



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 10-04

BEING A BY-LAW TO AMEND ZONING BY-LAW NO. 129-90 FOR THE CORPORATION OF THE TOWN OF FORT ERIE FOR ALL LANDS WITHIN THE TOWN OF FORT ERIE

File No. 350309-0264

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

WHEREAS By-law No. 123-03, being a comprehensive housekeeping amendment to Zoning By-law 129-90 was passed on June 16, 2003; and

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

WHEREAS The Council of the Town of Fort Erie deems it advisable to amend the Comprehensive Zoning By-law to provide administrative improvements to the Zoning By-law; and

WHEREAS Section 34 Subsection 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 Section 34, Subsection 12 requires the Municipality before the passing of a by-law under this section of the Act to ensure that sufficient information is made available to the public to generally understand the zoning proposal and to hold a public meeting; and

WHEREAS in accordance with Section 34 Subsection 12 of the Planning Act, R.S.O. 1990 a public meeting was held respecting the proposed housekeeping amendment to Comprehensive Zoning By-law No. 129-90 on January 5, 2004, and notice of such was published in the Fort Erie Times on December 15, 2003; and

WHEREAS As a result of the public circulation of the proposed By-law and the Public Meeting on January 5, 2004 respecting the proposed by-law, Council directed Staff to make changes to the By-law based on the comments from the public, from the Niagara Parks Commission, and from The Regional Municipality of Niagara Planning Department, and Council has determined, by Resolution No. dated January 26, 2004 that in accordance with Section 34 Subsection 17 of the Planning Act, R.S.O. 1990 no further notice need be given with respect to this By-law.

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

1. **THAT** Section 6.1(b) of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule A” attached hereto.
2. **THAT** Section 6.8(h)” of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule B” attached hereto.
3. **THAT** Section 6.42 of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule C” attached hereto.
4. **THAT** Section 11 – Exception R2-315(H), Maximum Height, of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule D” attached hereto.
5. **THAT** Section 13.4, Minimum Interior Side Yard, of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule E” attached hereto.
6. **THAT** Section 16.2(a) of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule F” attached hereto.
7. **THAT** Section 20.3, Minimum Side Yard and Minimum Rear Yard, of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule G” attached hereto.
8. **THAT** Section 20 – Exception C2-191 of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule H” attached hereto.
9. **THAT** Section 20 – Exception C2-276, Subsection b) Maximum Height, of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule I” attached hereto.
10. **THAT** Section 28.3 - Minimum Landscaping Requirements of Zoning By-law No. 129-90 is hereby repealed and replaced with the “Schedule J” attached hereto.
11. **THAT** “Section 32 – Exception P-146 of Zoning By-law No. 129-90 is hereby repealed in its entirety.
12. **THAT** as a result of the public circulation of the proposed By-law and the Public Meeting on January 5, 2004 on the proposed by-law, certain descriptive, grammatical and other changes were made to the By-law, and these changes along with all other previously proposed changes to the By-law are contained in the 10 schedules annexed hereto.

13. **THAT** the lands referred to in Sections 1 through 12 inclusive are situated within the corporation limits of the Town of Fort Erie and affect and apply to all lands situated within the Town of Fort Erie, in the Regional Municipality of Niagara.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 26th DAY OF JANUARY, 2004.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 9-04 of the said Town. Given under my hand and the seal of the said Corporation this day of _____ 2004.

Schedule "A"

- 6.1(b) Except as otherwise provided herein, in a Residential Zone any accessory building or structure which is not part of the main building shall be erected in the rear yard or side yard only, 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. Eaves and gutters may project a maximum of 0.25m into the required yard.

Schedule "B"

- 6.8(h) PERMITTED USES

Only the following uses are permitted as home occupations in an approved zone:

- personal service shop
- professional office
- business office
- home office of a tradesman performing work off-site
- bed and breakfast establishment
- hair salon
- esthetician
- caterer's establishment, provided there is compliance with all local and Regional requirements
- carpentry and woodworking
- retail sale of goods manufactured on-site, including plant material
- manicures and pedicures
- massages performed by a Registered Massage Therapist duly licensed by the Province

Schedule "C"

- 6.42 ACCESSORY APARTMENTS (By-law 124-92)

Any single detached dwelling located in any "Residential 1 (R1) Zone", "Residential 2 (R2) Zone" "Residential 2A (R2A) Zone". "Agricultural (A) Zone", "Rural (RU) Zone", "Rural Residential (RR) Zone" and Estate Residential (ER) Zone", with the exception of

those dwellings located upon lots zoned “Estate Residential (ER) Zone” and located upon roads under the jurisdiction of the Niagara Parks Commission;

may be internally converted or by way of an addition to the existing building to provide one additional dwelling unit, subject to the following requirements:

- (a) Only one accessory apartment per lot.
- (b) Where the parcel proposed for an accessory apartment is not serviced by a municipal sewer system and/or municipal water distribution system, the minimum lot size of the parcel shall be not less than 0.4 ha.
- (c) The maximum floor area for the accessory apartment shall not exceed 40% of the total floor area of the dwelling.
- (d) One parking space, not stacked for each accessory apartment must be provided on site.
- (e) The external appearance and character of the building is to be preserved. Additions shall be architecturally similar to the existing building whenever possible.
- (f) The accessory apartment must be clearly attached and form part of the main building.
- (g) An accessory apartment will not be permitted in the cellar area of a single detached dwelling.
- (h) Any accessory apartment located in the basement area of a single detached dwelling is subject to the following additional requirements:
 - (i) Window openings to each bedroom and living room of the accessory apartment must meet the minimum requirements of the Ontario Building Code or;
 - (ii) A secondary means of ingress/egress must be provided to the accessory apartment unit.

Schedule “D”

R2-315(H) (90-2003) Promenade Way, east side, west of Ridgeway Road

Maximum Height

9m measured from the average grade level to the midpoint between the eaves and the ridge, but in no case shall the ultimate height measured from average grade level to the peak of the highest roof be greater than 12m.

Schedule “E”

13.4 REGULATIONS FOR SEMI-DETACHED DWELLINGS

Minimum Interior Side Yard	1.5m plus an additional .5m for every storey or part thereof above the ground floor; except where no private garage or carport is provided a side yard of not less than 2.5m on one side of such semi-detached dwelling is required; except that no interior side yard shall be required where a pair of semi-detached dwellings on adjacent lots are attached together by a common wall extending along the side lot line separating such lots, provided that any wall which does not constitute part of such common wall or a direct extension thereof shall be set back not less than 1.0m from the side lot line separating such lots
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Schedule “F”

16.2 PERMITTED USES

- (a) One single detached dwelling, and uses, buildings and structures accessory thereto including accessory apartments, with the exception that no accessory apartments are permitted in those dwellings located upon lots abutting roads under the jurisdiction of the Niagara Parks Commission.

Schedule “G”

20.3 REGULATIONS

<p>Minimum Side Yard – 4.0m except:</p>	<ul style="list-style-type: none"> (i) Where the yard abuts a Commercial Zone and access is available to the rear yard by a public or private lane, minimum nil. (ii) Where the yard abuts a Commercial Zone and no access is available to the rear yard except by means of the side yard, one yard shall have a minimum width of 4.0m, the other yard shall have a minimum width of nil (iii) Where the yard abuts a street, minimum 3.0m (iv) Where the yard abuts any Residential Zone, minimum 4.5m
<p>Minimum Rear Yard – 6.0m except:</p>	<ul style="list-style-type: none"> (i) Where the yard abuts a Commercial or Industrial Zone and access is available to the rear of the building on the said lot by means of a public or private lane, minimum nil (ii) Where the building contains residential accommodation of one or more storeys in height, minimum 10.5m (iii) Where the yard abuts any Residential Zone, minimum 10.5m (iv) Where the yard abuts a street, minimum 3.0m

Schedule “H”

C2-191 (34-1998) 191 Garrison Road

These lands are zoned “General Commercial C2-191 Zone” and all of the provisions that relate to lands zoned “General Commercial C2 Zone” by this by-law shall apply to those lands zoned “General Commercial C2-191 Zone” on Schedule “A” except that in addition to the permitted uses set out in Subsection 20.2 (a) these lands may also be used for a gasoline bar in accordance with the regulations for gasoline bars set out in Subsection 23.4.”

Schedule “I”

C2-276 (229-1992) Crystal Beach Tennis and Yacht Club

Maximum Height

9m measured from the average grade level to the midpoint between the eaves and the ridge, but in no case shall the ultimate height measured from average grade level to the peak of the highest roof be greater than 12m.

Schedule “J”

28.3

Minimum Landscaping Requirements

A landscaping area of a minimum width of 4.5m adjacent to any residential or commercial zone or street that abuts the front, side or rear yard