting load exemptions in order to permit commercial vehicles to operate with loads in excess of five tonnes per axle but through a formal Town permitting process with the ability to recover damages should roadway damage occur through the application of a security deposit. Should the roadway damage security deposit be beyond the financial means of the applicant, the proponent can choose to not pursue getting a load exemption permit and limit hauling of materials and supplies to 5 tonnes per axle.

The security would be calculated based on the replacement value for the distance of the load restricted road that would be used. The securities would take into account condition of the roadway, pavement markings and symbols, and the estimated number of loads anticipated to be shipped. In the event that there are damages to the roadway caused by the permit holder, the security deposit will be used to cover the costs of mud clean-up and repair/replacement of the damaged roadway. The security deposit would be refunded if the road is undamaged from the permitted activity.

Section 110 of The Highway Traffic Act, R.S.O. 1990, c. H.8 permits municipalities to grant permits for Town roadways that are in excess of the weight limits as identified in Section VIII of The Highway Traffic Act, R.S.O. 1990, c. H.8.

Exempted commercial vehicles from the new process would include public services such as trucks performing roadway maintenance, garbage and recycling trucks, EMS and transit. In addition, school busses, single deliveries and agricultural equipment would be exempt from the year round load restrictions.

The excess load permit process has been initiated by several other municipalities including the City of Vaughn, City of Markham and York Region.

Financial/Staffing and Accessibility (AODA) Implications

Signage indicating the year round load restriction limits would need to be posted and is estimated to cost $20,000.

Additional staff time would be required in order to administer the program. Staff would be required to process, review, inspect and release securities. It is anticipated that the administration of the program can be accommodated with the current staffing limits. The program would be coordinated by the Engineering Division with the Roads and Fleet Division providing onsite field inspections services to assess road conations prior to and after the applicant has completed their material deliveries.

Provincial fines for commercial motor vehicles exceeding weight restrictions are currently $200 plus a penalty per kg over the posted weight restriction up to 10 tonnes overweight. This would equate to a fine of $1,000. Over 10 tones overweight there is

no set fine identified and the fines would be as determined by the Ontario Court of Justice.

Policies Affecting Proposal

Town By-law No. 2000-89 adopted roads that are affected by spring load restrictions. This policy would be updated to reflect the changes being recommended.

Comments from Relevant Departments/Community and Corporate Partners

Comments from all relevant departments were incorporated in this report.

Communicating Results

Town communications regarding the new process will take a multi-step approach including direct communications of the new process by PDS staff to developers/proponents, letters provided to companies that typically provide commercial services in Town and Town news releases/social media.

Alternatives

Council has the option of not applying a year-round load restriction on all LCB roadways but just on certain LCB roadways. Council also has the option of not applying a year round load restriction on any roadway. These options are not recommended as further roadway pavement damage and financial impacts will continue to occur.

Should Council apply a year-round load restriction on all/some LCB roadways, Council has the option of not initiating a load exemption permit process by modifying the HOP process. This is not recommended as this process allows the Town a financial mechanism to repair/replace damaged roadways.

Conclusion

In order to limit future roadway pavement damage as a result of hauling goods, supplies and materials on Town roadways staff are recommending to apply year round load restrictions of five tonnes per axle on all Town LCB roadways.

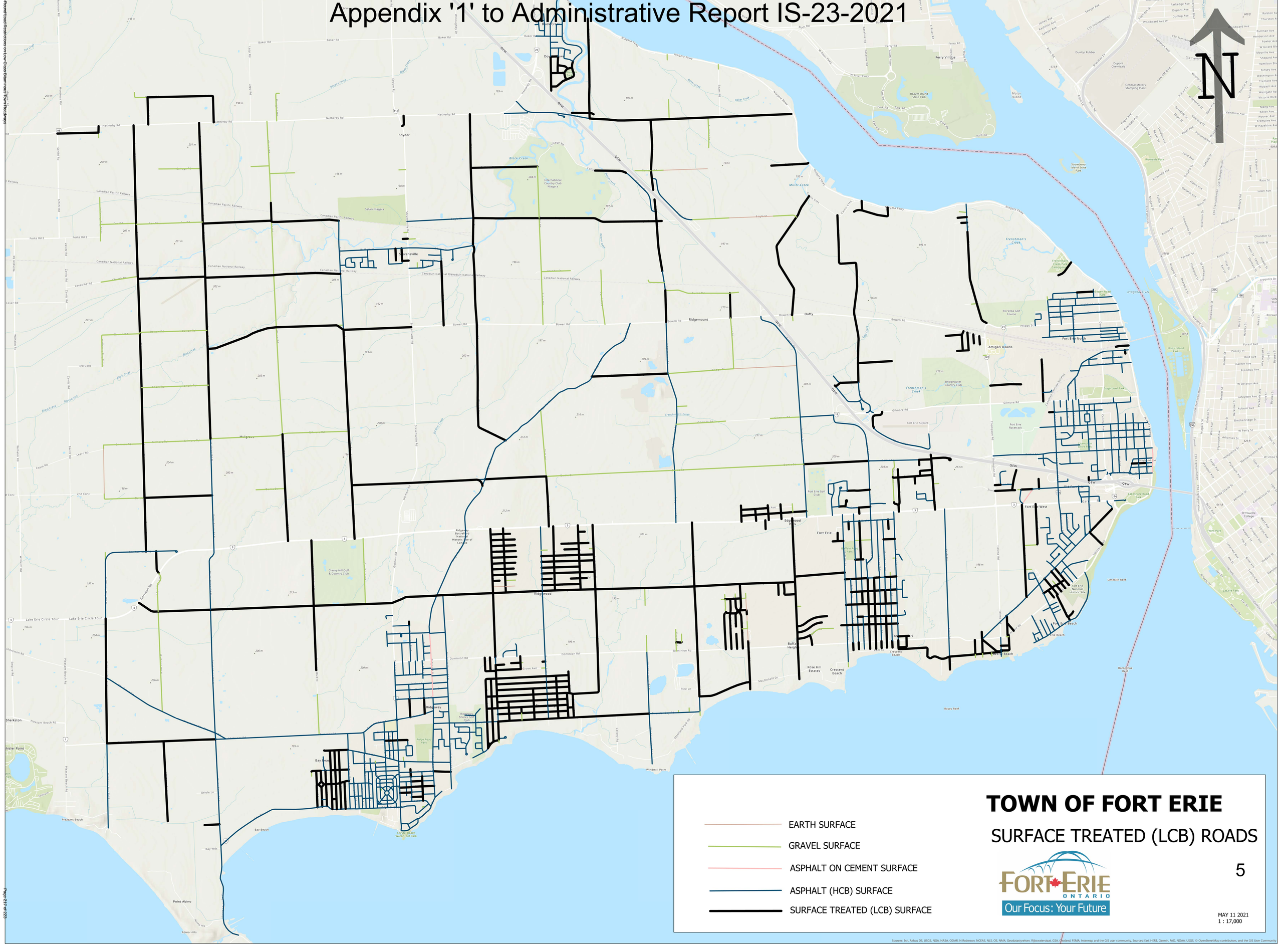
In addition, staff recommend to initiate a load exemption permit process by modifying the Highway Occupancy Permit (HOP) process to a Highway Use and Occupancy Permit (HUOP) in order to allow and permit load exceptions and create a mechanism for repair/replacement of damaged roadways as a result of excess loads.

Attachments

Appendix ‘1’ – LCB Town Roadways Map

Appendix '1' to Administrative Report IS-23-2021

Year-Round Load Restrictions on Low Class Bituminous Town Roadways



EARTH SURFACE

GRAVEL SURFACE

ASPHALT ON CEMENT SURFACE

ASPHALT (HCB) SURFACE

SURFACE TREATED (LCB) SURFACE

TOWN OF FORT ERIE

SURFACE TREATED (LCB) ROADS

5

MAY 11 2021
1 : 17,000

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

RESPONSE TO COUNCIL ENQUIRIES

Date of Response: May 17, 2021

Responsible Department: CAO ☐ COS ☐ PDS ☐ FES ☐ IS ☒ CS ☐

Date of Enquiry:

☐ Council Meeting Date:
☒ Council-in-Committee Meeting Date: April 12, 2021

Enquiry by: Councillor Butler

Nature of Enquiry:

Councillor Butler enquired about the responsibility of the street lights on MacDonald Drive between Rose Hill Road and Bertie Bay Road, which is a private road. Councillor Butler also enquired about who is paying for the hydro to those street lights.

Response:

As noted during the April 12 meeting, the street lights are currently in private in ownership. Years ago, there was a mechanism for residents to request a streetlight, for which the Town would pay for and ownership of those would have been through CNP. In 2014, the Town assumed ownership of streetlights on public roads. MacDonald was not included in our assumption.

Whatever association structure exists is assumed to be the O/O currently. CNP is in discussion with an individual regarding the issue and we are expecting a delegation on May 30th on the issue.

CNP confirms the Town does not pay for the energy but due to privacy issues cannot state who does pay.

Respectively Submitted,

Kelly M. Walsh, P. Eng.
Director, Infrastructure Services

Status:
☒ Completed ☐ Ongoing ☐ Other (explain) _____

Prepared By:

Original Signed:

Signature

Kelly M. Walsh, P.Eng, Director, IS
Name/Title

Read and Recorded into Minutes: _____
(Date)

RESPONSE TO COUNCIL ENQUIRIES

Date of Response: May 17, 2021

Responsible Department: CAO ☐ COS ☐ PDS ☐ FES ☐ IS ☒ CS ☐

Date of Enquiry:

☐ Council Meeting Date:
☒ Council-in-Committee Meeting Date: April 12, 2021

Enquiry by: Councillor McDermott

Nature of Enquiry:

Councillor McDermott stated that residents in Crystal Beach are concerned about a street light not being repaired and asked Mr. Walsh to explain what the dilemma is. Councillor McDermott also enquired whether residents waiting could be contacted by staff enquired what timeframe the residents would be waiting.

Councillor Lubberts also enquired whether there are clauses in the contract that speaks to how the warranty will be honoured and the timeframe, and if we find an alternate product and back-charge the manufacturer.

Response:

Residents with outstanding orders greater than 2 months have been contacted with approximate timeframes for repair.

Jennifer Stirton has reviewed the contract for warranty provisions. The warranty does not prescribe any timelines for the manufacturer to replace defective product or provide any remedy to the Town for a breach of the process. Consequently, while the Town may be able to insist that the manufacturer honour warranty claims for individual lights, this may not result in more rapid delivery of replacement product.

At the time of the discussion during the meeting of Council, our streetlighting group in Engineering was already making process changes due to workload issues to make the process more reactive than previously.

As information for Council, from time of order, there is a six to eight-week delivery time from the manufacturer, and then coordination with our maintenance provider, who are on about a two-week response. As all trades are extremely busy these days, we do not believe switching providers would improve the process appreciably.

The Town does have a robust street light issue reporting structure on our website that was implemented in early 2020, and for those that have used it is very successful.

https://forterie.ca/pages/streetlightingoutagereport

Respectively Submitted,

Kelly M. Walsh, P. Eng.
Director, Infrastructure Services

Status:
☒ Completed ☐ Ongoing ☐ Other (explain) _____

Prepared By:

Original Signed:

Signature

Kelly M. Walsh, P.Eng, Director, IS
Name/Title

Read and Recorded into Minutes: _____
(Date)

The Municipal Corporation of the Town of Fort Erie
Business Status Report
Infrastructure Services
May 17, 2021

Forecasted Reports	Source	Status
Bay Beach Security – Tender Award	Operating Budget	May 31, 2021
Leisureplex Roof Replacement Construction Tender Award	Capital Budget	June 14, 2021
AWWA – 2020 Water Audit Report	Operating Budget	June 14, 2021
Asset Management Plan Update Report	Operating Budget	June 14, 2021
Storm-CCTV – RFP Award	Operating Budget	June 14, 2021
Prospect Point Road Upgrade – RFP Award	Capital Budget	July 12, 2021
Gorham Road Traffic Study RFP Award	Capital Budget	July 12, 2021
EJFCC Roof and HVAC – Tender Award	Capital Budget	August 9, 2021

Prepared By:

Original Signed:

Kelly M. Walsh, P.Eng
Director, Infrastructure Services

Respectfully Submitted By:

Original Signed:

Tom Kuchyt, CET
Chief Administrative Officer

The Municipal Corporation of the Town of Fort Erie

Business Status Report

Corporate Services; Community Services; Fire and Emergency Services

May 17, 2021

Forecasted Reports	Source	Status
Spring 2021 Capital Variance	Report	June 14, 2021

Prepared by:

"original signed"

Jonathan Janzen,
Director, Corporate Services/Treasurer

Prepared by:

"original signed"

Ed Melanson,
Fire Chief

Respectfully submitted by:

"original signed"

Tom Kuchyt,
Chief Administrative Officer