



# The Municipal Corporation of the Town of Fort Erie

## By-law No. 154-2021

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### Being a By-law to amend Business Licensing By-law 217-05, as amended (Short-Term Rentals)

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**Whereas** By-law No. 217-05, as amended, was passed by the Municipal Council of the Town of Fort Erie on December 12, 2005, to licence and regulate various business in the Town of Fort Erie and to repeal certain by-laws; and

**Whereas** Schedule "13" to By-law No. 217-05, as amended, provides for the licensing of Short-Term Rentals; and

**Whereas** Report No. EDTS-04-2021 (2021 Pilot Program Review and Analysis) was considered and approved, as amended, and in part, at the Council-in-Committee Meeting held on October 4, 2021 regarding inter alia new provisions effective January 4, 2022; and

**Whereas** the recommendation regarding the increase in Penalties as set out in Table "9" of Report No. EDTS-04-2021, was postponed to a Special Council-in-Committee Meeting to be held on October 18<sup>th</sup>, 2021; and

**Whereas** Report No. EDTS-04-1-2021 to replace Table "9" of Report No. EDTS-04-2021, and the balance of the recommendations in Report No. EDTS-04-2021, as amended, were approved at the Special Council-in-Committee Meeting held on October 18, 2021; and

**Whereas** Report No. EDTS-05-2021 was considered and approved at the Council-in-Committee Meeting held on November 15, 2021 regarding administrative improvements to the Short-Term Rental program and options for Short-Term Rentals with more than 3 bedrooms; and

**Whereas** it is deemed desirable to make the approved amendments to Schedule "13" to By-law No. 217-05, as amended;

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

- 1. That** Schedule "13" to By-law No. 217-05, as amended, is repealed and replaced with Schedule "A" attached to and forming part of this by-law.
- 2. 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 13<sup>th</sup> day of December, 2021.**

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Mayor

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Clerk



**THE CORPORATION OF THE TOWN OF FORT ERIE**

**SCHEDULE "13" - By-law No. 217-05**

(As amended by By-law Nos. 113-2019, 22-2021, 41-2021, 58-2021 116-2021, and 154-2021)

**SHORT TERM RENTALS**

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**1.0 DEFINITIONS**

In this Part:

**"Agent"** means a person duly appointed by the Owner to act on their behalf;

**"Application Form"** means a form prepared by the Town to obtain the necessary information for a Short-Term Rental licence;

**"Coordinator"** means the Coordinator-Community Liaison and Business Licensing or designate unless otherwise noted;

**"Disturbance"** means an event where an action has commenced with respect to nuisance, and/or noise;

**"Dwelling Unit"** means a "Dwelling Unit" as defined in the Zoning By-law;

**"Fee"** means those fees established by the Town's Fees and Charges By-law No. 40-09, as amended or replaced annually by the Director of Corporate Services;

**"Fire Safety Plan"** means a plan showing the location of smoke alarms, the location of CO alarms, the location of fire extinguishers and the established escape routes;

**"Licensee"** means a person who holds a licence issued under this Part;

**"Local Contact Person"** means the local person assigned by the Owner or operator of a Short-Term Rental who will be at the premises within one (1) hour of contact and who will ensure the premises are operated in accordance with the provisions of this By-law and the conditions of the licence. Notwithstanding the foregoing, commencing January 4, 2022, the Local Contact Person shall be at the premises within thirty (30) minutes of contact;

**"Lot Maintenance"** means Lot Maintenance By-law No.165-08 as amended or replaced which regulates maintenance of property and land;

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“**Noise Control By-law**” means, the Noise Control By-law No. 30-09 as amended or replaced, which regulates noise and nuisances within the Town of Fort Erie;

“**Property Standards By-law**” means the Property Standards By-law No. 186-06 as amended or replaced, of the Town enacted under section 15.1 of the *Building Code Act* that prescribes standards for the maintenance and occupancy of property;

“**Renter**” means the person responsible for the rental of the premises by way of concession, permit, lease, licence, rental agreement or similar commercial arrangement;

“**Short-Term Rental**” means all or part of a dwelling unit, subject to licencing by the Town, to provide sleeping accommodation for any period of thirty (30) calendar days at a time or less in exchange for payment, but does not include any type of institutional dwelling, hotels, or other similar uses;

“**Short-Term Rental Premises**” or “**Premises**” means any dwelling unit and associated land in or on which a Short-Term Rental is carried on;

“**Trailer**” means a “Trailer” as defined in the Zoning By-law;

“**Zoning By-law**” means the Town of Fort Erie’s Comprehensive Zoning By-law No. 129-90 or as amended, enacted under section 34 of the *Planning Act* that restricts and/or regulates the use of land.

**1.0 APPLICATION**

- 1.1 Where there is a conflict between this Schedule and any other part of this by-law, this Schedule shall prevail.
- 1.2 The requirements of this Schedule apply to the trade, business or occupation of providing Short-Term Rentals within the geographic limits of the Town as of the date this By-law comes into effect, unless otherwise stated.
- 1.3 For greater certainty, the requirements of this Schedule do not apply to a hotel as defined in the Zoning By-law.

**2.0 LICENSING**

- 2.1 A person is not eligible to hold a licence if:
  - a) The owner is indebted to the Town in respect of fines, administrative penalties, and/or judgments awarded by the courts;

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- b) The property to be used for carrying on a Short-Term Rental does not conform with any applicable Federal or Provincial Law or Regulations or Municipal By-laws, including, but not limited to, the Zoning By-law, Property Standards By-law, *Building Code Act*, Building Code, *Fire Protection and Prevention Act*, Fire Code, and Ontario Electrical Safety Code; or
- c) A certificate of proof is not provided annually that the well water is safe to drink, if applicable.

2.2 The Coordinator will suspend a Short-Term Rental licence if a licensee has:

- a) an open building permit;
- b) an outstanding Fire or Building Order; or
- c) a Property Standards Order or any other order issued by the Town or other government agency.

2.3 In the event there is more than one (1) dwelling unit on one (1) property having a single municipal address, each dwelling unit shall require a licence.

### **3.0 REVOCATION OF LICENCE**

3.1 The Coordinator may revoke a licence where:

- (a) the licence was issued on mistaken, false or incorrect information, or in error;
- (b) there is change in ownership; or
- (c) the Owner(s) requests in writing that it be terminated;

3.2 Upon revoking a licence in accordance with this by-law, the Coordinator shall give written notice of the revocation of the licence to the Owner at his/her last known address. In no case shall a licence fee be refunded.

3.3 Once a licence is revoked, the Owner shall not be issued a new licence:

- a) for a period of six (6) months from the date of revocation of the first revoked licence;
- b) twelve (12) months after the second revocation; and
- c) eighteen (18) months after the third and subsequent revocations.

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**4.0 ADMINISTRATION**

- 4.1 Unless otherwise indicated, the administration of this Schedule including approval of applications and issuance of licences shall be the responsibility of the Coordinator.
- 4.2 Enforcement of this Schedule shall be primarily assigned to the Coordinator or an Officer as defined in this By-law.
- 4.3 Every application for a new licence or a renewal of an existing licence shall be submitted to the Coordinator on the required form together with all the required documentation.
- 4.4 The Coordinator shall be responsible for developing and updating Short-Term Rental Rules, Application Forms and other procedures for the administration of Short-Term Rentals.
- 4.5 Every application for a new Short-Term Rental Licence or a renewal shall include:
- a) Each Owner, applicant, and Agent's name, address, telephone number, and email address if available;
  - b) Where an applicant is acting on behalf of an Owner, the Owners shall sign the authorization and consent form permitting the Agent to act on their behalf;
  - c) In the instance of a corporation or partnership, the name, address, telephone number, and email address if available of each officer or partner as the case may be;
  - d) The name, address, telephone number, and email address of a person who has been assigned by the Owner to be the Local Contact Person;
  - e) A statement from the Owner or Agent certifying the accuracy, truthfulness, and completeness of the application;
  - f) Proof of insurance for Short-Term Rental use;
  - g) A Fire Safety Plan depicting the use of the premises including the location of smoke alarms on each floor, the location of CO alarms, the location of mounted fire extinguishers on each floor and including the kitchen, and the established escape routes for each bedroom in case of emergency;
  - h) The Owner or Agent shall provide the following acknowledgements:
    - i) that the Short-Term Rental will be operated in accordance with all Town By-laws and requirements of any other government agency or legislation;

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- ii) that all garbage will be stored in garbage cans with lids;
  - iii) that the Owner has advised the abutting property boundary neighbours of the operation of the Short-Term Rental;
  - iv) that all renters will receive a copy of the Town's form of Guest Rules and a copy will remain on site at all times;
  - v) that all renters will be advised that no outside sleeping and sleeping accommodations are permitted on the Short Term-Rental premises;
  - vi) the payment of application fees as set out in the Town's Fees and Charges By-law No. 40-09, as amended, or replaced from time to time;  
  
and, commencing January 4, 2022:
  - vii) that the Owner shall indemnify and save harmless the Town of Fort Erie, its staff and elected officials from any and all claims; and
  - viii) that the issuance of the Short-Term Rental licence shall not contravene an Agreement of Purchase and Sale and/or any other instrument registered on title or otherwise, with respect to the property.
- i) Acknowledgement by the Region of Niagara that the dwelling has a functioning septic system as of the date of the first rental application, if applicable;
  - j) A copy of a certificate of proof that the well water if any is safe to and shall be a new certificate provided annually, if applicable;
  - k) A licensee shall inform the Coordinator of any changes to the information provided in the application within a period of 15 days of the change.
  - l) The property address and licence number will be posted on the Town's website.
  - m) Each licence shall include the following:
    - i) Property address;
    - ii) Licence number;
    - iii) Effective date and expiry date of the licence;
    - iv) Owner's name and contact information;
    - v) The agent's name and contact information if applicable; and
    - vi) Local Contact Person's name and contact information.

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- n) A licence shall only be issued to the Owner of the Short-Term Rental;
- o) A licence is valid from the date of issuance until December 31 in the calendar year in which it is issued;
- p) A licensee is not eligible for the renewal of an existing licence unless the licensee has provided an application form approved by the Coordinator;
- q) A licence is not transferable; and
- r) Proof that all fire extinguishers are / have been maintained by a certified person or company once every 12 months.

4.6 In addition to any other provision of this Schedule with respect to the issuance of a licence, where a Penalty Notice has been issued for operating without a licence, a licence may not be applied for or be processed for a period of 7 days from the date of issuance of the Penalty Notice.

Commencing January 4, 2022:

- 4.7 The number of Short-Term Rental licences issued shall be limited to Two Hundred & Fifty (250) in any given year, with current licence holders being provided the first opportunity to renew a licence by March 31<sup>st</sup> of the following year, provided the licence holder has complied with all rules (meaning Five (5) or less demerit points) during the previous year.
- 4.8 Annual fire and building inspections shall be carried out for each Short-Term Rental application.

**5.0 PROHIBITIONS**

5.1 No Owner shall:

- a) Carry on a Short-Term Rental without a licence;
- b) Carry on a Short-Term Rental for which a licence has expired, been revoked, or, is under suspension;
- c) Carry on a Short-Term Rental unless the premises has full services provided privately or municipally;
- d) Fail to keep garbage contained in containers with lids;
- e) Fail to display the Short-Term Rental licence in a prominent permanent place on the Short-Term Rental Premises;
- f) Permit tents on the Short-Term Rental Premises;

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- g) Permit a Trailer to be used for sleeping accommodations on the Short-Term Rental Premises;
- h) Fail to ensure that there is a Local Contact Person;
- i) Hinder or obstruct an Officer from carrying out an inspection of lands, to carry out work for the purposes of an investigation and/or making inquiries;
- j) Operate a Short-Term Rental contrary to the Fire Safety Plan;
- k) Permit a disturbance at a Short-Term Rental Premises;
- l) Operate contrary to any applicable Federal, Provincial, Regional laws, Regulations or Orders, or Municipal By-laws (“Law”);
- m) Rent to an individual where a Law referred to in Subsection 5.1 (k) prohibits rentals to individuals who are not in need of housing, without obtaining valid verification that the individuals are in need of housing;
- n) Operate a Short-Term Rental if current and accurate information has not been provided to the Coordinator;
- o) Assign a Short-Term Rental licence;
- p) Operate a Short-Term Rental with:
  - i) an open building permit;
  - ii) an outstanding Fire or Building Order; or
  - iii) a Property Standards Order or any other order issued by the Town or other government agencies.
- q) Place or mount a fire extinguisher in any cupboard, cabinet, closet, or other enclosed compartment;  
  
and, commencing January 4, 2022:
- r) Operate a Short-Term Rental containing more than three (3) bedrooms. All bedrooms exceeding three (3) shall be closed off with appropriate signage posted on the door(s);
- s) Exceed maximum occupancy limits of four (4) people for a one (1) bedroom dwelling unit, six (6) people for a two (2) bedroom dwelling unit, and eight (8) people for a three (3) bedroom dwelling unit; or

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- t) Permit guests to remain at the Short-Term Rental Premises beyond 11:00 p.m. each day.

5.2 Failure to comply constitutes a penalty whereby an administrative penalty and/or demerit point(s) as established in Appendix "1" will be imposed against the Short-Term Rental Premises. Where an owner has carried on a Short-Term Rental without a licence, the demerit points shall be applied when a Licence is issued.

**6.0 APPEALS COMMITTEE**

6.1 The Coordinator shall keep records of the Committee's meetings and hearings including minutes and decisions.

6.2 In addition to Part 4 of this By-law, the Appeals Committee shall:

- a) hear appeals related to demerit points and administrative penalties;

6.3 A person who is required to attend a Hearing shall be notified by the Coordinator and the notice shall:

- a) specify the time, place and purpose of the Hearing;
- b) inform the affected owner that he/she is required to attend the Hearing and may make submissions;
- c) afford the owner a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the licence; and
- d) be given at least fifteen (15) days' notice prior to the date of the Hearing.

6.4 The Committee at the Hearing may impose conditions as they deem appropriate for the continued holding of the licence, suspend the licence, or revoke the licence.

6.5 Decisions of the Appeals Committee are final.

6.6 An appeal that was commenced prior to this by-law being designated under Administrative Penalty By-law No. 111-2019 but not disposed of before such designation by by-law, shall be continued and disposed of by members of Council appointed from time to time to hear Appeals, under the same provisions as were in effect at the time of the commencement of the Appeal.

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**7.0 DEMERIT POINT SYSTEM**

- 7.1 If at any time the Coordinator determines that the operation of a licensed Short-Term Rental does not comply with any part of this Schedule as provided for in Appendix "1", the Coordinator shall impose Demerit Points.
- 7.2 Demerit points shall remain in place until the two (2) year anniversary of the date on which the demerit points were imposed.
- 7.3 An owner is required to provide the Coordinator with the written the steps they intend to implement to mitigate further instances of awarding demerit points, to the satisfaction of the Coordinator, if the total of all demerit points in effect respecting a Short-Term Rental is seven (7) or more.
- 7.4 If the total of all demerit points in effect respecting a Short-Term Rental is fifteen (15) or more, the Short-Term Rental licence shall be deemed to be suspended effective immediately upon issuance of the last demerit points, and the Coordinator shall notify the owner of the suspension.
- 7.5 If the total demerit points are fifteen (15) or more as a result of the owner being issued Penalty Notices including a Penalty Notice for operating without a licence, the Coordinator shall issue a licence upon receipt of an application in compliance with this by-law, following which, shall immediately suspend the licence pending the decision of the Hearing Officer.
- 7.6 A Hearing is required if the total of all demerit points in effect respecting a Short-Term Rental is fifteen (15) or more, to determine if the Short-Term Rental licence should be revoked.
- 7.7 Upon the transfer / sale of a Short-Term Rental Premises by an owner to a new owner, any existing demerit points shall be transferred to the original owner, and upon the issuance of a new licence to that owner of a new Short-Term Rental Premises, the demerit points shall be imposed against the new Short-Term Rental Premises.

**8.0 ADMINISTRATIVE PENALTIES**

- 8.1 An Officer who has reason to believe that an Owner has contravened any provision of this Schedule may issue a Penalty Notice to the Owner.
- 8.2 The Penalty Notice shall be given to the Owner as soon as is reasonably practicable and shall include the following information:
- a) Municipal Address;

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- b) Name of Owner;
- c) the Penalty Notice Date;
- d) Penalty Notice Number;
- e) Particulars of the contravention;
- f) The amount of the Administrative Penalty;
- g) Information respecting the process by which the Owner may exercise right to request a review of the Administrative Penalty; and
- h) A statement advising that an Administrative Penalty will, unless cancelled, constitutes a debt of the Owner to the Town.

8.3 An Administrative Penalty is payable within fifteen (15) days after the penalty is affirmed.

8.4 In accordance with the *Municipal Act 2001* as amended or replaced, an Administrative Penalty which remains unpaid shall be deemed to be unpaid taxes and the outstanding amount shall be added to the tax roll and collected in the same manner as municipal taxes.

8.5 An Administrative Penalty that is due and payable and constitutes a debt to the Town of each Owner to whom or to which the Penalty Notice was given.

**9.0 PROVINCIAL OFFENCES**

9.1 An Owner who obtains a Short-Term Rental licence shall comply with the regulations set out in this Schedule for such licence. Failure to comply with the regulations constitutes an offence.

9.2 Every Owner who contravenes any provision of this By-law, is guilty of an offence and upon conviction is liable to the penalties prescribed under the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

## SCHEDULE "13" - SHORT-TERM RENTALS

### APPENDIX "1" TO SCHEDULE 13

| <b>PENALTIES</b>  |                      |                       |  |
|---|----------------------|-----------------------|--|
| <b>Column 1</b>   | <b>Column 2</b>      | <b>Column 3</b>       | <b>Column 4</b>                          |
| <b>Infraction</b>   | <b>Reference</b>     | <b>Demerit Points</b> | <b>Administrative Penalties</b>          |
| Failure to comply with Fire Protection & Prevention Act/Fire Code ("FPPA/Fire Code")                      | 2.3                  | 15                    | Fines Imposed under FPPA/Code            |
| Failure to comply with Building Code Act ("BCA")  | 2.3                  | 10                    | Fines Imposed under BCA                  |
| Obstruct Officer  | 5.1 (i)              | 10                    | \$100.00                                 |
| Operating without a licence   | 5.1 (a) and (b)      | 10                    | \$600.00                                 |
| Operating with an open Permit or Order  | 5.1 (p) (i) and (ii) | 10                    | \$300.00                                 |
| Failure to Display Licence  | 5.1(e)               | 3                     | \$75.00                                  |
| Operating a short term rental without conforming to all applicable Federal, Provincial and Municipal laws | 5.1(l)               | 5                     | \$200.00                                 |
| Non-availability of Local Contact Person  | 5.1(h)               | 5                     | \$100.00                                 |
| Noise and Nuisance  | 5.1(k)               | 5                     | Penalties Imposed under By-law No. 30-09 |
| Not eligible to hold a licence  | 2.1                  | 5                     | nil                                      |
| Failure to have garbage in containers with lids   | 5.1(d)               | 3                     | \$150.00                                 |
| Failure to comply with Fire Safety Plan   | 5.1(j)               | 5                     | \$200.00                                 |
| Failure to obtain valid verification of need of housing   | 5.1(m)               | 5                     | \$300.00                                 |
| Assignment of licence   | 5.1(o)               | 3                     | \$50.00                                  |
| Property Standards Infraction   | 5.1(p) (iii)         | 3                     | Fines imposed under By-law No. 186-08    |
| Outside sleeping accommodations on site   | 5.1(f)               | 3                     | \$100.00                                 |
| Operating premises without full private or municipal services   | 5.1(c)               | 3                     | \$100.00                                 |

## SCHEDULE "13" - SHORT-TERM RENTALS

The following Penalties come into force and effect on January 4, 2022:

| <b>PENALTIES</b>  |                      |                       |  |
|---|----------------------|-----------------------|--|
| <b>Column 1</b>   | <b>Column 2</b>      | <b>Column 3</b>       | <b>Column 4</b>                          |
| <b>Infraction</b>   | <b>Reference</b>     | <b>Demerit Points</b> | <b>Administrative Penalties</b>          |
| Failure to comply with Fire Protection & Prevention Act/Fire Code ("FPPA/Fire Code")                      | 2.3                  | 15                    | Fines Imposed under FPPA/Code            |
| Failure to comply with Building Code Act ("BCA")  | 2.3                  | 10                    | Fines Imposed under BCA                  |
| Obstruct Officer  | 5.1 (i)              | 10                    | \$300.00                                 |
| Operating without a licence   | 5.1 (a) and (b)      | 15                    | \$1,500.00                               |
| Operating with an open Permit or Order  | 5.1 (p) (i) and (ii) | 10                    | \$300.00                                 |
| Failure to Display Licence  | 5.1(e)               | 3                     | \$75.00                                  |
| Operating a short term rental without conforming to all applicable Federal, Provincial and Municipal laws | 5.1(l)               | 15                    | \$1,500.00                               |
| Non-availability of Local Contact Person  | 5.1(h)               | 10                    | \$500.00                                 |
| Noise and Nuisance  | 5.1(k)               | 5                     | Penalties Imposed under By-law No. 30-09 |
| Not eligible to hold a licence  | 2.1                  | 5                     | nil                                      |
| Failure to have garbage in containers with lids   | 5.1(d)               | 3                     | \$150.00                                 |
| Failure to comply with Fire Safety Plan   | 5.1(j)               | 10                    | \$500.00                                 |
| Failure to obtain valid verification of need of housing   | 5.1(m)               | 5                     | \$300.00                                 |
| Assignment of licence   | 5.1(o)               | 5                     | \$300.00                                 |
| Property Standards Infraction   | 5.1(p) (iii)         | 3                     | Fines imposed under By-law No.186-08     |
| Outside sleeping accommodations on site   | 5.1(f)               | 3                     | \$300.00                                 |
| Operating premises without full private or municipal services   | 5.1(c)               | 3                     | \$100.00                                 |
| Operating more than 3 bedrooms  | 5.1(r)               | 15                    | \$1,500.00                               |
| Exceeding maximum occupancy   | 5.1(s)               | 10                    | \$1,000.00                               |
| Guest(s) after 11:00 p.m.   | 5.1(t)               | 5                     | \$150.00                                 |

**Note: References to By-laws and Legislation include as they may be amended or replaced.**