



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

## **By-law No. 113-2019**

---

### **Being a By-law to Amend Business Licencing By-law No. 217-05 (Licensing and Regulating Short-Term Rental Uses)**

---

310201

**Whereas** By-law No. 217-05, as amended, provides for the licencing and regulating of various businesses in the Town of Fort Erie; and

**Whereas** the *Municipal Act, 2001* authorizes a municipality to provide for a system of licences with respect to a business and to regulate and govern any business carried on within the municipality; and

**Whereas** the *Municipal Act, 2001* authorizes a municipality to require the payment of licence fees and to pass By-laws to impose fees or charges for permits and services; and

**Whereas** the *Municipal Act, 2001* authorizes a municipality to add outstanding fees and charges to the tax roll and collect them in the same manner as municipal taxes; and

**Whereas** Council of The Corporation of the Town of Fort Erie considers it desirable to exercise its licencing powers, including the imposition of conditions as are set out in this By-law;

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

- 1. That** By-law No. 217-05 as amended, is further amended by adding thereto, immediately after "SCHEDULE "12" a new Schedule entitled "SCHEDULE "13" attached hereto as Schedule "A".
- 2. That** By-law No. 217-05, as amended is further amended by repealing "Part 6 – Schedules" and replacing it with the following: "PART 6-SCHEDULES" Schedule "1 to 13" are attached hereto and form part of this by-law.
- 3. That** this By-law comes into full force and effect on January 1, 2020.

- 4. That** the Clerk of the Town is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

**Read a first, second, and third time and finally passed this 15<sup>th</sup> day of July, 2019.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

I, Carol Schofield, Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 113-2019 of the said Town. Given under my hand and the seal of the said Corporation, this day of \_\_\_\_\_, 20 \_\_\_\_\_

**Schedule "13"- Short-Term Rentals to By-law No. 217-05****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 Licencing or designate unless otherwise noted;

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

**"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<sup>2</sup> detectors, the location of fire extinguishers and the established escape routes;

**"Hearing"** means a mandatory meeting with the Appeals Committee once a property has received fifteen (15) or more demerit points to determine if the Short-Term Rental licence should be revoked;

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

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

**"Meeting"** means a mandatory meeting with the Appeals Committee once a property has received seven (7) or more demerit points to identify what steps that they intend to implement to mitigate further instances of awarding demerit points to the premises;

**"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;

“**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 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;

“**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;

“**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.
- 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 LICENCING

- 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;

- 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.

### **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 by the Appeals Committee, 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 Owner’s 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 and that the Town is added as an additional insured;
  - g) A Fire Safety Plan depicting the use of the premises including the location of smoke alarms in each bedroom, the location of CO<sup>2</sup> detectors, 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;
  - ii) that all garbage will be stored in garbage cans with lids;
  - iii) that the Owner has advised the abutting property boundary neighbours of the operation of the Short-Term Rental;
  - iv) that all renters will receive a copy of the Town's form of Guest Rules and a copy will remain on site at all times; and
  - v) that all renters will be advised that no outside sleeping and sleeping accommodations are permitted on the Short Term-Rental premises;
  - vi) The payment of application fees as set out in the Town's Fees and Charges By-law No. 40-09, as amended from time to time;
- 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.

## **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 outside sleeping and sleeping accommodations;
- g) Fail to ensure that there is a Local Contact Person;
- h) 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;
- i) Operate a Short-Term Rental contrary to the Fire Safety Plan;
- j) Permit a disturbance at a Short-Term Rental Premises;
- k) Operate contrary to any applicable Federal or Provincial Law or Regulations or Municipal By-laws;
- l) Operate a Short-Term Rental if current and accurate information has not been provided to the Coordinator;

- m) Assign a Short-Term Rental licence.
- n) Operate a Short-Term Rental with:
  - i) An open building permit;
  - ii) an outstanding Fire or Building Order;
  - iii) a Property Standards Order or any other order issued by the Town or other government agencies.

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 Owner.

## **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;
- b) conduct hearing as defined by this by-law; and
- c) conduct Meeting as defined by this by-law;

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

- (a) specify the time, place and purpose of the Meeting or Hearing;
- (b) inform the affected owner that he/she is required to attend the Meeting or 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 Meeting or Hearing.

6.4 The Committee at the Meeting or 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.

## **7.0 DEMERIT POINT SYSTEM**

7.1 If at any time the Coordinator determines that the operation of a licenced 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 A Meeting, with the Appeals Committee, will be required if the total of all demerit points in effect respecting a Short-Term Rental is seven (7) or more.

7.4 A Hearing, with the Appeals Committee, is required if the total of all demerit points in effect respecting a Short-Term Rental is fifteen (15) or more.

## **8.0 ADMINISTRATIVE PENALTIES**

8.1 An Officer who has reason to believe that a 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;

- h) A statement advising that an Administrative Penalty will, unless cancelled constitutes a debt of the Owner to the Town; and
  - i) Signature of the Officer.
- 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 Infraction	Column 2 Reference	Column 3 Demerit Points	Column 4 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 (h)	10	\$100.00
Operating without a licence	5.1 (a) and (b)	10	\$300.00
Operating with an open Permit or Order	5.1 (n)	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(k)	5	\$200.00
Non-availability of Local Contact Person	5.1(g)	5	\$100.00
Noise and Nuisance	5.1(j)	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(i)	5	\$200.00
Assignment of licence	5.1(m)	3	\$50.00
Property Standards Infraction	5.1(n)	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

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