



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;

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- (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:

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- (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

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- 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;

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- (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.

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4.7 Medical Care

- (a) 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;
- (b) 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;

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- (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;

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- (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.

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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;

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- (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.