



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

**BY-LAW NO. 117-2013**

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**BEING A BY-LAW TO ENACT AN AMENDMENT TO THE  
OFFICIAL PLAN FOR THE TOWN OF FORT ERIE**

**AMENDMENT NO. 16  
HOUSEKEEPING AMENDMENTS TO TOWN OF FORT ERIE  
OFFICIAL PLAN TO ALLOW ACCESSORY APARTMENTS IN  
SINGLE DETACHED, SEMI-DETACHED, AND TOWNHOUSES  
WITHIN RESIDENTIAL AND CORE MIXED USE  
DESIGNATIONS AS PERMITTED**

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350302-0073

**THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF FORT ERIE IN  
ACCORDANCE WITH THE PROVISIONS OF SECTION 17 OF THE PLANNING ACT S.O.  
1990 HEREBY ENACTS AS FOLLOWS:**

1. **THAT** amendment No.16 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text is hereby adopted.
2. **THAT** this by-law shall come into force and take effect on the day of the final passing thereof.
3. **THAT** pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 9<sup>TH</sup> DAY OF  
DECEMBER 2013.**

  
\_\_\_\_\_  
**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. 117-13 of the said Town. Given under my hand and the seal of the said Corporation this \_\_\_\_ day of \_\_\_\_\_, 2013.

**AMENDMENT NO. 16**  
**TO THE OFFICIAL PLAN**  
**FOR THE TOWN OF FORT ERIE**

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## **PART "A" - THE PREAMBLE**

### **SECTION 1 TITLE AND COMPONENTS**

This document, when approved in accordance with Sections 17 of The Planning Act, 1990, shall be known as Amendment No. 16 to the Official Plan of the Town of Fort Erie.

Part "A", the Preamble does not constitute part of this amendment.

Part "B", the Amendment, consisting of the following text constitutes Amendment No. 16 to the Official Plan of the Town of Fort Erie.

Also attached is Part "C", the Appendices, which does not constitute part of this amendment. These Appendices contain the background information, planning considerations and public involvement associated with this amendment.

### **SECTION 2 PURPOSE OF THE AMENDMENT**

Currently, the Official Plan permits accessory apartment units within existing single detached dwellings in the Urban Residential, Agricultural, Rural and Rural Residential designations only, subject to certain conditions. The purpose of the amendment is to permit accessory apartment units within single detached, semi-detached, duplexes and townhouse dwelling units that are within the urban settlement area and more specifically within various Residential and Core Mixed designations where such units are permitted and in accordance with certain criteria.

### **SECTION 3 LOCATION AND SETTING OF THE AMENDMENT**

The lands, which are the subject of this amendment, are lands designated as Urban Residential or Core Mixed Use on Schedule A of the Official Plan or a more detailed Residential or Core Mixed Use designation via Secondary Plan amendment reflected in Section 4 of this Plan.

### **SECTION 4 BASIS OF THE AMENDMENT**

The basis for permitting this amendment is as follows:

- a) The Official Plan currently allows accessory apartments within single detached dwellings in Urban Residential, Agricultural, Rural and Rural Residential designations;

- b) The proposed amendment is in keeping with provincial objectives for providing for secondary residential units and will bring the Official Plan into conformity with the Strong Communities Through Affordable Housing Act, 2011.
- c) Accessory apartments within these designations provide the following other benefits:
  - provide homeowners with an opportunity to earn additional income to help meet the costs of homeownership;
  - support changing demographics by providing more housing options for extended families or elderly parents, or for a live-in caregiver or farm help;
  - create jobs in the construction/renovation industry;
  - the zoning by-law will include provisions to ensure compatibility with adjacent residences.

## **SECTION 5 IMPLEMENTATION**

The purpose of the amendment is to permit accessory apartment units within single detached, semi-detached, duplexes and townhouse dwelling units within various Residential and Core Mixed designations where such units are permitted and in accordance with certain criteria.

All of this part of the document entitled "Part "B" - "The Amendment" consisting of text changes constitute Amendment No. 16 to the Official Plan adopted by By-law No. 150-06 for the Town of Fort Erie Planning Area. The Official Plan for the Town of Fort Erie, as amended, is hereby further amended by the following text change:

### **Text Changes:**

**Policy 4.7.4.1 IV in the Urban Residential Section of the Official Plan is to be deleted.**

**The Official Plan Amendment proposes to add the following new policy 4.7.1 XIV to the Residential General Policies worded as follows:**

The creation of an accessory apartment within an existing single detached dwelling, semi-detached duplex and townhouse dwelling units is permitted within the Urban Residential, and more detailed Residential Designations of Secondary Plan Amendments in Section 4 of this Plan.

The zoning by-law shall contain provisions to ensure adequate parking, open space, building condition and municipal services are available.

**The Official Plan Amendment proposes to add proposed Policy 4.8.1.IV to to Sub-Section 4.8. Core Mixed Use as follows:**

The creation of an accessory apartment within an existing single detached dwelling, semi-detached, duplex and townhouse dwelling units shall be permitted within the Core Mixed Use

Designation of this Section and the more detailed Core Mixed Use designations of Secondary plan Amendments included in Section 4 of this Plan.

The zoning by-law shall contain provisions to ensure adequate parking, open space, building condition and municipal services are available.

## **PART “C” - THE APPENDICES**

Appendix 1 – Location Map (Lands Designated As Urban Residential, Core Mixed Use on Schedule A of the Official Plan or a Residential or Core Mixed Use designation identified by Secondary Plan Amendment in Section 4 of this Official Plan).

Appendix 2 - Notice of Public Meeting

Appendix 3 - Public Meeting Minutes

Appendix 4 - Circulation comments



## TOWN OF FORT ERIE

# NOTICE OF FORMAL PUBLIC MEETING

OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT APPLICATION

**PURPOSE:** OFFICIAL PLAN AND ZONING BY-LAW 129-90 HOUSEKEEPING  
AMENDMENT -

**ACCESSORY APARTMENTS AND SECOND DWELLING UNITS**

**APPLICANT:** TOWN OF FORT ERIE

**DATE:** MONDAY, NOVEMBER 18<sup>TH</sup>, 2013 **APPLICATION #:** 350309-0370  
**LOCATION:** COUNCIL CHAMBERS, TOWN HALL **TIME:** 6:00 PM  
1 MUNICIPAL CENTRE DRIVE, FORT ERIE

**A location map is not provided with this notice, as the proposed amendment applies to all and various lands within the corporation limits of the Town of Fort Erie.**

**PURPOSE:** The Town of Fort Erie has initiated a housekeeping amendment to the Town's Official Plan and Zoning By-law to amend the policies and regulations for accessory apartments and second dwelling units. Accessory apartments are self-contained dwelling units that include a kitchen, bathroom and living area within another dwelling unit. Second dwelling units are self-contained dwelling units that are located outside of the main dwelling unit, either in an accessory structure such as a garage, or as stand-alone structures.

The proposed Official Plan amendment includes policies to permit accessory apartments within semi-detached and townhouse dwellings in addition to single detached dwellings where they are already permitted. The proposed Zoning amendment includes provisions for regulating accessory apartments within single detached, semi-detached and townhouse dwellings. The proposed Zoning by-law amendment also includes provisions to permit second dwelling units.

### HAVE YOUR SAY

Input on the proposed Official Plan and Zoning By-law Amendments is welcome and encouraged. You can provide input by speaking at the public meeting or by making a written submission to the Town. Please note that unless you do one of the above now, you may not be able to appeal the decision later.

### MORE INFORMATION

For further information please contact Matt Kemahan, Senior Development Planner at (905) 871-1600 extension 2507 or [mkemahan@town.forterie.on.ca](mailto:mkemahan@town.forterie.on.ca). A copy of the Information Report will be available to the public on November 15<sup>th</sup>, 2013. The information report will be available in the Council agenda portion of the Town's Web Site: [www.town.forterie.on.ca](http://www.town.forterie.on.ca) or from the Community and Development Services Department.

### WRITTEN SUBMISSIONS

To provide input in writing, or to request written notice of the decision of the Zoning By-law Amendment, please send a letter c/o the Town Clerk Carolyn Kett, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to [ckett@town.forterie.on.ca](mailto:ckett@town.forterie.on.ca).

### PLANNING ACT LEGAL NOTICE REQUIREMENTS

The Town of Fort Erie has not yet made a decision regarding this application. After considering any written comments and the comments from the public meeting, a Recommendation Report will be prepared for a future Council-in-Committee meeting.

If a person or public body does not make oral submissions at a public meeting or make written submissions to the Town of Fort Erie before the Official Plan amendment and by-law are passed, the person or public body is not entitled to appeal the decision of the Town of Fort Erie Council to the Ontario Municipal Board.

If a person or public body does not make oral submissions at the public meeting, or make written submissions to the Town of Fort Erie before the Official Plan amendment and by-law are passed, the person or public body may not be added as party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

If you do not attend the public meeting but wish to be notified of the adoption of the proposed amendment to the Official Plan and Zoning By-law with respect to this application, you are required to make a written request to Carolyn Kett, Town Clerk and such request should include the name and address to which such notice should be sent.

Dated this 17<sup>TH</sup> day of October, 2013.

Carolyn Kett, Town Clerk

Richard Brady, M.A., MCIP, RPP, Director of Community and Development Services

Web Site: [www.town.forterie.on.ca](http://www.town.forterie.on.ca)

Tel. (905) 871-1600

1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6

Fax (905) 871-6411

Mayor Martin announced that the Public Meeting was now concluded.

(b) Property Rezoning and Official Plan Amendment

Re: Town of Fort Erie - Second Dwelling Units and Accessory Apartments

*Mr. Kernahan delivered a power point presentation. A hard copy is available in the Clerk's Office.*

Mayor Martin announced this portion of the meeting would be devoted to the holding of the a Public Meeting as provided for under the *Planning Act*, R.S.O. 1990, Chapter P.13 with respect to the proposed Property Rezoning and Official Plan Amendment for second dwelling units and accessory apartments.

Mayor Martin advised of the Public Meeting process and enquired as to the manner and date upon which notice of this Public Meeting was given.

Mr. Kernahan advised Council authorized staff to initiate amendments to the Official Plan and Zoning By-law to update the provisions for accessory apartments and add regulations for second dwelling units through the approval of recommendations contained in Report No. CDS-61-2013 on July 8, 2013.

Mr. Kernahan advised notice of this public meeting was circulated in accordance with the provisions of the *Planning Act* by placing an ad in The Times on October 17, 2013. In addition, the following additional consultation measures were undertaken in accordance with Council's direction for providing notice on Town-initiated amendments:

- > Proposed changes to Zoning By-law No. 129-90 were posted on Town's website;
- > Notice of proposed changes posted on Town's twitter page;
- > Notice of public meeting sent to Ridgeway, Bridgeburg and Crystal Beach BIA's;
- > Notice of the amendment included on September and October, 2013 water bill;
- > Notice of the amendment was advertised on the billboard at the corner of Municipal Centre Drive and Garrison Road; and
- > Notice of the amendment was posted at the library branches, Leisureplex, Museum and Town Hall Atrium.

Mr. Kernahan stated the purpose of the amendment to the Town's Official Plan and Zoning By-law No. 129-90 is to bring these documents into conformity with Provincial legislation. In particular, the Strong Communities through *Affordable Housing Act* which came into effect in January 2012.

Mr. Kernahan explained the Strong Communities through *Affordable Housing Act* amended various sections of the *Planning Act* to facilitate the creation of second dwelling units by:

- Specifically identifying affordable housing as a matter of Provincial interest;
- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing second units in single detached, semi-detached and row houses (townhouses) as well as in stand-alone or accessory structures (a detached garage).

Mr. Kernahan stated while the Strong Communities through *Affordable Housing Act* requires municipalities to permit second dwelling units, municipalities are responsible for determining what standards or zoning provisions should apply to second dwelling units. The purpose of this amendment is to implement and establish these standards.

Mr. Kernahan advised the zoning regulations that have been developed through this amendment are split into two sections: the first is for accessory apartments which are self-contained dwelling units that include a kitchen, bathroom and living area and are located within an existing or proposed dwelling. These units are sometimes referred to "basement apartments" or "in-law suites" and are ancillary to the main dwelling. He displayed a slide that demonstrated a typical floor plan for a dwelling containing an accessory apartment. The second is for second dwelling units which are self-contained and include a kitchen, bathroom, living quarters and are located on the same lot as a primary dwelling but located in a separate building. They can be a stand-alone building or located in an accessory structure such as a garage. These units are sometimes referred to as "garden suites" or "granny flats". He displayed a slide that demonstrated a second dwelling unit.

Mr. Kernahan explained currently the Official Plan and Zoning By-law permit accessory apartments in single detached dwellings only. Both documents limit the size of the accessory apartments to 45 square metres and 40% of the size of the main dwelling unit. The Zoning By-law currently does not permit second dwelling units as stand-alone structures or in accessory buildings. The Zoning By-law has a number of regulations for accessory apartments of which he outlined.

Mr. Kernahan further explained the Official Plan includes general policies for accessory apartments and second dwelling units and the required changes are relatively minor and will permit accessory apartments in semi-detached and townhouse dwellings in the Urban Residential and Core Mixed Use areas, in addition to single detached dwellings and will remove the 485 square foot size restriction. Accessory apartments are permitted in single detached, semi-detached and townhouse dwellings in Agricultural, Rural, Rural Residential and all Residential zones as well as CMU1 and CMU2 Zones. They are not permitted in Waterfront Residential/Waterfront Rural Residential Zones. Parking spaces may be stacked for accessory apartments but not for second dwelling units. No maximum square footage for accessory apartments/second dwelling units. Limited to 40% of total floor area. Minimum of 35% landscaped Open Space in front yard for lots containing an accessory apartment or second dwelling unit.

Mr. Kernahan stated the proposed regulations for second dwelling units would permit them in the Residential 1 R1 Zone only. This is the Residential Zone within the Urban Area with the largest lot sizes. The proposed regulations permit the second dwelling units in the interior side yard or rear yard only similar to accessory structures. However, an increased setback of 2 metres from the side or rear lot line is required. The height of the second dwelling unit or accessory structure containing the second dwelling unit would be limited to 8 metres or the height of the primary dwelling, whichever is less. The proposed regulations require that dwellings containing an accessory apartment or buildings with a second dwelling unit comply with all other zoning regulations that apply such as setbacks and lot coverage.

The Chair provided Members of Council with an opportunity to ask questions of staff.

The Mayor indicated the Committee would now hear from those who wished to speak in favour of the application.

No person(s) came forward.

The Mayor indicated the Committee would now hear from those person(s) who wished to speak in opposition or to ask questions of the application.

(a) Charles, Kautz, 3247 Thunder Bay Road

Mr. Kautz questioned why waterfront properties were not included and therefore not permitted to have second dwelling units and accessory apartments. He indicated he thought it was discriminatory since some people would like to have them and recognized some would not like to see them. He indicated he would like to build an accessible house on his property.

In closing, Mr. Kautz informed Council waterfront property owners should be allowed to apply and not be excluded carte blanche.

Mayor Martin announced that the Public Meeting was now concluded.

## 7) **CONSENT TO ADD BUSINESS SUBDIVISION MATTERS**

Recommendation No. 1

Moved by: Councilor Passero

**THAT:** Pursuant to Section 16.10 of Council Rules of Procedure By-law No. 145-06, as amended, consent is hereby granted to consider Community and Development Services matters due to urgent circumstances. (CARRIED)

Designation of this Section and the more detailed Core Mixed Use designations of Secondary plan Amendments included in Section 4 of this Plan.

The zoning by-law shall contain provisions to ensure adequate parking, open space, building condition and municipal services are available.

## **PART “C” - THE APPENDICES**

Appendix 1 – Location Map (Lands Designated As Urban Residential, Core Mixed Use on Schedule A of the Official Plan or a Residential or Core Mixed Use designation identified by Secondary Plan Amendment in Section 4 of this Official Plan).

Appendix 2 - Notice of Public Meeting

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Appendix 4 - Circulation comments



Housekeeping Official Plan and Zoning Bylaw Amendment Second Units Comments  
Landry, Denise

to:

mkernahan@town.forterie.on.ca

11/05/2013 04:39 PM

Cc:

"Gray, Teresa"

Hide Details

From: "Landry, Denise" <Denise.Landry@niagararegion.ca>

To: "mkernahan@town.forterie.on.ca" <mkernahan@town.forterie.on.ca>

Cc: "Gray, Teresa" <Teresa.Gray@niagararegion.ca>

History: This message has been replied to.

Hi Matt,

Regional staff has reviewed the draft Official Plan and Zoning Bylaw Amendments to permit accessory apartments and second dwelling units in the urban area and is supportive of the Town's efforts to incorporate second suite policies in their planning documents. We offer the following comments for you to consider:

#### Official Plan Permitted Uses

- The Official Plan Amendment and Zoning Bylaw Amendment are proposing to permit and regulate accessory apartments within the Urban Residential and Core Mixed Use designations. The proposed Zoning Bylaw Amendment in Section 6.42 (b) contains provisions for second dwelling units in R1 Zones. Should the Official Plan also include policies to permit second dwelling units in the Urban Residential and Core Mixed Use designations?

#### Private Services for Accessory Apartments and Second Dwelling Units

- The proposed Zoning Bylaw Amendment in Section 6.42 (a) indicates that parcels proposed for an accessory apartment that are not serviced by public services must have a minimum lot size of 0.4 ha. For the Town's information, if the property is located within an HVA, a minimum 0.4 ha lot size may not be sufficient to sustain the required private water and sewage treatment facilities and protect the vulnerable surface and groundwater features. Perhaps some additional wording clarifying that a hydrogeological study may be required to determine the appropriate lot size.

Regional staff requests that the Town recirculate a copy of the draft amendments for review. If the comments in this email are addressed to the satisfaction of the Region, the Region is prepared to exempt the Official Plan Amendment from Regional approval.

If you have any questions or would like to discuss these comments further please contact me by phone (extension 3593) or by e-mail [denise.landry@niagararegion.ca](mailto:denise.landry@niagararegion.ca).

Yours truly,

**Denise Landry, B.U.R.P.I**

Planner - Policy

Integrated Community Planning

Tel: 905 685 - 4225 ext. 3593

[denise.landry@niagararegion.ca](mailto:denise.landry@niagararegion.ca)

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Second Dwelling Units - OPA and Zoning Housekeeping Amendments

Mallory, Ryan

to:

Matt Kernahan (MKernahan@town.forterie.on.ca) (MKernahan@town.forterie.on.ca)

10/07/2013 04:16 PM

Hide Details

From: "Mallory, Ryan" <rmallory@npca.ca>

To: "Matt Kernahan (MKernahan@town.forterie.on.ca) (MKernahan@town.forterie.on.ca)" <MKernahan@town.forterie.on.ca>

Hi Matt,

The NPCA has reviewed the above noted request for comments and has no objections to the proposed amendments to the Official Plan and Zoning By-law.

It is noted that the proposed amendment permits additions to existing dwellings and secondary dwelling units in accessory buildings. The NPCA has no objection to this in principle. However, NPCA regulations continue to remain in effect and may impact proposed development where the existing dwelling is located within NPCA regulated areas. In these cases, the proposed development will need to satisfy NPCA regulations and obtain a permit from this office prior to the proposed construction. The NPCA will endeavour to work with the local municipality and the applicants to ensure the proposed development meets the requirements of all parties.

Should you have any questions please feel free to contact the undersigned.

Regards,

Ryan Mallory, MCIP, RPP

Coordinator, Development Reviews

Niagara Peninsula Conservation Authority

250 Thorold Road West, 3<sup>rd</sup> Floor

Welland, Ontario L3C 3W2

Phone: (905) 788-3135 ext. 234

Fax: (905) 788-1121

[rmallory@npca.ca](mailto:rmallory@npca.ca)

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