

21/04/2022 - OFFICE CONSOLIDATED

(This copy is a consolidation of the Business Licencing By-law and subsequent amendments. It is intended for office use and convenience only. For accuracy, reference should be made to the amending by-laws and schedules on file in the office of the Town Clerk- As amended by the following: 31-07; 152-08; 119-09; 40-09, 70-10, 48-11, 111-12, 50-13; 50-2016; 63-2016; 37-2018; 40-2019; 113-2019; 22-2021; 41-2021; 58-2021; 116-2021; 154-2021)



**The Municipal Corporation of the
Town of Fort Erie**

BY-LAW NO. 217-05

**BEING A BY-LAW TO LICENCE AND REGULATE VARIOUS
BUSINESSES IN THE TOWN OF FORT ERIE AND TO REPEAL
CERTAIN BY-LAWS**

WHEREAS Section 151 of the *Municipal Act, 2001*, as amended, provides for the licencing of businesses in a municipality including the power to licence, revoke or suspend the licence, and to impose conditions or special conditions, and

WHEREAS it is deemed necessary and expedient to licence, regulate and govern certain businesses within the Town of Fort Erie.

NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

PART 1 - SHORT TITLE

1.1 The Short Title of this by-law shall be the "Business Licencing By-law."

PART 2 – DEFINITIONS

2.1 For the purposes of this by-law:

- (a) **"Appeals Committee"** means an Appeals Committee for the purposes of this by-law comprised of three (3) Members of Council and two alternates who shall hear any appeals under this by-law;
- (b) **"Applicant"** means any person applying for a licence under this by-law;
- (c) **"Business"** shall include but is not limited to:
 - (i) trades and occupations;
 - (ii) the sale or hire of goods, wares, merchandise or services on an intermittent or one-time basis;
 - (iii) the display of samples, patterns, or specimens of goods for the purpose of sale or hire

but does not include

- (i) a manufacturing or an industrial business, except to the extent that it sells its products or raw material by retail;
- (ii) the sale of goods by wholesale; or
- (iii) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources;
- (iv) those businesses that municipalities are prevented from licencing as set out under *O.Reg. 243/02* and other Regulations enacted from time to time; and

for purposes of this definition a business shall be deemed to be carried on within the Town if any part of the business is carried on within the Town even if the business is being carried on from a location from outside the Town;

- (d) “**Council**” means the Municipal Council of the Town of Fort Erie;
- (e) “**Fire Chief**” means the Fire Chief of the Town of Fort Erie or Fire Inspector, or designate;
- (f) “**Licence**” means the official document issued by the Town under the provisions of this by-law bearing the signature of the Coordinator, Community Liaison and Business Licencing authorizing a person to conduct a business listed in the schedules annexed hereto to this by-law;
- (g) “**Medical Officer of Health**” means the Medical Officer of Health for the Regional Municipality of Niagara or designate, duly appointed under the Health Protection and Promotion Act;
- (h) “**Officer**” means any Town employee authorized by the Council to enforce the provisions of any by-law or to conduct inspections in relation to this by-law, or any police officer or Medical Officer of Health or designate;
- (i) “**Owner**”- premises - with respect to premises shall mean the registered owner of the land on which the premises is situated and includes a trustee acting on behalf of the registered owner, the estate of a registered owner and a person with a lease hold interest in the land;
- (j) “**Owner**” with respect to a trade, calling, business, or occupation shall mean the business, company or partnership that carries on the trade, business or occupation and whose name appears on the licence issued by the Town for such trade, business or occupation pursuant to this by-law;
- (k) “**Person**” shall include an individual, a partnership, a firm or a corporation;

- (l) **“Premises”** means any land, including, a building, structure or installation and also includes any vehicle, vessel or conveyance used in the operation of a business;
- (m) **“Registered Charitable Organization”** means any charity that is registered or is eligible to be registered with the Federal Government and has a registered charity number that has been issued;
- (n) **“Special Event”** shall mean an annual community event with all proceeds donated for charitable or not-for-profit purposes;
- (o) **“Town”** means the Corporation of the Town of Fort Erie;
- (p) **“Town Clerk”** means the Clerk of the Corporation of the Town of Fort Erie or designate.

PART 3 - GENERAL PROVISIONS

3.1 LICENCING - POWERS

The powers to licence, regulate and govern a business includes the power to,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) licence, regulate or govern real and personal property used by the business and the persons carrying it on or engaged in it, and
- (g) require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any part of a system of licences established by the municipality.

3.2 ADMINISTRATION AND LICENCING POWERS

3.2.1 Unless otherwise indicated, the administration of this by-law including approval of applications and issuance of licences shall be assigned to the Coordinator, Community Liaison and Business Licencing who may delegate the performance of his/her functions under this by-law from time to time as the occasion requires.

3.2.2 The Coordinator, Community Liaison and Business Licencing shall issue or renew a licence provided that the provisions of this by-law have been complied with.

3.2.3 The Coordinator, Community Liaison and Business Licencing may issue or renew a licence prior to the receipt of all inspection reports or approvals required herein where the Coordinator, Community Liaison and Business Licencing is satisfied that such inspections or approvals will be reasonably delayed due to internal scheduling constraints; and provided the applicant is advised that the licence may be revoked if the subsequent inspections or approvals determine that the business is not in compliance with this by-law.

3.3 ENFORCEMENT

The Enforcement of this by-law shall be primarily assigned to the members of the Niagara Regional Police Service and to the By-law Enforcement Service for the Town but any Officer with a duty to enforce under any statute or this by-law shall do so accordingly.

3.4 PART 2 – APPLIES TO – ALL OF THE PARTS

All of the regulations contained in this part of the by-law shall apply to all licences required under the provisions of this by-law.

3.5 LICENCE REQUIRED

No person shall carry on any trade, calling, business, or occupation set out in the Schedules of this by-law, without a licence to do so issued by the Town. Each trade, calling, business or occupation shall be separately licenced.

3.6 LICENCE - APPLICATION

Every person wishing to make an application for a business licence, or renewal thereof under this by-law, shall file:

- (a) a completed application form, and
- (b) the application fee prescribed in the schedules of this by-law

3.7 LICENCE – APPLICATION – FULL INFORMATION – REQUIRED

Upon receipt of an application for a licence, the Coordinator, Community Liaison and Business Licencing shall:

- (a) stamp the application with the date and time of receipt and process applications in the order in which they were received, and
- (b) circulate the application to applicable officers for inspection and approval.

3.8 LICENCE – APPLICATION – SUBJECT TO APPROVAL

Every application shall be subject to approvals from such municipal or provincial departments or agencies as may be set out in the Schedules of this By-law and such other municipal or provincial departments or agencies as the Coordinator, Community Liaison and Business Licencing deems necessary.

3.9 OTHER LAWS

The requirement of obtaining a licence under this by-law is in addition to and not in substitution for any other requirement to obtain a licence or licences or other regulatory approvals under any other federal, provincial or municipal regulations.

3.10 LICENCE - DISPLAY

Every person holding a licence issued pursuant to this by-law shall:

- (a) with respect to premises, display the licence in a conspicuous place in or on the said premises, or
- (b) with respect to a vehicle, display the licence in a conspicuous place in or on the said vehicle, or
- (c) with respect to an individual, maintain the licence on their person while conducting the activity for which the licence was issued.

3.11 LICENCE – PROPERTY OF TOWN – TRANSFER PROHIBITED

Every licence, at all times, is owned by and is the property of the Town and is valid only in respect of the person and the premises or of the person named therein and for the nature of business stated in the licence, and no licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized, distained or otherwise dealt with.

3.12 INFORMATION – HELD BY COORDINATOR, COMMUNITY LIAISON AND BUSINESS LICENCING – OPEN TO INSPECTION

Any application, comment, recommendation, information, document or thing in the possession of the Coordinator, Community Liaison and Business Licencing pursuant to the provisions of this by-law shall be made available by the Coordinator, Community Liaison and Business Licencing for an inspection:

- (a) by any person employed in the administration or the enforcement of this by-law, and
- (b) by any other person upon the consent, satisfactory to the Coordinator, Community Liaison and Business Licencing, of the person, civic department, board, commission, authority or other agency which produced or submitted the application, comment, recommendation, information, document or thing;

subject only to the limitations imposed by the *Municipal Freedom of Information and Protection of Privacy Act*.

3.13 INSPECTIONS – OFFICERS

Subject to Part 3.15 of this by-law, any member of the Niagara Regional Police Service or any Officer may, at all reasonable times and upon producing proper identification, enter and inspect any premises or any part of any premises licenced under the provisions of this by-law.

3.14 NO PERSON – OBSTRUCT - PERSON WHO ENFORCES

No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this by-law.

3.15 INSPECTIONS – DWELLING – POLICE – SEARCH WARRANT

Except under the authority of a search warrant under the *Provincial Offences Act* or in accordance with the provisions of Section 430 of the *Municipal Act, 2001*, as amended

from time to time, any person exercising a power of entry on behalf of the Town under this by-law shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made then only under the authority of a search warrant.

3.16 RECORDS – TO BE KEPT – AS REQUIRED

No person shall fail to keep any and all of the records to be kept by under the provisions of any section of any part of this by-law.

3.17 DEFICIENCIES – SPECIFIED – NOTICE TO - APPLICANT

Where any determination is made that any premises or person named in the application does not receive the approvals required by this by-law, the reasons for the lack of the required approvals shall be specified, and the Coordinator, Community Liaison and Business Licencing shall notify the applicant of all such reasons.

3.18 LICENCE – NOT TO BE ISSUED OR RENEWED – WHERE BY-LAW CONTRAVENED

No licence shall be issued to any person in respect of any premises in which the carrying on or operation of the business for which the application is being made is in contravention of any by-law of the Town, or any applicable Provincial or Federal legislation.

3.19 LICENCE – TERM OF EXPIRY

All licences shall be issued and shall be valid on an annual basis, save and except where stated otherwise in any of the Schedules to this by-law.

3.20 LICENCE – ADMINISTRATION FEE - LICENCE REFUSED OR WITHDRAWN

All business licence fees are non-refundable if the application is refused for any reason or is withdrawn by the applicant prior to the issuance of a licence.

3.21 ISSUANCE, RENEWAL – CONDITIONS

Every initial licence and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold, and renewing a licence, all of which shall be performed and observed by the applicant, holder of the licence or by the operator of the business:

- (a) the applicant shall pay the applicable licence fee;
- (b) the applicant shall allow, at any reasonable time, the Town to inspect the place and premises used for the business and the equipment, vehicles and other personal property used or kept for hire in the carrying out of the business;
- (c) the applicant shall ensure that the place or premises used for the business are not constructed or equipped so as to hinder the enforcement of this by-law;
- (d) the premises in which the business is located shall be in accordance with the requirements of the *Building Code Act* and the regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the regulations thereunder, and any by-law of the Town prescribing standards for the maintenance and occupancy of property within the Town;

- (e) where premises in which the business is located are altered and a building permit is required to carry out the alterations, the premises, as altered, shall be in accordance with the *Building Code Act* and the regulations thereunder, the *Fire Protection and Prevention Act, 1997* and the regulations thereunder, and any by-law of the corporation prescribing standards for the maintenance and occupancy of property within the Town;
- (f) the use of the premises for the purpose of the business is permitted or conforms with the uses of the premises permitted under the applicable zoning by-law or is a legal non-conforming use;
- (g) the owner or operator shall have a contractual or proprietary interest in the lands and premises upon which the business is to be operated which will enable the owner or operator to carry on the business;
- (h) the applicant or licence holder shall not carry on activities that are in contravention of this by-law;
- (i) the applicant or licence holder shall not fail to pay any part of a fine for a contravention of this by-law after the fine becomes due and payable under Section 66 of the Provincial Offences Act, including any extension of time for payment ordered under that section.

3.22 REVOKING, SUSPENDING OR CANCELLING

A licence may be revoked, suspended or cancelled:

- (a) where the licensee would be disentitled to a licence for the reasons set out in Subsection 3.21 of this by-law;
- (b) when the licensee is convicted of an offence under any provision of this by-law, or any other municipal, Provincial or Federal statute or regulation with respect to the business;
- (c) upon recommendation from the Appeals Committee respecting the licensee's business practices or standards;
- (d) where the licence was issued incorrectly based on incorrect or incomplete information provided by the applicant;
- (e) any business licence application that has not received approvals from all municipal or Provincial departments or agencies as the Coordinator, Community Liaison and Business Licencing deems necessary because of the applicant's inability to comply with the requirements to become licenced.

PART 4 – APPEALS

4.1 LICENCING POWERS – DELEGATION TO APPEALS COMMITTEE

- (a) The general licencing powers contained in Part IV of the *Municipal Act, 2001, S.O. 2001, c.25* as amended are hereby assigned to the Appeals Committee.
- (b) The Appeals Committee shall make the final decision with respect to refusing to issue, refusing to renew, suspending or revoking a licence under this by-law.

4.2 REFERRAL – APPEALS COMMITTEE – COORDINATOR, COMMUNITY LIAISON AND BUSINESS LICENCING

- (a) At any time before the Coordinator, Community Liaison and Business Licencing either issues or renews a licence, or recommends to refuse to issue or to refuse to renew a licence, he/she may, or he/she shall on the request of the applicant refer the application for such issuance or renewal of the licence to the Appeals Committee.
- (b) Where there is a referral to the Appeals Committee pursuant to this section, the Appeals Committee shall hold a meeting for the purpose of directing the Coordinator, Community Liaison and Business Licencing to issue or renew the licence, or not to issue or renew the licence, and the Appeals Committee,
- (c) when directing the Coordinator, Community Liaison and Business Licencing, may require the imposition of conditions specific to the licence regarding compliance by the applicant with any requirements of this by-law.

4.3 RECOMMENDATION – APPEALS COMMITTEE – REFUSE TO ISSUE, RENEW, SUSPENSION, REVOCATION - NOTICE – HEARING REQUEST

- (a) Where the Coordinator, Community Liaison and Business Licencing intends to recommend to the Appeals Committee to refuse to issue, to refuse to renew, to revoke or to suspend a licence, he/she shall give notice of his/her intended recommendation for refusal to the applicant or licence holder, together with the reason for the intended recommendation, as well as to such other persons, departments, boards, commissions, authorities or agencies who appear to have an interest in the recommendation.
- (b) Within seven (7) days of mailing of the Coordinator, Community Liaison and Business Licencing's notice in (a) above, the applicant or licence holder may request a hearing before the Appeals Committee. Such request for a hearing shall be in writing and must be received by the Coordinator, Community Liaison and Business Licencing no later than ten (10) days after the Coordinator, Community Liaison and Business Licencing mailed the notice to the applicant.
- (c) Any request for a hearing shall be accompanied by an appeal fee of \$100.00.

4.4 REFUSAL – SUSPENSION – REVOCATION – NOTICE OF HEARING – CONTENT

Where the Coordinator, Community Liaison and Business Licencing receives a written request for a hearing in compliance with Section 4.3(b), the Coordinator, Community Liaison and Business Licencing shall schedule a hearing before the Appeals Committee and shall provide notice of the hearing to the applicant or licence holder. The notice of the hearing shall:

- (a) contain a reference to Sections 150 and/or 252 of the *Municipal Act, 2001* under which the hearing will be held;
- (b) contain a reason or reasons for the proposed refusal, suspension or revocation;
- (c) specify the time, place and purpose of the hearing of the Appeals Committee at which the proposed refusal, suspension or revocation will be considered;
- (d) inform the affected applicant or the affected holder of the licence that he/she is entitled to attend the hearing and make submissions regarding the proposal and that, in his/her absence, the Appeals Committee may proceed to consider the proposal, and the applicant or affected holder of the licence will not be entitled to any further notice in the proceedings;

- (e) afford the affected applicant or the affected holder of the licence a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the licence, and
- (f) be given at least fifteen (15) days notice prior to the date of the Appeals Committee hearing.

4.5 REFUSAL – SUSPENSION – REVOCATION – BY APPEALS COMMITTEE – HEARING

At the hearing, the Appeals Committee may suspend, revoke or refuse to issue any licence that may be issued under the provisions of any part of this by-law:

- (a) for any reason that would disentitle the holder to a licence if he/she were an applicant;
- (b) where the holder of the licence or application is in breach of a condition of the licence or of this by-law;
- (c) if a report is filed subsequent to the date of the issuance of the licence or by any department or agency which provided its approval originally to the issuance of the licence which indicates that a licenced premise no longer complies with any of the provisions of this by-law;
- (d) upon such grounds as are set out in this by-law;
- (e) if the conduct of the applicant or licensee affords reasonable cause to believe that the applicant or licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity;
- (f) if, in the case of a corporate applicant or licensee, the conduct of its officers, directors, employees or agents affords reasonable cause to believe that the business will not be engaged in or carried on in accordance with the law or with honesty and integrity.

4.6 SUSPENSION – INTERIM – PENDING – DURING MEETING

Where there is a referral or request for a hearing to the Appeals Committee, the Committee may, where the Committee considers it to be necessary in the public interest, immediately suspend the licence for a period exceeding fifteen (15) days.

4.7 SUSPENSION – INTERIM - EXTENSION

The Appeals Committee may, at the meeting mentioned in Section 4.2 of this part of this by-law, extend the interim suspension until the Committee disposes of the proposed suspension or revocation.

4.8 SUSPENSION – INTERIM – NOTICE – CONTENT

The notice mentioned in Section 4.4 of this by-law shall inform the holder of the licence of any interim suspension and of the authority of the Committee under Sections 4.6 and 4.7 of this by-law.

4.9 APPEALS COMMITTEE – PROCEEDINGS

At a hearing, the Appeals Committee:

- (a) shall afford the affected applicant or the holder of the licence an opportunity, at the hearing, of making submissions in respect of the matter that is the subject of the Committee's proceedings;
- (b) shall afford any person, municipal department, board, commission, authority or agency given notice under Section 4.4 of this by-law and in attendance at the hearing, or any other person in the discretion of the Committee, an opportunity to make submissions in respect of the matter that is the subject of the Committee's proceedings;
- (c) may close a portion of the hearing to the affected applicant or licence holder only for the purpose of receiving confidential legal advice;
- (d) may close all or a portion of the hearing to the public if the Committee is of the opinion that intimate financial or personal matters may be disclosed of such a nature, having regards to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the hearing be open to the public;
- (e) shall give due consideration to the submissions made to it;
- (f) shall take such action to refuse, suspend or revoke the application or licence, or not to refuse, suspend or revoke the application or licence, as the Appeals Committee considers proper in the circumstances;
- (g) shall give notice of its decision to the Coordinator, Community Liaison and Business Licencing, to the applicant or to the licence holder, and to any person, municipal department, board, commission, authority or agency in attendance at the hearing, together with the reasons for its decision.

PART 5 – FEES

- 5.1 (a) The sums of money set out in **Schedule "LLS-A"** of By-law No.40-09 as amended or superseded from time to time, are hereby fixed as the licence fees and shall be paid before the issue or renewal of any licence. Unless otherwise specified, the fees shown are for the current calendar year and are due and payable by January 31st of the licence year.
- (b) A late payment charge shall be added to the licence fee for those renewal applications received after January 31st in the current licence year in the amount established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

PART 6 – SCHEDULES

Schedules "1" to "13" are attached hereto and form part of this by-law.

PART 7 – OFFENCES

- 7.1 Every person, director or officer of a corporation who contravenes or concurs in the contravention by the corporation (hereinafter referred to as "person"), of any provision

of this by-law is guilty of an offence and is liable upon conviction and at the discretion of the presiding Justice of the Peace or Judge of the Ontario Court (Provincial Division) or other relevant Justice or Judge or Court, to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, Chapter p.33, as amended.

PART 8 – PENALTIES

- 8.1 Every person who contravenes Sections 3.5, 3.10 (a), (b) and (c), 3.11, 3.14, 3.16, and Sections 4.1 and 4.2 of Schedule “5” of this by-law is guilty of an offence and liable to the set fines established under Schedule “A” annexed hereto and shown as Schedule “12”
- 8.2 Any person found to be in contravention of this by-law, shall be issued a notice of such violation. Every such person may, within seventy-two hours of the time when such notice was issued, pay at the Town of Fort Erie Municipal Offices a penalty for and in full satisfaction of such violation as set out in Schedule “12” annexed hereto and forming part of By-law No. 217-05. The failure of such person to pay the said sum as set forth in Schedule “12” annexed hereto, subjects him or her to the penalties here and before provided for the violation of the provisions of this by-law.
- 8.3 The court, in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
- 8.4 In the event that any provision of this by-law is found to be invalid or unenforceable, all other provisions of this by-law shall remain in force or effect.
- 8.5 The set fines described herein shall come into force and effect upon receipt of the Judge’s Order from the Ministry of the Attorney General.

PART 9 - ULTRA VIRES

- 9.1 (a) It is hereby declared that notwithstanding that any part of this by-law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this by-law are separate and independent therefrom and enacted as such.
- (b) When any requirement of this by-law is at variance with any other by-law in effect in the Town or with any applicable Provincial or Federal statute or regulation, the more restrictive requirements shall apply unless otherwise stated in such legislation.

PART 10 - MODIFICATIONS OR CORRECTIONS

Pursuant to the provisions of Section 227 of the *Municipal Act, 2001* the Town Clerk is hereby authorized to effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the by-law and schedules as may be necessary after the passage of this by-law.

PART 11 - REPEALED BY-LAWS

The following by-laws be and they are hereby repealed and any and all other applicable by-laws inadvertently not mentioned herein: By-law Nos. 239-2002, 203-2001, 202-2001, 212-2000, 91-2000, 195-98, 154-98, 92-97, 220-95, 193-95, 194-95, 184-95, 232-92, 173-92, 147-92, 38-92, 260-89, 206-88, 102-88, 16-87 and 133-71.

PART 12 - EFFECTIVE DATE OF BY-LAW

This by-law shall come into force and effect on the 1st day of January, 2006.

PART 13 – EXPIRY OF BY-LAW

B/L 70-10 – repealed this section

PART 14 – DELEGATION FOR ADULT ENTERTAINMENT ESTABLISHMENTS

The authority of The Corporation of the Town of Fort Erie to licence, regulate and govern adult entertainment establishments pursuant to Section 151 of the *Municipal Act, 2001*, as amended, is hereby delegated to The Regional Municipality of Niagara.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12th DAY OF DECEMBER, 2005.

MAYOR

CLERK

I, the Clerk, of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true certified copy of By-law No. 217-05 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____, 20 .



SCHEDULE “1” - By-law No. 217-05

NEW BUSINESS

1. DEFINITIONS

In this Part:

- (a) “New Business” means any person including a corporation, partnership, agent or trustee who offers goods, wares, merchandise or services for sale or hire on a permanent basis in any manner in a properly zoned location in the Town other than a residential zone, either directly or by way of sample or catalogue for delivery later;
- (b) “Services’ means services,
 - (i) provided in respect of goods or other real property, or
 - (ii) provided for social, recreational or self-improvement purposes, or
 - (iii) that are in their nature instructional or educational.

2. PURPOSE OF BY-LAW

The purpose of the licencing of New Businesses relates to matters of Health and Safety, Nuisance Control and Consumer Protection.

3. LICENCE FEE

The annual licencing fee shall be as established in **Schedule “LLS-A”** of By-law No. 40-09 as amended or superseded from time to time.

4. CONDITIONS

4.1 Upon receipt of the application and fee, the Coordinator, Community Liaison and Business Licencing or designate shall circulate the application to the following departments for approval:

- (a) Planning Department to ensure compliance with the Official Plan and Zoning By-law for the proposed use at the location stated on the application;

SCHEDULE "1" - NEW BUSINESS

- (b) Building Department for compliance with the Building Code and Property Standards By-law;
- (c) Fire Department for compliance with the Fire Code.

4.2 The provisions of this by-law shall not apply to:

- (a) Any manufacturing activity or an industry, except to the extent that it sells its products or raw materials by retail;
- (b) The selling of goods by wholesale;
- (c) The generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources;
- (d) The carrying on of a business as a home occupation in compliance with the Zoning By-law of the Town;
- (e) The carrying on of a home occupation trade as provided for under the provisions of the Zoning By-law of the Town.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "2" - By-law No. 217-05

AMUSEMENT ARCADES

1. DEFINITIONS

In this Part:

- (a) "Amusement Machine" means any mechanical, electronic or computerized machine, or device, or any combination thereof intended for use as a game, entertainment or amusement and shall include:
 - (i) pinball machines, television games, shooting galleries or other similar devices, but shall not include, billiards, games of chance as defined by the Criminal Code, or any machine used only for the purpose of vending merchandise, or services or playing recorded music;
- (b) "Amusement Arcade" means any premises, part thereof, or separate part of a premises, in which are located three or more amusement machines but does not include any premises, part thereof or separate part thereof that is licenced under the *Liquor Licence Act*;
- (c) "Amusement Park" means a facility, open to the public, used in connection with a carnival, fair, shopping centre, resort, park or place of entertainment where amusement devices are provided.

2. PURPOSE OF BY-LAW

The purpose of the licencing of Amusement Arcades relates to matters of Health and Safety and Nuisance Control.

3. LICENCE FEE

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09, as amended or superseded from time to time.

4. CONDITIONS

- 4.1 The Applicant shall include the number of amusement machines proposed to be installed or provided in the place in respect of which the application is made;

SCHEDULE "2" - AMUSEMENT ARCADES

- 4.2 The Coordinator, Community Liaison and Business Licencing shall forward a copy of such application to the Fire Inspector, the Niagara Regional Health Unit, the Niagara Regional Police Department, and the Building Department and the Planning Department (for new applications only) and may forward a copy of such application to any other Department of the Town which may be affected, for approval.
- 4.3 Every holder of a licence shall ensure that:
- (a) There is an employee who is at least eighteen (18) years of age on the licenced premises at all times when amusement machines are available for play, who will be responsible for supervising, overseeing and maintaining orderly conduct within the building or part thereof which contains the amusement machines;
 - (b) The amusement arcade remains closed except during the following times:
Monday to and including Thursday, from 10:00 a.m. to 11:00 p.m.
Friday, from 10:00 a.m. to 12:00 midnight
Saturday, from 10:00 a.m. to 12:00 midnight, and
Sunday, from 12:00 noon to 11:00 p.m.;
 - (c) No person under the age of 16 years plays any amusement machine between the hours of 9:00 a.m. and 4:00 p.m. on any regular school day;
 - (d) No person under the age of 16 years plays any amusement machine, unless accompanied by a parent or guardian after 9:00 p.m. on any business day;
 - (e) The amusement arcade shall be kept in a clean and sanitary condition at all times, and provide a minimum of two waste receptacles which shall be cleared at least once a day;
 - (f) All amusement machines are within the premises;
 - (g) No external sound system broadcasting music or any other sound is used or permitted to be used;
 - (h) No internal sound system broadcasting music or any other sound is used or permitted to be used so as to be heard from outside the premises, by members of the public;

SCHEDULE “2” - AMUSEMENT ARCADES

- (i) No person loiters, creates a disturbance or causes undue noise while on the premises;
- (j) No glass or transparent surface of any door or window is obstructed in such a way as to prevent a person from the exterior from looking into the premises, without actually having to enter upon the premises;
- (k) Only amusement machines which have been approved by Ontario Hydro or Canadian Standards Association (C.S.A.) and which display the prescribed approval sticker are available for the public to use within the licenced premises;
- (l) There are bicycle racks provided on site and that at no time shall bicycles used by patrons of the amusement arcade be left on the street or sidewalk;
- (m) The owner shall not contravene any existing by-law of the Town;
- (n) No person shall operate any amusement arcade in areas other than those permitted by the provisions of the applicable Zoning By-law for the Town;
- (o) All licenced premises shall comply with the applicable Zoning By-law of the Town and any conflict between this by-law and the applicable Zoning By-law shall be resolved by allowing the Zoning By-law to prevail.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "3" - By-law No. 217-05

AUCTIONEER

1. **DEFINITIONS**

In this Part:

- (a) "Auction" means the sale of or putting up for sale to the public goods, wares, merchandise, effects or the like which are intended to be sold or are sold to the highest bidder;
- (b) "Auctioneer" shall mean any person selling or putting up for sale goods, wares, merchandise or effects by public auction and shall be deemed an Auctioneer within the meaning of this Schedule;
- (c) "Beater" or "Booster or Shills" means a person working in concert with an Auctioneer for the purpose of increasing the sale price of an item being auctioned by establishing a first bid on the item or bidding higher than a bid already established on the item;
- (d) "Ledger" means a record maintained in the English language containing the name and address of every person depositing goods with the Auctioneer to be sold, a full description of such goods, the reserved bid, if any, on such goods, the name and address of the purchaser of such auctioned goods, or any part thereof;
- (e) "Mock Auction" means the auctioning of goods wherein the Auctioneer leads persons in attendance to believe that a bid has been made by a potential purchaser on an item being auctioned when in fact such a bid has not been made; and
- (f) "Reserved Bid" means the minimum sale price of an item to be auctioned as recorded in the Auctioneer's ledger as established by the person depositing the item with the Auctioneer to be sold.

2. **PURPOSE OF BY-LAW**

The purpose for requiring an Auctioneer's Licence and for the conditions set out in this Schedule is related to matters of Consumer Protection.

SCHEDULE "3" - AUCTIONEER

3. LICENCE REQUIRED

- (a) A separate Licence shall be required for each Auctioneer;
- (a) No person shall operate an Auction unless the Auctioneer is licenced under this by-law.

4. LICENCE FEE

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

5. CONDITIONS

5.1 Every Auctioneer licenced under this by-law shall:

- (a) Keep and maintain a clearly legible, up-to-date Ledger at all times;
- (b) Ensure that every Ledger required pursuant to this Schedule shall be provided for inspection upon demand by the Coordinator, Community Liaison and Business Licencing or an Officer;
- (c) Keep and maintain in good condition each Ledger for a minimum of twelve (12) months after the date of the last Ledger entry;
- (d) Shall ensure that his/her licence is displayed in a conspicuous place clearly visible to the public at the site of each Auction at all times.

5.2 No Auctioneer shall:

- (a) Conduct a Mock Auction or knowingly or willfully make, or permit to be made, any misrepresentation as to the quality or value of any item being auctioned;
- (b) Sell or put up for sale by auction any item on which a Reserved Bid has been established without first advising those persons in attendance that there is a Reserved Bid on the item;
- (c) Permit any disorder in his or her auction room or offices;

SCHEDULE “3” - AUCTIONEER

- (d) Knowingly make or permit to be made any misrepresentation as to the nature, content, quantity or value of any goods, wares, merchandise or effects which may be offered for sale by him or her;
- (e) Give away articles or sell them for nominal amounts for the purpose of stimulating bidding;
- (f) Do any act that is calculated to or which may reasonably have the effect of confusing a purchaser as to the amount he or she pays for any article(s);
- (g) Avail himself or herself of the services of, or act in concert with, persons known in the trade as “beaters”, “boosters” or “shills” for the purpose of raising or stimulating bids;
- (h) Shall conduct a sale on Town highways or on Town property without the written permission of the Director of Infrastructure Services of the Town or designate.

6. EXEMPTIONS

Sections 2 and 3 of this Schedule shall not apply to:

- (a) A person conducting an auction from which the proceeds derived are used for a charitable or not-for-profit organization, as defined in Section 1 of this by-law, upon proof satisfactory to the Coordinator, Community Liaison and Business Licencing of such status; or
- (b) A sheriff, bailiff or other statutory authority acting in pursuance of a court order or pursuant to any legislative authority.



THE CORPORATION OF THE TOWN OF FORT ERIE

**SCHEDULE "4" - By-law No. 217-05
BED AND BREAKFAST ESTABLISHMENTS**

1. DEFINITIONS

In this Part:

- (a) "Bed and Breakfast" means a single detached dwelling or portion thereof where persons are harboured, received or lodged for hire for a single night or for less than one week at one time by the owner of the dwelling or head lessee but does not include any type of institutional dwelling, hotel, motel or a tourist establishment;
- (b) "Dwelling" means the home or part of the home of the owner or head lessee of a bed and breakfast establishment.

2. PURPOSE OF BY-LAW

The purpose of the licencing of Bed and Breakfast Establishment relates to matters of Health and Safety and Consumer Protection.

3. LICENCE FEE

- (a) The bi-annual non-refundable licence fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time and such licence shall expire on the 31st day of December in the following year in which the licence was issued.

4. CONDITIONS

- 4.1 Every person prior to operating a bed and breakfast, shall make application to the Coordinator, Community Liaison and Business Licencing for a bed and breakfast licence, which shall include:
 - (a) A description of the dwelling with the bed and breakfast rooms to be identified therein by name, number and physical description;
 - (b) The non-refundable licence fee;

SCHEDULE "4" - BED AND BREAKFAST ESTABLISHMENTS

- (c) Letters of compliance pursuant to Section (4.2) herein.
- 4.2
- (a) Prior to filing the application and fee for a new licence, the applicant shall obtain letters of compliance from the Building Inspector, Fire Inspector and Planner of the Town as well as the Medical Officer of Health and Ontario hydro Inspector respecting the applicable legislation and by-laws thereto;
 - (b) For renewal applications, the applicant shall obtain letters of compliance from the Building Inspector, Fire Inspector and Medical Officer of Health.
- 4.3 Every person applying for a bed and breakfast licence shall comply with the following requirements:
- (a) Pursuant to the Zoning By-law of the Town all bed and breakfasts shall be located in a single detached dwelling;
 - (b) No person shall use a dwelling solely for the purpose of a bed and breakfast;
 - (c) Every licensee of a bed and breakfast shall ensure that it is the principal residence occupied on a full-time basis by:
 - (i) the owner of the dwelling;
 - (ii) the lessee of the dwelling who has a minimum one year lease; or
 - (iii) a member of the family of the person described in (i) or (ii);
 - (d) Every licensee of a bed and breakfast shall allow the municipality at any reasonable time to inspect places or premises used in the carrying on of the business.
- 4.4 No more than three (3) bedrooms shall be available for hire in any bed and breakfast occupying no more than eight (8) guests in total.
- 4.5 A minimum of one (1) parking space per guest room must be provided on the same lot, in addition to the parking space required for the dwelling, but required onsite parking spaces may be provided in tandem.
- 4.6 Every operator of a bed and breakfast shall provide one (1) washroom containing at least one (1) toilet, one (1) washbasin and one (1) tub or shower for the exclusive use of the lodgers and such facility shall be located on the same floor as the majority of the rooms available for hire.

SCHEDULE "4" - BED AND BREAKFAST ESTABLISHMENTS

An adequate supply of clean towels and hot and cold running water shall be provided free of charge.

- 4.7 In addition to compliance with the relevant provincial and municipal regulations every licensee of a bed and breakfast shall ensure that the dwelling is operated in accordance with the following provisions:
- (a) Breakfast may be provided by the licensee of the bed and breakfast but no other meals may be provided. In addition, there shall be no cooking in the guest rooms;
 - (b) Rates for the guest rooms shall be set forth on a card which shall indicate the room is licenced by the Town. Such notice shall be posted on the back of the door of each licensed room or in a conspicuous place within the room;
 - (c) Each bed shall have its linens changed after each guest has completed his/her stay or once every two (2) days, whichever is lesser;
 - (d) Only one (1) sign having a maximum area of 0.3 square metres shall be permitted on the property to advertise the bed and breakfast. The sign shall not be located within a daylighting triangle and shall not be closer than one (1) metre to a property line;
 - (e) Alterations to the outside of the dwelling shall be undertaken in compliance with the Zoning By-law and other applicable codes/regulations of the municipality;
 - (f) Every licensee shall maintain a daily record of the guests lodging at the bed and breakfast including arrival date, departure date, room number, name, address, telephone and vehicle licence plate number of the guest;
 - (g) Every licensee who has a swimming pool within the limits of the property, shall not make the swimming pool available to guests unless approval has been granted by the Health Department, in writing;
 - (h) Pursuant to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* the licensee shall furnish to the police the guest register upon request therefore.



THE CORPORATION OF THE TOWN OF FORT ERIE

**SCHEDULE "5" - By-law No. 217-05
BILL DISTRIBUTORS**

1. DEFINITIONS

In this Part:

- a) "Bill" includes unsolicited, gratuitous pamphlets, circulars, newspapers, advertising papers and other forms of printed material;
- b) "Bill Distributors" includes any person who delivers unsolicited, gratuitous pamphlets, circulars, newspapers, advertising papers or other forms of printed material to any place or from door to door within the limits of the Town of Fort Erie;
- c) "Rural Properties" means properties that are located outside of the Regional Municipality of Niagara Urban Area Boundary.

2. PURPOSE OF BY-LAW

The purpose of the licencing of Bill Distributors relates to matters of Nuisance Control.

3. LICENCE FEE

The annual licencing fee shall be as established in Schedule "CS-A" of By-law No. 40-09 as amended or superseded from time to time.

4. CONDITIONS

- 4.1 Except on rural properties, a Bill may only be placed in a mail box or between the inside and outside doors of a building, or in the case where there are no mailboxes or (open) screen doors, a Bill may be placed on a porch or hung from a door handle.
- 4.2 No person shall place a Bill or Bills in or on any motor vehicles.

SCHEDULE "5" - BILL DISTRIBUTORS

- 4.3 No licence shall be required by a person who works only as an employee or subcontractor of the person licenced.
- 4.4 No person distributing bills shall distribute any material that is indecent or tends to corrupt morals.



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

SCHEDULE “6” - By-law No. 217-05

HAWKERS AND PEDLARS

1. DEFINITIONS

In this Part:

- (a) “Community Event” means a community event with the proceeds to be donated to a bonafide local charitable or not-for-profit organization;
- (b) “Hawker” or “Pedlar” includes:
 - (i) any person who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards, and
 - (ii) any retailer which has an employee or agent who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Town afterwards;
- (c) “Local retailer” shall mean any individual or business which provides for the selling or offering for sale of goods or services at a building or structure located within the Town of Fort Erie which is subject to property tax in the Town.

2. PURPOSE OF BY-LAW

The purpose of the licensing of Hawkers and Pedlars relates to matters of Health and Safety, and Consumer Protection and Nuisance Control.

3. LICENCE FEE

The annual licensing fee shall be as established in **Schedule “LLS-A”** of By-law No. 40-09 as amended or superseded from time to time.

SCHEDULE "6" – HAWKERS AND PEDLARS

4. CONDITIONS

4.1 The following classes of "Hawker" or "Pedlar" are hereby established:

Class 1 – "Door to Door Sales" and "Sales Person"

- (a) Shall include any business, person or organization that has sales conducted on his/her or its behalf by door to door solicitation.
- (b) Shall include any person involved with the sale of goods on a door to door basis including sales persons or agents and any person supervising or managing the sale or sales persons.

Class 2 – "Temporary Sales"

- (a) Shall include temporary sales or businesses for a period of up to three (3) months in any one year from one specific location where the use is permitted under the Zoning By-law and may include the use of a temporary structure where the use is permitted in the Zoning By-law.
- (b) Shall include the sale of fireworks for a one to seven day period from one specific location where the use is permitted under the Zoning By-law and may include the use of a temporary structure or a vacant commercial lot where the use is permitted in the Zoning By-law. Such applicant shall comply with any Fireworks By-law of the Town.

Class 3 – "Multi-Vendor Sales"

The operator is required to obtain one licence to cover all vendors at the following events:

- (a) **Antique/Collectible Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location, antique or collectible goods, wares or merchandise.
- (b) **Craft Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location by craftspeople, goods, wares or merchandise which they themselves have produced.
- (c) **Trade Show:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location by several manufacturers or distributors, goods, wares or merchandise which they themselves have produced or manufactured or are distributing on behalf of the producer or manufacturer; but, excludes a consumer show open to the public or

SCHEDULE “6” – HAWKERS AND PEDLARS

a trade show open by invitation or registration only, the primary purpose of which is the display of goods and products and not the direct sale of them, and also excludes a consumer show or trade show operating as an integral part of a convention or conference.

- (d) **Farmers’ Market:** Shall include the exhibiting or offering for sale, on a temporary basis, at one location, produce, baked goods and other goods, wares or merchandise. The operator shall provide proof of permission to operate from the property owner, obtain zoning clearance and ensure that all relevant inspections and approvals have been obtained including fire and health.

Class 4 – General

Shall include any “hawker” or “pedlar” excluding Classes 1 to 3 as defined in Section 4.

4.2 Operation without valid licence – prohibited

No person shall, in the Town:

- (a) Carry on the business of hawker or pedlar; or
- (b) Be engaged in services to the public in connection with the business of a hawker or pedlar; or
- (c) Operate a multi-vendor sales event or operate a place where others may offer for sale and sell goods, wares or merchandise to the public contrary to this part of this by-law;

without holding a current valid licence for such business issued under the provisions of this By-law and Schedule.

4.3 Licence – of employee – transferable

Notwithstanding Part 3 of this by-law, the licence of an employee of a hawker or pedlar requiring their own licence shall be transferable to another employee upon the return of the original licence issued by the Town and upon the completion of an application form by the new employee.

4.4 Exemption – from licence – other circumstances

Notwithstanding Section 4.2 of this Schedule, no Hawkers and Pedlars Licence or fee shall be required for hawking, peddling or selling goods, wares or merchandise:

SCHEDULE “6” – HAWKERS AND PEDLARS

- (a) For wholesale or retail dealers in similar goods, wares or merchandise; or
- (b) If the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays property tax in the Town in respect of premises used for the sale of such goods, wares or merchandise; or
- (c) For local farmers who are carrying out “temporary sales” if the produce they are selling is being sold from their own property and has been grown and harvested by them; or
- (d) If the goods, wares or merchandise are hawked, peddled or sold at a community event or by a bonafide charitable or not-for-profit organization for fundraising purposes or events operated and managed by a Business Improvement Area Board of Management. However, the applicant shall obtain all relevant inspections and approvals including fire and health. A licence shall be issued and posted by the said organization for the sale of fireworks; or
- (e) If the goods, wares or merchandise are hawked, peddled or sold at a Farmers’ Market operated and managed by a Business Improvement Area Board of Management. However, the applicant shall obtain all relevant inspections and approvals including fire and health; or
- (f) If the local licenced retailer is operating at an alternate temporary location provided that the goods, wares or merchandise offered for sale at the temporary location are the same goods, wares or merchandise offered for sale continuously when the local retailer is open for business at their permanent location for at least three (3) months prior to their application for the hawkers and pedlars licence.

4.5 Public parks and beaches

No person licenced, or required to be licenced, as a “hawker” or “pedlar” shall carry on the business of a hawker or pedlar in any public park or Town-owned beach park in the Town except as follows;

- (a) At the discretion of the Coordinator, Community Liaison and Business Licencing and the Director, Infrastructure Services or designate, a hawkers and pedlars licence may be issued for the selling of goods, wares or merchandise in any public park.
- (b) At the discretion of the Coordinator, Community Liaison and Business Licencing and the Director, Infrastructure Services or designate, a hawkers and pedlars licence may be issued for the selling of goods, wares or merchandise on Bay Beach to a maximum of four (4) licenses issued on a first come, first served basis, subject to any reasonable requirements imposed thereon including the variety of items, safety and accommodation.

SCHEDULE "6" – HAWKERS AND PEDLARS

4.6 Restricted Licenses

Licenses for the selling of goods, wares or merchandise by hawkers and pedlars shall be restricted to two (2) licenses for commercial properties. These licenses shall be on a first come, first served basis, renewable annually.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "7" - By-law No. 217-05

PAWN BROKERS

1. DEFINITIONS

In this Part:

"Pawnbroker", "Pawner", "Pledge" and "Shop" have the same meaning as those set out in the *Pawnbrokers Act*, R.S.O. 1990, Chapter P.6 as amended from time to time.

2. PURPOSE OF BY-LAW

The purpose of the licencing of Pawn Brokers relates to matters of Consumer Protection.

3. LICENCE FEE

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

4. CONDITIONS

4.1 That no licence or renewal shall be issued hereunder unless the applicant first deposits with the Treasurer of the Town security to the satisfaction of the Treasurer in the sum of \$2,000 for the due observance by the pawnbroker of the *Pawnbrokers Act*.

4.2 That every pawnbroker operating in the Town of Fort Erie shall be governed by the *Pawnbrokers Act*, R.S.O. 1990, Chapter P.6 as amended from time to time.



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

SCHEDULE "8" - By-law No. 217-05

REFRESHMENT VEHICLES, CYCLES AND CARTS

1. DEFINITIONS

In this Part:

- (a) "Refreshment Vehicle" means a motorized vehicle which has equipment inside the vehicle for preparing food and requires the operator to be inside the vehicle to prepare the food for consumption by the public.
- (b) "Refreshment Cart" means a wheeled, pedaled or transported non-motorized refreshment vehicle other than a refreshment cycle.
- (c) "Refreshment Cycle" means a non-motorized bicycle or tricycle from which ice cream, frozen desserts or other frozen confections are sold.

2. PURPOSE OF BY-LAW

The purpose of the licencing of refreshment vehicles, cycles and carts relates to matters of Health and Safety, Consumer Protection and Nuisance Control.

3. LICENCE FEE

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

4. CONDITIONS

4.1 Every applicant for a licence shall file an application with the Town including the following:

- (a) Approval of the Medical Officer of Health or designate;
- (c) Approval of the Fire Inspector or designate, if required

SCHEDULE "8" – REFRESHMENT VEHICLES, CYCLES AND CARTS

- (d) Compliance Certificate under The Ontario Propane Code, if required;
 - (e) The intended location(s) for the operation of a refreshment vehicle or refreshment cart;
 - (f) A site plan setting out the proposed location of the refreshment vehicle or refreshment cart on the highway under the control of the Town or the location(s) that the operator intends to sell from;
 - (g) Upon approval by the Town these locations shall not be available to any other applicant until such time as the current licensee fails to renew the licence for the following year or such licence is suspended or revoked by the Appeals Committee.
- 4.2 Operators may be licenced to operate a refreshment vehicle, refreshment cart or refreshment cycle on any commercially zoned property in the Town as provided for under the Zoning By-law as amended, save and except vacant commercial properties, subject to the following:
- (a) Such vehicle shall be located on surplus parking space on a semi-permanent basis;
 - (b) Compliance with Section (4.1) herein;
 - (c) The provision of a letter of consent from the owner of the subject property;
 - (d) Any application to locate a vehicle on the lands occupied by a gas station shall provide that the vehicle will be located at least fifty (50) feet (15.24 metres) from the gas pumps;
 - (e) The provision of a site plan drawing showing the proposed location of the vehicle on lands delineated as surplus parking space and its relationship to the highways bounded by the said lands;
 - (f) The licence shall continue on an annual basis subject to compliance with the provisions of this by-law.
- 4.3 Except for commercial and residential properties, refreshment carts may go from place to place to sell refreshments and may only stop for the period of time of sale.

SCHEDULE "8" – REFRESHMENT VEHICLES, CYCLES AND CARTS

- 4.4 Any person applying for a new refreshment vehicle, refreshment cart or refreshment cycle licence shall supply the following information with the application:
- (a) A list of the types of refreshments to be sold specifying whether the items include ice cream, frozen desserts or other frozen confections;
 - (b) Particulars of the type of vehicle including the serial number and in the case of a motorized refreshment vehicle, a valid and current safety standard certificate as issued by the Ministry of Transportation for the vehicle;
 - (c) Name and address of business under which the refreshment vehicle, refreshment cart or refreshment cycle will operate;
 - (d) Photograph of vehicle/cart.
- 4.5 (a) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped and maintained with a clean compartment for the storage of food and in the case of an ice cream vehicle the compartment shall be refrigerated.
- (b) Every refreshment vehicle, refreshment cart and refreshment cycle shall be equipped with a suitable refuse container.
- 4.6 Any person operating a refreshment vehicle, refreshment cart and refreshment cycle for the sole purpose of selling ice cream shall additionally be equipped and maintained as follows:
- (a) With the warning "WATCH FOR CHILDREN" in readily legible black letters at least six inches (6") (15.24 cm) high on a yellow background, conspicuously displaced on the rear of the vehicle;
 - (b) With a minimum of two (2) amber lights on top so placed as to be readily visible by a person five (5) feet (1.52 metres) in height standing four (4) feet (1.22 metres) in front of or behind the vehicle and equipped with a device to keep the lights flashing while the vehicle is stopped for the sale of refreshments and that the vehicle's rear bumper shall have an angled cover on top designated and placed so as to prevent a child from standing or sitting on top.
- 4.1 Every refreshment vehicle and refreshment cart, not including refreshment cycles shall be a minimum of 45.72 metres (150 feet) away from the nearest

SCHEDULE "8" – REFRESHMENT VEHICLES, CYCLES AND CARTS

restaurant unless written permission has been granted by the property owner and the operator of such establishment consents to a distance of less than 45.72 metres (150 feet). Such consent shall be provided annually upon renewal of the licence. Such distance shall be measured from the location of the vehicle to the nearest exterior wall of the restaurant or the restaurant portion of the building having multiple occupancy.

- 4.8 Any person being the owner or operator of a licenced eating establishment and being licenced under this by-law for being a refreshment vehicle may operate the refreshment vehicle on the premises of the eating establishment without having to comply with being a certain distance from an eating establishment.
- 4.9 Upon receipt of an application for a refreshment vehicle or refreshment cart, the Coordinator, Community Liaison and Business Licencing, Director, Infrastructure Services or designate and the Director, Planning and Development Services or designate of the Town shall ensure the proposed location of such vehicle does not create a traffic hazard, does not impede the flow of traffic or jeopardize the safety of pedestrians, customers or passing motor vehicles.
- 4.10 This schedule does not apply to a farmer, market gardener or other persons selling or delivering goods to any place of business or residence upon such highways or part thereof.
- 4.11 Any person licenced under this by-law who fails to comply with the *Highway Traffic Act*, R.S.O. 1990 Chapter H.8 or regulations under the *Act* while operating a refreshment vehicle shall be grounds for the Council to consider suspension or the revocation of or the addition of conditions to the licence.
- 4.12 The operator shall ensure the area of sale is kept clean and tidy at all times and the garbage receptacle disposed of its contents.
- 4.13 The operator shall keep the refreshment vehicle, cart and cycle in good condition at all times.
- 4.14 (a) No application shall be considered for any municipal park that operates a refreshment canteen or for any municipal property that is bound by a lease or agreement for the provision of refreshments and/or food therein.
- (b) Any other park location requires the approval of the Director, Infrastructure Services or designate of the Town prior to consideration of the application for approval.

SCHEDULE "8" – REFRESHMENT VEHICLES, CYCLES AND CARTS

- 4.15 Liability insurance in the amount of Two Million (\$2,000,000) Dollars naming the Town of Fort Erie as additional insured shall be provided to the Town prior to the issuance of the licence.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "9" - By-law No. 217-05

RESIDENTIAL EMERGENCY HOSTEL

1. **DEFINITIONS**

In this Part:

- (a) "Exit" includes an exterior passageway, an exterior ramp, an enclosed interior stairway and an exterior stairway.
- (b) "Hostel" means "Residential Emergency Hostel" sponsored or supervised by a public authority or non-profit agency for the purpose of providing temporary accommodation for persons requiring immediate shelter and assistance for a short period of time not to exceed one hundred twenty (120) days.
- (c) "Inspector" means:
 - (i) a Building Inspector of the Town;
 - (ii) the Fire Inspector of the Town;
 - (iii) an Inspector of the Health Services Department of the Regional Municipality of Niagara;
 - (iv) an authorized representative of Canadian Niagara Power Company.
- (d) "Medical Officer of Health" means the Medical Officer of Health of the Regional Municipality of Niagara.
- (e) "Resident" means a person, other than an operator or employee, who resides in the Hostel and to whom, for a fee, the operator offers residential accommodation.

2. **LICENCES**

- 2.1 No licence shall be issued until the Applicant has obtained the following notices of compliance and they have been filed with the prescribed application form and delivered to the Coordinator, Community Liaison and Business Licencing:

SCHEDULE "9" - RESIDENTIAL EMERGENCY HOSTEL

- (i) Property Standards By-law
- (ii) Zoning By-law
- (iii) The Ontario Electrical Safety Code – shall be conducted every three (3) years
- (iv) Ontario Fire Code
- (v) Building Code
- (vi) Plumbing Code
- (vii) Health Protection & Promotion Act
- (viii) Fire Protection and Prevention Act
- (ix) Extraneous Flow by-law
- (x) Smoke-Free Ontario Act

2.2 The operator shall post (and keep posted) in a conspicuous place in the main hall of the Hostel:

- (a) the Licence, and
- (b) a notice giving the operator's name, address and telephone number, and the name, address and telephone number of the employee who is in charge of the Hostel if that person is other than the operator.

3. LICENCE FEE

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09, as amended or superseded from time to time.

4. FIRE REGULATIONS

4.1 In addition to the requirements contained in Section 2.2, the operator of a Hostel shall ensure that:

- (a) all fire hazards are eliminated;
- (b) fire extinguisher, hose and standpipe equipment are inspected at least once a month;
- (c) the heating equipment and chimneys are inspected at least once every 12 months between June and September to ensure that they are safe and in good repair;
- (d) a written record is kept of inspections and tests of the fire equipment, the fire alarm system, the heating and chimneys;
- (e) the staff and so far as possible, the residents, know the method of sounding the fire alarm;
- (f) the staff is trained in the proper use of the fire extinguishing equipment;
- (g) a procedure is established to be followed when a fire alarm is given, including the duties of the staff and residents;

SCHEDULE "9" - RESIDENTIAL EMERGENCY HOSTEL

- (h) the staff and residents are instructed in the procedure established under clause (g) and that the procedure is posted in conspicuous places in the house;
- (i) all halls, stairways and means of entrance or egress are kept free from obstruction at all times, and;
- (j) all flammable materials and supplies are properly stored.

5. COMPLIANCE WITH BY-LAW

- 5.1 The licence issued under the authority of this by-law is conditional upon the compliance and continued operation of the Hostel in accordance with all the provisions of this by-law and may be revoked at any time for failure to comply herewith.

6. KITCHENS

- 6.1 The kitchen shall comply with *O.Reg. 562/90* Food and Premises Regulations under *The Health Protection and Promotion Act* as amended, regardless of the number of residents.
- 6.2 All plans of construction, alterations and/or additions to the kitchen and food storage areas must be approved first by the Medical Officer of Health.

7. WASHROOMS

- 7.1 No toilet room or bathroom shall be within or open directly into any dining room, kitchen, pantry, food preparation room or storage room.
- 7.2 No toilet shall be located within a bedroom.
- 7.3 Toilet facilities shall be provided in accordance with the requirements of the Medical Officer of Health.
- 7.4 Bathrooms, toilets and shower rooms shall be provided with doors and shall not have locks unless they are of a type that can be readily released from the outside in an emergency.
- 7.5 One bathroom, toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where such persons are a resident.
- 7.6 Wherever possible, persons confined to a wheelchair shall be accommodated in ground level facilities with suitable ingress and egress from the building.
- 7.7 A small stepping stool shall be available for use with each toilet and bathtub.

SCHEDULE "9" - RESIDENTIAL EMERGENCY HOSTEL

- 7.8 The bottom of each bathtub shall be furnished with non-skid material.
- 7.9 All toilet rooms or bathrooms shall be equipped with mechanical ventilation to the outside.
- 7.10 All water fixtures in all bathtubs and showers shall be equipped with hot water temperature regulators.

8. BEDROOMS

- 8.1 All bedrooms shall be:
- (a) furnished and decorated for the provision of residential services;
 - (b) in a room which is ventilated and lighted by natural light.

All floors containing bedrooms shall have two (2) separate means of egress to the outside.

9. OTHER

- 9.1 From September 15 until May 31 in each year and at all other times when heating may be reasonably necessary for the preservation of health, the temperature of all rooms and halls shall be maintained at not less than 20° centigrade (70° Fahrenheit).
- 9.2 The Hostel shall be free from hazards to the safety of residents, staff or visitors.
- 9.3 The following shall be provided:
- (a) handrails of a type that will ensure the safety of residents installed on each side of every stairway that is wider than 111.76 cm (44") on at least one side of each stairway that is 111.76 cm (44") or less, in width and on the open side of stairway or landing with the top of each handrail not less than 76.2 cm (30") nor more than 106.68 cm (42") above the finished floor or stair level;
 - (b) for each bathtub and each toilet, at least one grab bar or similar device of a type that will ensure the safety of residents;
 - (c) non-skid finishes and coverings on floors and stairways, and;
 - (d) balustrades on the open sides of every stairway, landing, balcony, raised porch or roof to which the residents have access; no openings in any such balustrade shall be more than 10.16 cm (4") wide.

SCHEDULE "9" - RESIDENTIAL EMERGENCY HOSTEL

10. QUALIFIED OPERATOR

10.1 A person shall not be licenced to operate a Hostel unless he/she is eighteen (18) years of age or over.

11. EMPLOYEES

11.1 A person shall not be employed in a Hostel unless:

- (a) he/she is eighteen (18) years of age or over;
- (b) a person who is a carrier of or has a communicable disease shall not continue to work or be employed in a Hostel until he or she has received permission to do so by the Medical Officer of Health.

12. RECORDS AND REPORTS

The operator shall be responsible for ensuring that:

12.1 An up-to-date alphabetical list of residents shall be maintained showing for each resident his name and date of admission.

12.2 A report in Form 1 shall be made of every fire and shall be sent or delivered forthwith to the Fire Inspector and a copy shall be kept on file in the Hostel.

13. INSPECTION

13.1 The Medical Officer of Health, the Chief Building Official, the Fire Chief, the Chief of Police and the Coordinator, Community Liaison and Business Licencing (and competent subordinates of any of them), may at all reasonable times, inspect any Hostel, its requisite records as provided for in this by-law).

14. DUTIES OF OFFICERS

14.1 It is the duty of:

- (i) the Medical Officer of Health;
- (ii) the Chief Building Official;
- (iii) the Fire Chief;
- (iv) the Chief of Police;
- (v) the Coordinator, Community Liaison and Business Licencing, and;
- (vi) any other relevant official,

to enforce the provisions of this by-law which are within their respective jurisdiction and each of them is hereby authorized to serve such notices and make and serve such orders as may be necessary.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "10" - By-law No. 217-05

RESTAURANT AND FRESH FOOD ESTABLISHMENTS

1. **DEFINITIONS**

In this Part:

- (a) "Restaurant" means a place of business where food is prepared and served to customers for consumption either in or outside the premises where preparation occurs;
- (b) "Fresh Food Establishment" includes a place of business where fresh food is prepared and/or sold on site and such fresh food includes but is not limited to fruits, vegetables, fish, meat and baked goods.

2. **PURPOSE OF BY-LAW**

The purpose of the licencing of Restaurant and Fresh Food Establishments relates to matters of Health and Safety and Consumer Protection.

3. **LICENCE FEE**

The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.

4. **CONDITIONS**

- 4.1 No licence shall be issued until the Coordinator, Community Liaison and Business Licencing has received confirmation from the Office of the Medical Officer of Health and Fire Inspector that the Applicant has satisfied all requirements.
- 4.2 Every licensee shall adhere to the regulations of the Fire Code, Building Code and the *Health Protection and Promotion Act*.



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "11" - By-law No. 217-05

SECOND LEVEL LODGING HOMES

1. DEFINITIONS

In this Part:

- (a) "Activities of daily living" includes those activities of the individual that maintain his/her sufficient nutrition, hygiene, warmth and rest;
- (b) "Aged" refers to a person over the age of 65 years;
- (c) "Controlled drug" has the same meaning as in *The Food and Drug Act* (Canada);
- (d) "Dentist" means a person legally qualified and entitled to practice the profession of dentistry in Ontario;
- (e) "Drug" includes a substance or mixture of substances manufactured, sold or represented for use in,
 - (i) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state or the symptoms thereof, in man; or
 - (ii) restoring, correcting or modifying organic functions in man;
- (f) "Exit" includes an exterior passageway, an exterior ramp, an enclosed interior stairway and an exterior stairway;
- (g) "House" means a privately owned "Second Level Lodging House";
- (h) "Inspector" means:
 - (i) a Building Inspector of the Building Department of the Town;
 - (ii) the Fire Inspector of the Town;
 - (iii) an Inspector of the Health Services Department of The Regional Municipality of Niagara;
 - (iv) an authorized representative of Canadian Niagara Power Company;

SCHEDULE “11” - SECOND LEVEL LODGING HOMES

- (i) “Medical Officer of Health” means the Medical Officer of Health of The Regional Municipality of Niagara;
- (j) “Mentally Infirm” refers to a mental condition of a person such that it interferes with his/her ability to be independent with respect to the activities of daily living. This would include those who are suffering from dementia or are mentally retarded or developmentally handicapped, and those suffering from chronic mental health disorders;
- (k) “Non-prescription drug” means a drug that is not a prescription drug;
- (l) “Operator” means a person licenced by the area municipality to operate a House;
- (m) “Physically infirm” refers to the physical condition of a person such that it interferes with his/her ability to be independent with respect to the activities of daily living;
- (n) “Physician” means a legally qualified medical practitioner;
- (o) “Pharmacist” means a member of The Ontario College of Pharmacists licenced under *The Health Disciplines Act*;
- (p) “Poison” has the same meaning as in *The Pharmacy Act*;
- (q) “Prescribed” when used with reference to a drug or mixture of drugs, means that a legally qualified medical practitioner or a dentist has directed the dispensing of the drug or mixture of drugs to a named person;
- (r) “Prescription drug” means a drug that may be dispensed by a pharmacist only upon the direction of a physician or dentist;
- (s) “Registered nurse” means a person who is registered as a nurse under the *Drug and Pharmacies Regulation Act*;
- (t) “Registered nursing assistant” means a person who is registered as a nursing assistant under the *Drug and Pharmacies Regulation Act*;
- (u) “Resident” means a person, other than an operator or employee, who resides in a House, and to whom, for a fee, the operator offers guidance in the activities of daily living and advice and information;
- (v) “Second Level Lodging House” means a privately owned House:

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- (i) which accommodates four or more residents who are aged, or physically or mentally infirm and who require guidance in the activities of daily living, and
 - (ii) where, twenty-four (24) hours a day, at least the operator or one adult responsible to the operator, is on duty in the House and able to furnish such guidance but does not mean a group home as defined in the Town of Fort Erie Zoning By-law;
- (w) "Semi-private accommodation" means a two-bed unit;
- (x) "Vertical shaft" means the same as the definition of "Vertical Shaft" found in the *Building Code Act*.

2. **PURPOSE OF BY-LAW**

The purpose of the licencing of Second Level Lodging Homes relates to matters of Health and Safety and Consumer Protection.

3. **LICENCE FEE**

- 3.1 The annual licencing fee shall be as established in **Schedule "LLS-A"** of By-law No. 40-09 as amended or superseded from time to time.
- 3.2 The Medical Officer of Health may impose nursing inspection fees based on cost recovery and shall directly invoice and recover such fees from the operator when such fees are imposed.

4. **CONDITIONS**

Each application shall be filed with the Coordinator, Community Liaison and Business Licencing including notices of compliance for the following for new licences and for renewal of licences respectfully:

- 4.1 New Licence:
- (a) Property Standards By-law
 - (b) Zoning By-law
 - (c) The Ontario Electrical Safety Code
 - (d) The Ontario Fire Code
 - (e) Building Code
 - (f) Health Protection and Promotion Act
 - (g) Smoke-Free Ontario Act

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- 4.2 Renewal of Licence:
- (a) The Ontario Electrical Safety Code
 - (b) The Ontario Fire Code
 - (c) Building Code
 - (d) Health Protection and Promotion Act
 - (e) Property Standards By-law
 - (f) Smoke-Free Ontario Act
 - (g) Ontario Electrical Safety inspections shall be conducted once every three (3) years and not annually
- 4.3 The operator shall post (and keep posted) in a conspicuous place in the main hall of the House:
- (a) the Licence, and
 - (b) a notice giving the operator's name, address and telephone number, and the name, address and telephone number of the employee who is in charge of the House, if that person is other than the operator.

4.4 Fire Regulations

In addition to the requirements contained in Section 4.3 the operator of a House shall ensure that:

- (a) All fire hazards are eliminated;
- (b) Fire extinguisher, hose and standpipe equipment are inspected at least once a month;
- (c) The heating equipment and chimneys are inspected at least once every twelve (12) months between June and September to ensure that they are safe and in good repair;
- (d) A written record is kept of inspections and tests of the fire equipment, the fire alarm system, the heating and chimneys;
- (e) The staff and so far as possible the residents, know the method of sounding the fire alarm;
- (f) The staff is trained in the proper use of the fire extinguishing equipment;
- (g) A procedure is established to be followed when a fire alarm is given, including the duties of the staff and residents;

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- (h) The staff and residents are instructed in the procedure established under Clause (g) and that the procedure is posted in conspicuous places in the House;
 - (i) A fire drill is held at least once a month;
 - (j) Matches available to the staff or residents or used by them in or around the House are safety matches;
 - (k) An inspection of the building is made each night to ensure that there is no danger of fire, and that the internal doors and stairwells and smoke barriers are closed and not locked;
 - (l) All halls, stairways and means of entrance or egress are kept free from obstruction at all times;
 - (m) All flammable materials and supplies are properly stored;
 - (n) That adequate rules are prepared and posted (and kept posted) in a conspicuous place in the "Main Hall of the House" governing the smoking of tobacco; the said rules shall include one that smoking is prohibited in the bedroom except when supervision is provided;
 - (o) Non-combustible safety ashtrays are provided in each area where tobacco smoking is permitted.
- 4.5 Where applicable the operator shall keep an ongoing up-to-date record of compliance with Section 4.4 hereof and shall provide proof of same when so requested by an Inspector or the Town.
- 4.6 Admission of Residents
- (a) Where the physical or mental condition of a person is such that, in the opinion of the Medical Officer of Health or the physician as mentioned in Section 4.7 the person cannot be properly cared for in a House, he/she may direct that the individual be transferred to a proper facility;
 - (b) A person shall not be admitted as a resident without:
 - (i) his/her consent, or
 - (ii) the consent in writing of his/her next of kin or legal representative, as the case may be, when the person has been declared mentally or physically incapable of giving consent.

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

4.7 Medical Care

- (d) The operator shall ensure that each resident is given a tuberculin test or chest x-ray within one week of admission, and thereafter as required by the Medical Officer of Health;
- (e) Each resident, or
 - (i) his/her next of kin or legal representative, as the case may be, or
 - (ii) where the resident, his/her next of kin or legal representative are unable so to do, the operator shall ensure a physician is available to attend any resident and provide him/her with ongoing and emergency medical care at all time.

4.8 Nursing Care

Wherever the Medical Officer of Health or the physician mentioned in Sections 4.6 or 4.7 determine that a resident requires emergency nursing care or "Home Care Services", the operator shall allow and such nursing care or "Home Care Services" are to be provided to the resident.

5.0 Drugs

The operator shall ensure that all drugs and prescription drugs:

- (i) are secured and are kept in a safe and proper storage area,
- (ii) are made available only to those residents for whom they have been prescribed, as directed by the physician and that a drug administration record for each resident be maintained by the operator.

5.1 Nutritional Care

- (a) The operator shall prepare monthly written menus, which are to be posted in a conspicuous place followed and kept on file;
- (b) The operator shall service three (3) meals per day, and accommodate, as far as possible, special diets requiring more or less frequent meal times. Nourishing snacks will be available mid-morning, mid-afternoon, and in the evening;
- (c) All meals and snacks will conform to Canada's Food Guide, and shall be of sufficient quantity, quality, variety and nutritional caloric content to maintain each resident's average weight;

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- (d) The kitchen shall comply with O.Reg 562/90, Food and Premises Regulations under *The Health Protection and Promotion Act*, regardless of the number of residents;
- (e) All plans of construction, alterations and/or additions to the kitchen and food storage areas must be approved first by the Medical Officer of Health.

5.2 Washrooms

- (a) No toilet room or bathroom shall be within or open directly into any dining room, kitchen, pantry, food preparation room or storage room;
- (b) No toilet shall be located within a bedroom;
- (c) Toilet facilities shall be provided in at least the following ratios:
 - (i) for an authorized capacity of four to seven residents: one wash basin, one flush toilet, and one bath tub and shower,
 - (ii) for an authorized capacity of a fraction of seven residents beyond the first seven: one additional wash basin and one additional flush toilet,
 - (iii) for an authorized capacity of each additional seven residents beyond the first seven: one additional wash basin, one additional flush toilet, and one additional bath tub and shower;
- (d) Bathrooms, toilets and shower rooms shall be provided with doors and shall not have locks unless they are of a type that can be readily released from the outside in an emergency;
- (e) One bathroom, toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where such persons are to be admitted as residents;
- (f) Wherever possible, persons confined to a wheelchair shall be accommodated in ground level facilities with suitable ingress and egress from the building;
- (g) A small stepping stool shall be available for use with each toilet and bath tub;
- (h) The bottom of each bath tub shall be furnished with non-skid material;

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- (i) All toilet rooms or bathrooms shall be equipped with mechanical ventilation to the outside;
- (j) All water fixtures in all bathtubs and showers shall be equipped with hot water temperature regulators.

5.3 Bedrooms

- (a) All bedrooms shall be:
 - (i) furnished and decorated for the provision of residential services,
 - (ii) in a room which is ventilated and lighted by natural light;
- (b) All floors containing bedrooms shall have two (2) separate means of egress to the outside.

5.4 Other

- (a) From September 15 until May 31, and at all other times when heating may be reasonably necessary for the preservation of health, the temperature of all rooms and halls shall be maintained at not less than 20° centigrade (70° Fahrenheit);
- (b) The House shall be free from hazards to the safety of residents, staff or visitors;
- (c) The following shall be provided:
 - (i) handrails, of a type that will ensure the safety of residents, installed on each side of every stairway that is wider than 111.76 cm (44"), on at least one side of each stairway that is 111.76 cm. (44"), or less, in width and on the open side of stairway or landing with the top of each handrail not less than 76.2 cm. (30"), nor more than 106.68 cm. (42") above the finished floor or stair level,
 - (ii) for each bath tub and each toilet, at least one grab bar or similar device of a type that will ensure the safety of residents,
 - (iii) non-skid finishes and coverings on floors and stairways, and
 - (iv) balustrades on the open sides of every stairway, landing, balcony, raised porch, or roof to which the residents have access; no openings in any such balustrade shall be more than 10.16 cm. (4") wide.

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

5.5 Qualified Operator

- (a) A person shall not be licenced to operate a House unless he/she produces evidence satisfactory to the Medical Officer of Health of employment experience in work comparable to the administration of the House which he/she proposes to operate and any other educational requirements deemed necessary by the Medical Officer of Health;
- (b) He/she complies with all the qualifications of an employer in a House as required under this by-law;
- (c) A person shall not be licenced to operate a House unless:
 - (i) he/she is eighteen (18) year of age or over,
 - (ii) he/she produces an Ontario Secondary School Graduation Diploma or evidence of equivalent standing as determined by the Minister of Education, or
 - (iii) he/she produces evidence satisfactory to the Medical Officer of Health of employment experience in work comparable to the administration of the House which he/she proposes to operate;

5.6 Employees

- (a) A person shall not be employed in a House unless:
 - (i) he/she is eighteen (18) years of age or over,
 - (iv) he/she produces evidence that he/she has completed Grade Ten in an Ontario Secondary School, or evidence of equivalent standing, or
 - (v) he/she produces evidence, satisfactory to the Medical Officer of Health, of employment experience in similar work;
- (b) He/she had a pre-employment examination by a physician not more than thirty (30) days before his/her employment is to commence;
- (c) He/she obtains a certificate from the examining physician certifying that he/she is free from infectious disease and fit to work in a House;
- (d) He/she produces a certificate that he/she has had a tuberculin test or chest x-ray within one year before his/her employment is to commence;
- (e) Nothing in the paragraph shall operate to preclude employment of students or employment not directly associated with the day to day care and treatment of patients;

SCHEDULE "11" - SECOND LEVEL LODGING HOMES

- (f) Every employee in a House shall undergo at any time such examination or tests, as may be required by the Medical Officer of Health, as to his/her continuing fitness to work in a House;
- (g) A person who is a carrier of, or has a communicable disease shall not continue to work or be employed in a House until he or she has received permission so to do by the Medical Officer of Health.

5.7 Records and Reports

The operator shall be responsible for ensuring that:

- (a) An up-to-date alphabetical list of residents shall be maintained, showing for each resident name, sex, age and date of admission;
- (b) A separate file shall be maintained for each resident showing at least name, sex, age, date of admission and discharge or death, name, address and telephone number of nearest relation, brief medical history, particulars of each accident suffered by the resident;
- (c) A record, in Form 1, shall be made of every occurrence of communicable disease, and of death resulting from accident or an undetermined cause, shall be sent or delivered forthwith to the Medical Officer of Health, and a copy shall be placed in the resident's file;
- (d) A record, in Form 1, shall be made of every occurrence of assault and injury, shall be placed in the resident's file, and kept available for inspection by the Medical Officer of Health;
- (e) A report, in Form 2, shall be made of every fire, and shall be sent or delivered forthwith to the Chief Fire Prevention Officer, and a copy shall be kept on file in the House;
- (f) All records of the House shall be maintained in accordance with the destruction requirements of the Medical Officer of Health.

5.8 Inspection

- (a) The Medical Officer of Health, the Chief Building Official, the Fire Chief, the Chief of Police, and the Coordinator, Community Liaison and Business Licencing (and competent subordinates of any of them), may at all reasonable times, inspect any House, its requisite records as provided for in this by-law and the list of residents required by Section 5.7, and may take copies of the contents thereof.

SCHEDULE “12” TO BY-LAW NO. 217-05



TO REGULATE VARIOUS BUSINESSES IN THE TOWN OF FORT ERIE

PART I PROVINCIAL OFFENCES ACT

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Carry on business without licence	Section 3.5	\$175.00
2	Fail to display business licence on premises	Section 3.10 (a)	\$ 75.00
3	Fail to display business licence on vehicle	Section 3.10 (b)	\$ 75.00
4	Fail to maintain licence on person	Section 3.10 (c)	\$ 75.00
5	Prohibited transfer of business licence	Section 3.11	\$175.00
6	Hinder or obstruct an officer exercising a power or performing a duty	Section 3.14	\$100.00
7	Attempt to hinder or attempt to obstruct an officer exercising a power or performing a duty	Section 3.14	\$100.00
8	Fail to keep records as required	Section 3.16	\$175.00
9	Fail to place Bill correctly	Section 4.1	\$175.00
10	Place Bill in or on motor vehicle	Section 4.2	\$175.00

Note: The general penalty section for the offence listed above is Section 8.1 of Town of Fort Erie By-law No. 217-05, a certified copy of which has been filed.



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

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;

“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;

- 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.

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;
- j) that all garbage will be stored in garbage cans with lids;
- k) that the Owner has advised the abutting property boundary neighbours of the operation of the Short-Term Rental;
- l) 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;
- m) that all renters will be advised that no outside sleeping and sleeping accommodations are permitted on the Short Term-Rental premises;
- n) 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:

- o) that the Owner shall indemnify and save harmless the Town of Fort Erie, its staff and elected officials from any and all claims; and
 - p) 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.
- 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 31st 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;
- 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
- 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.

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;
- 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.

APPENDIX “1” TO SCHEDULE 13

PENALTIES			
Column 1	Column 2	Column 3	Column 4
Infraction	Reference	Demerit Points	Administrative Penalties
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

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

PENALTIES			
Column 1	Column 2	Column 3	Column 4
Infraction	Reference	Demerit Points	Administrative Penalties
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)		\$150.00

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