



The Municipal Corporation of the Town of Fort Erie

By-law No. 14-2018

Being a By-law to Amend Zoning By-law No. 129-90 Housekeeping Amendment

350309-0454

Whereas By-law No. 129-90 as amended, being the Comprehensive Zoning By-law for the Town of Fort Erie was passed on May 28, 1990, and

Whereas By-law Nos. 48-97, 34-98, 44-98, 03-02, 123-03, 10-04, 90-04, 152-04, 100-05, 57-06, 199-07, 56-08, 120-11, 130-11, 110-12, 38-13, 65-13, 94-2014, 133-2014, 152-2015 and 123-2016 are previous housekeeping amendments to Zoning By-law 129-90 as amended, and

Whereas since that time municipal staff have been compiling a record of proposed improvements to the Zoning By-law, and

Whereas Subsection 34 (1) of the *Planning Act*, R.S.O. 1990, c.P.13, authorizes the Council of the Municipality to regulate the use of lands and the character, location and use of buildings and structures within the Municipality, and

Whereas the Council of the Town of Fort Erie at its meeting of November 6, 2017, authorized staff to undertake a housekeeping amendment to Zoning By-law No. 129-90 as amended, through Report PDS-76-2017, and

Whereas Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13, provides that the Council, before the passing of a by-law under this section of the Act, shall ensure that sufficient information is made available to the public to generally understand the zoning proposal, to hold an open house and to hold a public meeting, and

Whereas in accordance with Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13, an Open House was held respecting the proposed housekeeping amendments to Comprehensive Zoning By-law No. 129-90 as amended on November 21, 2017 and notice of such was published in the Fort Erie Times on November 9, 2017, and

Whereas in accordance with Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13 a Public Meeting was held respecting the proposed housekeeping amendments to Comprehensive Zoning By-law No. 129-90 as amended, on December 4, 2017 and notice of such was published in the Fort Erie Times on November 9, 2017, and,

Whereas to satisfy the notification requirements for Town initiated amendments approved by Council on May 6, 2013, the following additional measures were undertaken to notify the public of the proposed amendment:

- Notice of the proposed amendments was posted on the Town's website;
- Notice of the proposed changes was posted on the Town's social media;

- Notice of the public meeting was sent to the Ridgeway, Bridgeburg and Crystal Beach Business Improvement Associations;
- Notice of the amendments was advertised on the billboard at the corner of Municipal Centre Drive and Garrison Road;
- Notice of the amendments was posted at the Library Branches, Leisureplex, Museum and in the Town Hall Atrium;

Whereas on January 15, 2018, Council determined that in accordance with Section 34(17) of the *Planning Act*, further notice is not required with respect to the change to the definition of “cottage” since the holding of the Public Meeting on December 4, 2017, and

Whereas it is deemed desirable to proceed with the housekeeping amendments to the Comprehensive Zoning By-law No. 129-90 as amended, pursuant to Report No. PDS-6-2018 considered at the Council-in-Committee meeting of January 15, 2018, as amended, and subsequently approved by Council;

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

1. **That** Section 5.74 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“**5.74 “COTTAGE”** means a detached building that is not equipped with a permanent central heating system, used as an occasional resort for recreation, rest or relaxation, but not occupied continuously or used as a principal residence.”

2. **That** Section 5.139 of By-law No. 129-90 as amended, is further amended by deleting Subsections (a), (b), (c) and (d).
3. **That** By-law No. 129-90, as amended, is further amended by adding thereto, immediately after Section 5.319, the following section:

“**5.320 “STOREY”** means the portion of a building other than an attic, basement or cellar, between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, that portion between the surface of such floor and the ceiling above it.

- (a) “**FIRST STOREY**” or “**GROUND FLOOR**” means the storey having its floor level closest to finished grade and its ceiling at least 2 m above finished grade.
- (b) “**SECOND STOREY**” or “**SECOND FLOOR**” means the storey directly above the first storey.
- (c) “**STOREY, ONE-HALF**” means the portion of the building situated wholly or in part within the roof and in which there is sufficient space to provide a height between finished floor and finished ceiling of at least 2.3 m (7.54 ft) over a floor area equal to less than fifty per cent (50%) of the areas of the floor next below;”

and the remainder of Section 5 is renumbered accordingly.

4. **That** Section 5.327 (formerly Section 5.326) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“5.326 “STRUCTURE” means anything constructed or erected, the use of which requires location on or in the ground, or attached to something located on or in the ground, but does not include a septic system, the permanent way of a railway, patios, decks, steps or porches less than 0.5 metres above grade, utilities or any paved surface located directly on the ground.”

5. **That** Section 6.15(b) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“(b) MORE THAN ONE ZONE

Except as otherwise provided in Paragraph (ii) of this Clause, where a lot is divided into two or more zones, each such portion of the said lot shall be considered separately and shall be used in accordance with the regulations of this By-law which are applicable to the zone wherein such portion of the said lot is located.

- (i) Where this By-law provides that a lot may be used or a building or structure may be erected or used for a purpose, that purpose shall include any accessory building or structure or accessory use, but shall not include any building used for sleeping or eating accommodations human habitation except as in this By-law is specifically permitted.
- (ii) Except as otherwise provided in Paragraphs (i) and (ii) of this Clause, where a lot is divided into two or more zones, and one of those zones is an Environmental Protection EP Zone, the regulations of this By-law shall not apply to required setbacks from the Environmental Protection EP Zone or to restrict building coverage to be calculated based on such portion exclusive of the Environmental Protection EP Zone.
- (iii) Notwithstanding anything to the contrary in Paragraph (i) of this Clause, where the use of a lot divided into 2 or more zones are permitted in all such zones, the said lot shall be considered to be a single lot as defined herein and the highest or most restrictive zone requirements pertaining to such use or uses in all the said zones shall apply throughout the said lot.”

6. **That** Section 6.37 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“6.37 THROUGH LOTS

Where a lot which is not a corner lot has frontage on more than one street, such lot shall have a front yard in accordance with Section 5.201 of this by-law.”

7. **That** By-law No.129-90 as amended, is further amended by adding to “Section 10– Residential 1 (R1) Zone” Subsection – “Exceptions to the Residential 1 (R1) Zone” the following exception:

“R1-227 (145-2000) North Shore Drive, west of Maple Leaf Avenue

These lands are zoned "Residential 1 R1-227 Zone" and all of the provisions that relate to lands zoned "Residential 1 Zone" by this by-law shall apply to those lands zoned "Residential 1 R1-227 Zone" except:

- (a) that notwithstanding the requirements of Subsection 16.3, the minimum floor area shall not be less than 140 square metres;
- (b) That the minimum rear yard setback shall not be less than 10 metres except the minimum rear yard along Lake Erie shall be not less than 15 metres from the 100 year floodline of 177.2 metres referenced to in the Geodetic Survey of Canada Datum."

8. **That** "Section 12B – Residential 2B R2B Zone" of Zoning By-law No. 129-90 as amended, is repealed in its entirety and replaced with "Section 12B" attached hereto as "Appendix 1"
9. **That** Section 33A.2 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“33A.2 PERMITTED USES

- (a) Agricultural uses
- (b) Existing open space uses and similar uses
- (c) Uses permitted under the Niagara Parks Act, R.S.O. 1990 and amendments thereto in any successor legislation, or for Niagara Parks Commission purposes, only on lands under the jurisdiction of The Niagara Parks Commission
- (d) Uses, buildings and structures accessory to the foregoing existing use"

10. **That** 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.

Read a first, second and third time and finally passed this 22nd day of January, 2018.

Mayor

Clerk

I, Carol, Schofield, Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 14-2017 of the said Town. Given under my hand and the seal of the said Corporation, this
day of _____, 20____

Appendix "1" to By-law No. 14-2018

SECTION 12B: RESIDENTIAL 2B (R2B) ZONE

12B.1 Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply to all Residential (R2B) zones.

12B.2 PERMITTED USES

- (a) One single detached dwelling and uses, buildings and structures accessory thereto.
- (b) Home Occupations
- (c) Accessory Apartment Dwelling

12B.3 REGULATIONS FOR DWELLINGS ON LOTS WITH LESS THAN 15 METRES OF FRONTAGE

Minimum Lot Frontage	10m
Minimum Lot Area	260 sq.m
Maximum Lot Coverage	1 storey - 50 percent Anything greater than 1 storey –40 percent
Minimum Front Yard	6m to garage 3m to other parts of dwelling
Minimum Interior Side Yard	1 storey – 1.2 m Anything greater than 1 storey – 1.5 m however, on an interior lot where no attached garage or attached carport is provided, the minimum side yard on one side shall be 3 metres
Minimum Exterior Side Yard	3m, except that an attached garage or attached carport which faces the exterior side lot line shall be located no closer than 6m to the exterior side lot line.
Minimum Rear Yard	1 storey - 5m Anything greater than 1 storey – 7 m
Maximum Height	i) 1.5 storey ii) 7.5 m

Appendix "1" to By-law No. 14-2018

12B.4 REGULATIONS FOR DWELLINGS ON LOTS 15 METRES OR MORE OF FRONTAGE

The regulations of Section 11.3 shall apply with respect to single detached dwellings on lots with 15 m or more of frontage