



The Municipal Corporation of the Town of Fort Erie

By-law No. 128-2018

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

350309-479

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, 123-2016 and 14-2018 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 August 13, 2018, authorized staff to undertake a housekeeping amendment to Zoning By-law No. 129-90 as amended, through Report PDS-54-2018, 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 September 5, 2018 and notice of such was published in the Fort Erie Post on August 23, 2018, 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 September 17, 2018 and notice of such was published in the Fort Erie Post on August 23, 2018, 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;
- Notice of the amendments was sent directly to the owners of 12 Lakebreeze Court as the zoning of this property is proposed to be amendment through this process.

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-67-2018 considered at the Council-in-Committee meeting of October 1, 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 5.191 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“5.191 “LOT” means a parcel of land:

- (i) which is a whole lot as shown on a Registered Plan of Subdivision, but a Registered Plan of Subdivision for the purposes of this Section does not include a Registered Plan of Subdivision or part of a Registered Plan of Subdivision which has been deemed not to be a Registered Plan of Subdivision under a by-law passed pursuant to Section 50(4) of the Planning Act, R.S.O. 1990;
- (ii) is a separate parcel of land without any adjoining lands being owned by the same owner or owners as of the date of passing of this By-law, but does not include a condominium unit within a Registered Plan of Condominium; or
- (iii) the description of which is the same as in a deed for a parcel of land which has been severed pursuant to Section 53 of the Planning Act, R.S.O. 1990; or, the description of a remnant parcel which results from the adjacent parcel having received the necessary severance, but for the purpose of this paragraph, no parcel or tract of land ceases to be a lot by reason only of the fact that a part or parts of it has or have been conveyed to or acquired by the Town, the Regional Municipality of Niagara, Her Majesty the Queen in the Right of Ontario, or Her Majesty the Queen in the Right of Canada.”

2. **That** Section 5.198 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“5.198 “LOT LINE” means any boundary line of a lot but does not include the boundary of a condominium unit.”

3. **That** Section 6 of By-law No. 129-90 as amended, is further amended by deleting Subsection 6.10.
4. **That** Section 6.20 (M) of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (iv), the following Subsection:
- “(v) Accessible parking spaces shall be provided as close as possible to principal building entrances.”
5. **That** Subsection 6.35 (a)(iii) of By-law No. 129-90, as amended, is repealed and replaced with the following:
- “(iv) No water circulating or treatment equipment, such as pumps or filters shall be located closer than 3m to any side lot line or 1m to any rear lot line when not enclosed within a structure. Water circulating or treatment equipment shall be setback a minimum of 1m from any lot line or the minimum setback to the required street line when enclosed within a structure.”
6. **That** Section 6.35 (a) of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (iii), the following Subsection:
- “(iv) No hard surface associated with a swimming pool shall be located closer than 0.5m to the side or rear lot line.”
7. **That** Section 6.40 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“6.40 COVERED OR UNCOVERED PORCHES, BALCONIES, DECKS AND PATIOS

(a) Residential Zones

Notwithstanding the yard provisions of this By-law to the contrary, porches, balconies, decks and patios may project into required yards in residential zones as follows:

	Height of Platform		
	0 m to 0.5 m Above grade (uncovered)	Between 0.5 m and 1.5 m (uncovered) or 0 m to 1.5 m above grade (covered)	Above 1.5 m above grade (covered or uncovered)
Minimum setback to exterior side lot line	0 m	1.5 m	Required building setback
Minimum setback to interior side lot line	Required building setback		
Minimum setback to rear lot line	0 m	3 m	Required building setback

Minimum setback to front lot line	3 m	3 m	Required building setback
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(b) Agricultural and Rural Zones

Notwithstanding the yard provisions of this By-law to the contrary, covered or uncovered porches, balconies, decks and patios which have platform heights of less than 1.5 m above grade may project a maximum of 3 m into required yards in Rural and Agricultural zones. Covered or uncovered porches, balconies, decks and patios which have platform heights greater than 1.5 m above grade must be setback the required building setback.”

8. **That** Subsection 6.41 (a) of By-law No. 129-90 as amended, is repealed and replaced with the following:

“(a) ORNAMENTAL STRUCTURES

Notwithstanding the yard provisions of this By-law to the contrary, sills, belt courses, chimneys, cornices, eaves, gutters, parapets, pilasters, bay windows, bow windows, or other ornamental structures may project into any required yard a maximum distance of 0.5m but shall not be closer than 0.5m to any lot line.”

9. **That** Section 6 of By-law No. 129-90 as amended, is further amended by deleting Subsection 6.44.
10. **That** Section 6 of By-law No. 129-90 as amended, is further amended by deleting Subsection 6.50 (c).
11. **That** Subsection 14.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“14.3 ZONE REGULATIONS

Minimum Lot Frontage	50m, except 6m for street townhouse lots and 9m for street townhouse corner lots
Minimum Lot Area	4000 sq.m, except 200 sq.m for a street townhouse lot and 270 sq.m for a street townhouse corner lot
Minimum Front Yard	6m to garage 4m to other parts of dwelling
Minimum Side Yard	1.5m
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	6m
Maximum Building Height	i) 3 storeys

	ii) 12m
Minimum Landscaped Area	50% including Privacy Areas, except 25% for street townhouse lots
Maximum Number of Units in a row	8
Minimum Distance Between Buildings on the Same Lot	15m, except 3m between end walls and 9m between an end wall and a rear wall
Maximum Density	35 units/ha
Maximum Lot Coverage	Block townhouse or exterior street townhouse - 40% Interior street townhouse – 60%
Privacy Area	Notwithstanding the yard requirements above, every dwelling unit shall have at least one area which serves as a privacy area adjacent to the dwelling unit, having a minimum depth of 4.5m
Planting Strips	In accordance with Section 6.21 and 4.5m where it abuts a street, except for points of ingress/egress”

12. That Section 14 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection 14.7, the following Subsection:

“14.8 DISTANCE FROM DWELLINGS TO PRIVATE STREETS AND PARKING AREAS

- Any front or rear face of any dwelling shall be no closer than 3m to any private street or parking area
- Any garage shall be no closer than 6.0m to any street or parking area
- Any side of any dwelling shall be no closer than 1.5m to an internal driveway or parking area”

13. That By-law No.129-90 as amended, is further amended by adding to “Section 14 – Residential Multiple 1 (RM1) Zone” Subsection – “Exceptions to the Residential Multiple 1 (RM1) Zone” the following exception:

“RM1-484 (29-13) 119 Bertie Street

These lands are zoned “Residential Multiple 1 (RM1) Zone RM1-484 Zone”, and all of the provisions of By-law No. 129-90 as amended that relate to lands zoned “Residential Multiple 1 (RM1) Zone” by this by-law shall apply to those lands zoned “Residential Multiple 1 (RM1) Zone RM1-484 Zone” on the attached Appendix “1” shall be subject to the following special provisions:

- a) Notwithstanding the list of Permitted Uses in Section 14.2, the existing building may also be converted to an apartment house subject to the provisions of “Section 15.3 Regulations for Apartment Dwellings and Second Level Lodging Houses.
- b) The provisions of Section 15.3 Regulations for Apartment Dwellings and Second Level Lodging Houses shall apply to the any apartment house located on the lands shown on Appendix “1”.

14. That Subsection 18.2 (f) of By-law No. 129-90 as amended, is repealed and replaced with the following:

- “(f) Residential Open Space - A minimum of 18.5 sq. m. of open area shall be provided on-site for the exclusive use of each dwelling unit. Where the open area is provided by way of private open-air balcony space directly adjoining a residential unit, a minimum of 10.5 sq m per unit shall be provided.”

15. That Subsection 18.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“18.3 REGULATIONS FOR DWELLING UNITS PERMITTED IN COMMERCIAL ZONES C2A, CMU-2, CMU-4, CMU-5 and CMU-6

- (a) Location - In the same building as the permitted commercial use(s) and in other than the basement or cellar. Dwelling units shall be permitted to occupy a maximum of 49% of the ground floor area of buildings, provided that no part of such dwelling unit, except for the entranceway has frontage onto a public street. except that:
- (i) dwelling units may not be located in combination with one or more of the following uses:
- car wash
 - automobile service station
 - public garage
 - bingo hall
 - taxi establishment
 - dry cleaning plants
 - motor vehicle sales rooms and car sales lots
- (c) Minimum Floor Area Per Dwelling Unit - The minimum floor area per dwelling unit shall be in accordance with the following table:

<u>Type of Dwelling Unit</u>	<u>Minimum Floor Area</u>
Bachelor unit	40 square metres
One-bedroom unit	50 square metres
Two-bedroom unit	60 square metres
three or more bedrooms	70 square metres

- (d) Minimum Parking Requirements - In addition to the minimum number of parking spaces required for the principal use of the lot, a minimum of one parking space per dwelling unit shall be provided on the same lot.
- (e) Residential Access - Each dwelling unit shall have a separate and private entrance from the outside or a common hallway.
- (f) Residential Open Space - A minimum of 18.5 sq. m. of open area shall be provided on-site for the exclusive use of each dwelling unit. Where the open area is provided

by way of private open-air balcony space directly adjoining a residential unit, a minimum of 10.5 sq m per unit shall be provided.”

- 16. That** Subsection 20A.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“20A.3 REGULATIONS

- (a) All regulations for new uses in the Urban Entertainment Centre (UEC) Zone shall be established through a comprehensive development plan and amendment to this by-law.
- (b) Existing uses in the Urban Entertainment Centre (UEC) Zone shall be subject to the following regulations:
 - a. Existing residential uses shall be subject to the regulations of Section 12.3. Residential accessory buildings are permitted subject to the regulations of Section 6.1.
 - b. Existing commercial uses shall be subject to the regulations of Section 20.3
 - c. Existing uses permitted in the Automobile Service Centre C4 Zone shall be subject to the regulations of Section 23.
 - d. Existing Industrial uses shall be subject to the regulations of Section 28.”

- 17. That** Subsection 26.B.4 (i) of By-law No. 129-90 as amended, is repealed and replaced with the following:

- “(i) The regulations of Section 12.3 shall apply to single detached dwelling units located on a separate lot.”

- 18. That** Subsection 26.C.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“26C.3 ZONE REGULATIONS

Minimum Lot Frontage	0m
Minimum Lot Area	0 sq. m.
Minimum Front Yard	0m
Minimum Interior Side Yard	0m, except the minimum side yard abutting a residential zone shall be 2.5m
Minimum Exterior Side Yard	0m
Minimum Rear Yard	4.5m except the minimum rear yard abutting a residential zone shall be 10m
Maximum Building Height	i) 3 storeys ii) 12m
Required Parking	See section 6.20.”

- 19. That** Subsection 26.D.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“26D.3 ZONE REGULATIONS

Minimum Lot Frontage	0m
Minimum Lot Area	0 sq. m.
Minimum Front Yard	0m
Minimum Interior Side Yard	0m, except the minimum side yard abutting a residential zone shall be 2.5m
Minimum Exterior Side Yard	0m
Minimum Rear Yard	4.5m except the minimum rear yard abutting a residential zone shall be 10m
Maximum Building Height	i) 3 storeys ii) 12m
Minimum Building Height	2 storeys
Required Parking	Commercial uses within the CMU4 Zone shall be exempted from the parking and loading requirements of this By-law with the exception of buildings containing dwelling units where the provisions of Subsection 18.2(d) shall apply.”

20. That Section 31 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection 31.4, the following Subsection:

“31.5 REGULATIONS FOR DWELLING UNITS ACCESSORY TO A PERMITTED USE

- Single detached dwellings shall be subject to the regulations of Section 12.3
- Semi-detached dwellings shall be subject to the regulation of Section 13.4
- Townhouse dwellings shall be subject to the regulations of Section 14.3
- Dormitories shall be subject to the regulations of Section 15.3”

21. That “Map 31” of Schedule “A” to Zoning By-law 129-90 as amended, is repealed in its entirety and replaced with “Map 31” attached hereto as Appendix “1”.

22. 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 9th day of October, 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. 128-2018 of the said Town. Given under my hand and the seal of the said Corporation, this day of _____, 20____

APPENDIX "1"

