



The Municipal Corporation of the Town of Fort Erie

By-law No. 124-2020

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

350309-479

Whereas By-law No. 129-90 as amended, being the Comprehensive Zoning By-law for the Town of Fort Erie was passed on May 28, 1990, and

Whereas By-law Nos. 48-97, 34-98, 44-98, 03-02, 123-03, 10-04, 90-04, 152-04, 100-05, 57-06, 199-07, 56-08, 120-11, 130-11, 110-12, 38-13, 65-13, 94-2014, 133-2014, 152-2015, 123-2016, 14-2018 and 128-2018 are previous housekeeping amendments to Zoning By-law 129-90 as amended, and

Whereas since that time municipal staff have been compiling a record of proposed improvements to the Zoning By-law, and

Whereas Subsection 34 (1) of the *Planning Act*, R.S.O. 1990, c.P.13, authorizes the Council of the Municipality to regulate the use of lands and the character, location and use of buildings and structures within the Municipality, and

Whereas the Council of the Town of Fort Erie at its meeting of October 5, 2020, authorized staff to undertake a housekeeping amendment to Zoning By-law No. 129-90 as amended, through Report PDS-44-2020, and

Whereas Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13, provides that the Council, before the passing of a by-law under this section of the Act, shall ensure that sufficient information is made available to the public to generally understand the zoning proposal, to hold an open house and to hold a public meeting, and

Whereas in accordance with Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13, an Open House was held respecting the proposed housekeeping amendments to Comprehensive Zoning By-law No. 129-90 as amended on November 3, 2020 and notice of such was published in the Fort Erie Post on October 22, 2020, and

Whereas in accordance with Subsection 34 (12) of the *Planning Act*, R.S.O. 1990, c.P.13 a Public Meeting was held respecting the proposed housekeeping amendments to Comprehensive Zoning By-law No. 129-90 as amended, on November 16, 2020 and notice of such was published in the Fort Erie Post on October 22, 2020, and

Whereas to satisfy the notification requirements for Town initiated amendments approved by Council on May 6, 2013, the following additional measures were undertaken to notify the public of the proposed amendment:

- Notice of the proposed amendments was posted on the Town's website;

- Notice of the proposed changes was posted on the Town's social media;
- Notice of the public meeting was sent to the Ridgeway, Bridgeburg and Crystal Beach Business Improvement Associations.

Whereas it is deemed desirable to proceed with the housekeeping amendments to the Comprehensive Zoning By-law No. 129-90 as amended, pursuant to Report No. PDS-61-2020 considered and approved by Council at the Council-in-Committee meeting of December 7, 2020;

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

1. **That** Subsection 5.172 of By-law No. 129-90, as amended, is repealed and replaced with the following:

"5.172 "INFILL LOT" means a lot abutted on at least two (2) sides, not including the rear, by lots containing dwellings that have existed for a minimum of eight (8) years."

2. **That** Subsection 5.194 of By-law No. 129-90, as amended, is repealed and replaced with the following:

"5.194 "LOT COVERAGE" means that percentage of the lot area covered by all buildings and structures above ground level; but does not include that portion of the lot area which is occupied by a building, structure or a portion thereof and which building, structure or portion thereof is completely below ground level; and does not include uncovered and unenclosed decks or steps of permeable construction, less than 2.0 m above grade. For the purpose of this Section, the lot coverage in each zone applies and shall be deemed to apply only to that portion of such lot that is located within said zone."

3. **That** Subsection 5.201 of By-law No. 129-90, as amended, is repealed and replaced with the following:

"5.201 "LOT LINE, FRONT" means the lot line that divides the lot from a public or private street, but;

- (i) in the case of a corner lot the shorter street line shall be deemed to be the front lot line and the longer street line(s) shall be deemed to be side lot line(s), but
- (ii) in the case of a corner lot with two (2) street lines of equal length, the lot line that abuts the wider street, or abuts a Regional Road or Highway shall be deemed to be the front lot line, and in the case of both streets being under the same jurisdiction, or of the same width, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line;
- (iii) in the case of a through lot, the front lot line shall be deemed to be the street line where the principal access to adjoining lots is provided."

4. **That** Subsection 5.349 (c) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“(c) **“VEHICLE, RECREATIONAL”** means a recreational vehicle as defined in Section 5.338 (1) and also includes a boat, all-terrain vehicle, seadoo, snowmobile, motorcycle, or other similar device.”

5. **That** Subsection 6.1 (b) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“(b) Except as otherwise provided herein, in a Residential Zone and on lots where the main use is residential, any accessory building or structure which is not part of the main building shall be erected in the rear yard or interior side yard, and shall not be located closer to any rear lot line or side lot line than 1.0m or closer to any street than the required yard therefrom for dwellings, except that a detached garage or carport which faces the exterior side lot line shall be located no closer than 6m to the exterior side lot line. Eaves and gutters may project a maximum of 0.25m into the required yard except as otherwise provided herein.”

6. **That** Subsection 6.13 (a) of By-law No. 129-90 as amended, is repealed and replaced with the following:

“(a) DWELLINGS

Only one (1) dwelling shall be permitted on a single lot except in the case of lawful semi-detached dwellings, street townhouse dwellings, block townhouse dwellings, apartment dwellings, accessory apartment dwellings, and second dwelling units where permitted by this By-law.”

7. **That** Subsection 6.18 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (e), the following Subsection:

“(f) USES ACCESSORY TO RESIDENTIAL USE

Where a residential use was legally established prior to the date of the passing of this By-law and is not permitted in the zone in which it is situated, nothing in this By-law shall prevent the erection of a new detached accessory use, including sheds, decks and patios, subject to the provisions of Section 6.1 of this By-law. This provision does not apply to new second dwelling units or new detached garages.”

8. **That** Subsection 6.20 (A) of By-law No. 129-90, as amended, is further amended by deleting the Minimum Parking Requirement for an Industrial Establishment and replacing it with the following:

“1 parking space for every 180 sq. m. of gross floor area.”

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

“(c) ENCLOSED STRUCTURES

Any enclosed porch, balcony, step, patio or barrier-free ramp structure is deemed to be part of the building to which it is attached, and shall meet all required yard setbacks thereof. For the purposes of this section, “enclosed” means having vertical planes which are more than 50% covered with walls including windows but not including removable screens. This section applies to both above ground and below ground structures, such as exterior stairs to a basement or cellar.”

10. **That** Subsection 6.43 (a) (iii) of By-law No. 129-90 as amended, is repealed and replaced with the following:

“(iii) The maximum floor area for the accessory apartment shall not exceed 40% of the total floor area of the dwelling. The floor area of the accessory apartment shall be included in the total floor area of the dwelling for the purpose of this calculation. Additionally, where an accessory apartment is proposed within any portion of the basement or cellar of the dwelling, the floor area of that portion of the basement or cellar shall also be included in the calculation of the total floor area of the dwelling.”

11. **That** Subsection 7.9 of By-law No. 129-90, as amended, is further amended by deleting the last two rows of the table, “Visible Nighttime Lighting” and “Parking” and replacing them with the following:

Visible Night-time Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required, a fence of closed construction shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use.
Parking	Greenhouses: 1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater. Medical Marihuana Grow and Production Facilities: 1 parking space for every 100 sq. m. of gross floor area or every 2 employees, whichever is the greater.

12. **That** Section 9, under the heading “Exceptions to the Rural Residential (RR) Zone” of By-law No. 129-90 as amended, is further amended by removing reference to the Holding provision, Exceptions “RR-297(H)” (55-2002) Rosehill Road, east side, north of Nigh Road (FORMERLY

ER-197) and "RR-298" (55-2002) Rosehill Road, east side, north of Nigh Road (FORMERLY ER-298(H) are repealed and replaced with the following:

"RR-297 (55-2002) Rosehill Road, east side, north of Nigh Road (FORMERLY ER-197)

These lands are zoned "Rural Residential RR-297 Zone" and all of the provisions that relate to lands zoned "Rural Residential RR Zone" by this by-law shall apply to lands zoned "Rural Residential Holding RR-297 Zone" on Schedule A. The development of the property shall comply with all the provisions that relate to lands zoned "Rural Residential RR Zone" subject to the following special provisions:

- (a) that notwithstanding the requirements of Subsection 9.3, the minimum lot frontage shall not be less than 45 metres; and
- (b) notwithstanding the requirements of Subsection 9.3, the minimum lot area shall not be less than 0.8 hectares; and
- (c) that notwithstanding the requirements of Subsection 9.3, the minimum front yard setback shall not be less than 50 metres.

RR-298 (55-2002) Rosehill Road, east side, north of Nigh Road (FORMERLY ER-298)

These lands are zoned "Rural Residential RR-298 Zone" and all of the provisions that relate to lands zoned "Rural Residential RR Zone" by this by-law shall apply to lands zoned "Rural Residential RR-298 Zone" on Schedule A. The development of the property shall comply with all the provisions that relate to lands zoned "Rural Residential RR Zone" subject to the following special provisions:

- (a) that notwithstanding the requirements of Subsection 9.3, the minimum lot frontage shall not be less than 35 metres; and
- (b) notwithstanding the requirements of Subsection 9.3, the minimum lot area shall not be less than 4 hectares; and
- (c) that notwithstanding the requirements of Subsection 9.3, the minimum front yard setback shall not be less than 50 metres"

13. That Subsection 10.2 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (c), the following:

"(d) Second Dwelling Unit"

14. That Subsection 13.2 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (f), the following:

"(g) Accessory Apartment Dwelling"

15. That Subsection 14.2 of By-law No. 129-90 as amended, is further amended by adding thereto, immediately after Subsection (i), the following:

"(j) Accessory Apartment Dwelling"

16. That Subsection 14.3 of By-law No. 129-90 as amended, is repealed and replaced with the following:

“14.3 ZONE REGULATIONS

Minimum Lot Frontage	50m, except 6m for street townhouse lots and 9m for street townhouse corner lots
Minimum Lot Area	4000 sq.m, except 200 sq.m for a street townhouse lot and 270 sq.m for a street townhouse corner lot
Minimum Front Yard	6m to garage 4m to other parts of dwelling
Minimum Side Yard	1.5m
Minimum Exterior Side Yard	3m, except that an attached garage or attached carport which faces the exterior side lot line shall be located no closer than 6m to the exterior side lot line.
Minimum Rear Yard	6m
Maximum Building Height	i) 3 storeys ii) 12m
Minimum Landscaped Area	50% including Privacy Areas, except 25% for street townhouse lots
Maximum Number of Units in a row	8
Minimum Distance Between Buildings on the Same Lot	15m between two rear walls 3m between two end walls 9m between an end wall and a rear wall 6m between two front walls 6m between a front wall and an end wall
Maximum Density	35 units/ha
Maximum Lot Coverage	Block townhouse or exterior street townhouse - 40% Interior street townhouse – 60%
Privacy Area	Notwithstanding the yard requirements above, every dwelling unit shall have at least one area which serves as a privacy area adjacent to the dwelling unit, having a minimum depth of 4.5m
Distance from building to internal driveways, and parking areas	Any front or rear face of any townhouse shall be no closer than 3m to an internal driveway or parking area, and any side of any townhouse shall be no closer than 1.5m to an internal driveway or parking area
Planting Strips	In accordance with Section 6.21 and 4.5m where it abuts a street, except for points of ingress/egress

17. That Subsection 19.3 of By-law No. 129-90, as amended, is further amended by deleting the last row of the table, “Accessory Buildings” and replacing it with the following:

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Accessory Buildings	the provisions of Subsection 18.4 shall apply
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18. That Subsection 20.6 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“20.6 REGULATIONS FOR ACCESSORY BUILDINGS

The regulations of Subsection 18.4 shall apply.”

19. That Subsection 21.4 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“21.4 REGULATIONS FOR DWELLING UNITS

All of the provisions of Subsection 18.3 shall apply, except that notwithstanding the regulations contained in Subsection 18.3 (d), a minimum of one (1) parking space shall be provided for each dwelling unit via one, or a combination of the following means:

- a) On the same lot as the dwelling unit, or
- b) In a dedicated area within a municipal parking lot through a licence agreement or paid permitting system for a municipal parking lot that is located within 200 m of the property containing the dwelling unit, or
- c) In an area of a private parking lot that contains an easement in favour of the owner of the dwelling unit that is located within 200 m of the property containing the dwelling unit.”

20. That Subsection 21.5 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“21.5 REGULATIONS FOR ACCESSORY BUILDINGS

The regulations of Subsection 18.4 shall apply.”

21. That Subsection 22.4 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“22.4 REGULATIONS FOR ACCESSORY BUILDINGS

The regulations of Subsection 18.4 shall apply.”

22. That Subsection 25.5 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“25.5 REGULATIONS FOR ACCESSORY BUILDINGS

The regulations of Subsection 18.4 shall apply.”

23. That Subsection 26.5 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“26.5 REGULATIONS FOR ACCESSORY BUILDINGS

The regulations of Subsection 18.4 shall apply.”

24. That Subsection 26B.2 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“26B.2 PERMITTED USES

- Animal Hospital
- Bake shops
- Banks and Financial Institutions
- Brewer’s Retail Outlets
- Business or Professional Offices
- Building Supply and Sales
- Candy Kitchen
- Catering Establishment
- Clinics
- Commercial Schools
- Custom Brokers
- Custom Workshops
- Day Nursery
- Department Stores
- Dry Cleaning Outlets
- Eating Establishments
- Garden Centres
- Hotels
- Laundries and Laundromats
- LCBO Outlets
- Motels
- Personal Service Shops
- Pharmacies
- Places of Entertainment, Recreation or Assembly
- Post Offices
- Printing Establishments
- Private parking lots
- Private or Commercial Clubs
- Public Libraries
- Public Parking Garages
- Public Parking Lots
- Public Transportation depots including Bus Stations and Rail Stations
- Religious, Fraternal or Public Institutions

- Retail Stores
- Service Shops
- Spa Services
- Studios
- Supermarkets
- Taverns
- Video Outlet Sales and Rental Establishments
- Stand alone single detached dwelling units, and one accessory apartment dwelling
- Stand alone semi detached dwelling units, and one accessory apartment dwelling
- Home occupations
- Dwelling Units
- Uses, buildings and structures accessory to any permitted commercial use or single detached or semi detached dwelling use.”

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

“(iii) All of the provisions of Subsection 18.3 shall apply to other dwelling units, except that notwithstanding the regulations contained in Section 18.3 (d), a minimum of one (1) parking space shall be provided for each dwelling unit via one, or a combination of the following means:

- a) On the same lot as the dwelling unit, or
- b) In a dedicated area within a municipal parking lot through a licence agreement or paid permitting system for a municipal parking lot that is located within 200 m of the property containing the dwelling unit, or
- c) In an area of a private parking lot that contains an easement in favour of the owner of the dwelling unit that is located within 200 m of the property containing the dwelling unit.

Notwithstanding the regulations in Section 11.3 or 13.4 the side yard setback from a restaurant or tavern shall be a minimum of 3 m.”

26. That Subsection 26D.3 of By-law No. 129-90, as amended, is further amended by deleting the last row of the table, “Required Parking” and replacing it with the following:

Required Parking	Commercial uses within the CMU4 Zone shall be exempted from the parking and loading requirements of this By-law with the exception of buildings containing dwelling units where the provisions of Subsection 18.3(d) shall apply.
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27. That Subsection 26D.4 (i) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“(i) The provisions of Subsection 18.3 shall apply to a dwelling unit in the Core Mixed Use 4 (CMU1) Zone.”

28. 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 14th day of December, 2020.

Mayor

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true copy of By-law No. 124-2020 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20