



# The Municipal Corporation of the Town of Fort Erie

## By-law No. 44-2022

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

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**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, 128-2018 and 124-2020 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 a 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 4, 2021, authorized staff to undertake a housekeeping amendment to Zoning By-law No. 129-90, as amended, through Report No. PDS-91-2021; 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 January 6, 2022 and notice of such was published in the Fort Erie Post on December 16, 2021; 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 February 14, 2022 and notice of such was published in the Fort Erie Post on January 20, 2022; 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-21-2022 considered and approved by Council at the Council-in-Committee meeting of April 11, 2022;

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

1. **That** Section 5 of By-law No. 129-90, as amended, is further amended by adding thereto in alphabetical sequence, the following:

**“5.70     “COMMUNITY GARDEN”** means an area of land managed and maintained by a group of individuals for the purpose of cultivation of plants for personal consumption.”

2. That Subsection 5.116 **(a) “FARM PRODUCT MARKET”** and **(b) “FARM PRODUCT OUTLET”** of By-law No. 129-90, as amended, is deleted.

3. **That** Subsection 5.180 of By-law No. 129-90, as amended, is repealed and replaced with the following:

**“5.179   “LANDSCAPED AREA”** means an open area on a lot which is:

- (i) unoccupied by any building with the exception of a building with a green roof;
- (ii) used or intended to be used for the growth and maintenance of grass, flowers, shrubs, bushes, trees and other vegetation, a community garden, a green roof and for the provision of other landscaping features including, but not limited to, planting strips, facilities for outdoor recreation, play areas, surfaced walks and patios;
- (iii) but does not include any part of a non-permeable hardscape, driveway or parking area, or any retaining wall, roof-top terrace, balcony, swimming pool or space enclosed within a building.”

4. **That** Section 5 of By-law No. 129-90, as amended, is further amended by adding thereto in alphabetical sequence, the following:

**“5.355   “VALUE-ADDED USE”** means uses that generally occur on-farm which add value to agricultural products and their sale and distribution and are intended to promote and sustain the viability of farming operations. Such uses are generally considered agriculture-related uses, and are required to be small scale and related to the farm activity. Value Added Uses will not be permitted in conjunction with medical marihuana production facilities. Value Added Uses may be grouped into three major components: Production Uses, Marketing Uses and Support Uses:

- (a) **“Production Uses”**: means Value Added farm related uses that include, but are not limited to: the processing of agricultural products (including wineries, canneries, bakeries, cheese factories and similar uses); and distribution and warehousing of agricultural products.
- (b) **“Marketing Uses”**: means Value Added farm related uses that include a variety of methods of increasing the sales of raw or finished farm products. Such uses may include, but are not limited to: road side produce stands and other retail facilities for the sale of products; pick your own facilities; agri-tourism uses (such as farm mazes, special events facilities, farm weddings and educational facilities) and “experiential uses” (such as “working farm vacations” or culinary schools).
- (c) **“Support Uses”**: means uses that support day to day farm operation and may include, but are not limited to: machinery repairs, seed suppliers, and other uses not more appropriately accommodated in settlement areas. Support Uses are intended to primarily serve the farm operation and surrounding local farm operations and are intended to remain secondary to the principal farm operation.”

5. **That** Subsection 6.21 (g) of By-law No. 129-90, as amended, is repealed and replaced with the following:

“(g) MINIMUM LANDSCAPED AREA IN A RESIDENTIAL ZONE

- i. The minimum required landscaped area in the front yard of any dwelling in any residential zone shall be 30%.
- ii. The overall minimum required landscaped area on a lot in a residential zone shall be 20%.”

6. **That** Subsection 6.36 By-law No. 129-90, as amended, is further amended by adding thereto, the following:

“TEMPORARY TRAILER FOR HABITATION

Nothing in this By-law shall prevent the use of a mobile home, motor home or tourist trailer for temporary habitation during the construction of a dwelling in the Agricultural (A) Zone, the Rural (RU) Zone or the Rural Residential (RR) Zone for a period of time not to exceed 12 months with the requirement that a valid building permit for the dwelling was issued by the Town of Fort Erie.”

7. **That** Subsection 6.38 of By-law No. 129-90, as amended, is repealed and replaced with the following:

“6.38 TRAVEL TRAILERS, PICK UP CAMPERS, TENT TRAILERS, AND PERMANENTLY MOUNTED CAMPERS AND TENTS

- (a) ALL ZONES

No person in any zone shall locate or use any travel trailer, pick up camper, tent trailer, permanently mounted camper or tent on any lot for living, sleeping or eating accommodation.

(b) EXCEPTIONS

- i. Notwithstanding the provision of paragraph (a) hereof, a lot may be used for a travel trailer for living, sleeping or eating accommodation:
  - (i) where the lot is used as a camping area in a public park, but which tourist trailer or motor home shall not be occupied for any period of time beyond eight (8) months.
  - (ii) where the lot is in an Industrial Zone and the travel trailer or motor home is used by a caretaker or watchman employed on the lot and provided not more than one such travel trailer is located on a lot; or
  - (iii) where such use is specifically permitted elsewhere in this Bylaw.
- ii. Notwithstanding the provision of paragraph (a) hereof, a tent may be used on a lot in accordance with the Temporary Tent provisions under Subsection 6.36 Temporary Uses.”

**8. That** Subsection 6.47 (b) of By-law No. 129-90, as amended, is repealed and replaced with the following:

- “(b) Notwithstanding any other front yard requirements of this by-law, a dwelling or dwelling addition to be erected in an R1, R2, R2A, R3, RM1, WRR or RR Zone on a corner lot where the abutting lot fronting on the same street is occupied by a dwelling, may have a minimum front yard depth equal to or greater than the front yard depth of the dwelling on the abutting lot but shall not be less than 1 m except that the dwelling must comply with the requirements for daylighting triangles in Section 6.31.”

**9. That** Subsection 6.50 (a) of By-law No. 129-90, as amended, is repealed and replaced with the following:

- “(a) No part of any outdoor patio shall be used as a place of entertainment for the purpose of providing entertainment or amusement of any kind and, without restricting the generality of the foregoing, entertainment or amusement includes live or recorded music, dance facilities, theatrical performances, video games, film presentations video screens or televisions between the hours of 11:00 P.M. and 11:00 A.M. if any part of such patio is located within 60 metres of a Residential Zone.”

**10. That** Subsection 6.51 (c) of By-law No. 129-90, as amended, is repealed and replaced with the following:

- “(c) The maximum number of model homes shall not exceed five (5) dwelling units or a maximum of 10% of the total number of lots within the plan of subdivision proposed for registration, whichever is less;”

**11. That** Section 6 of By-law No. 129-90, as amended, is further amended by adding the following immediately after Subsection 6.55:

**“6.56 COMMUNITY GARDENS**

- (a) Notwithstanding any other provision of this By-law, a Community Garden shall be permitted in all zones except:
  - (i) Industrial (IN) Zone;
  - (ii) Prestige Industrial (PI) Zone;
  - (iii) Dry Industrial (DI) Zone;
  - (iv) Extractive Industrial (EI) Zone;
  - (v) Environmental Protection (EP) Zone; and
  - (vi) Dune Protection (DP) Zone.
- (b) Notwithstanding anything to the contrary, a Community Garden is prohibited within a Daylighting Triangle or on any Town, Regional or Provincial land without written permission from the relevant authority.
- (c) Cannabis/marihuana plants in a Community Garden are prohibited.
- (d) The maximum area permitted on a lot for a Community Garden is 93.00 sq. m.
- (e) All parking associated with a Community Garden must be accommodated on site.
- (f) Use of a Community Garden for commercial purposes is not permitted.”

**12. That** Subsection 7.3 of By-law No. 129-90, as amended, is repealed and replaced with the following:

**“7.3 PERMITTED SECONDARY USES**

- a) Value-added Uses”

**13. That** Subsection 7.4 of By-law 129-90, as amended, is further amended by deleting “Farm Product Outlets” from its heading.

**14. That** Subsection 7.4 of By-law No. 129-90, as amended, is further amended by deleting the following provision:

Minimum Floor Area	100 sq. m. for a dwelling
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**15. That** Subsection 7.8 of By-law No. 129-90, as amended, is repealed and replaced with the following:

**“7.8 REGULATIONS FOR VALUE-ADDED USES**

The provisions of Subsection 7.4 relating to dwellings shall apply in addition to the following:

Accessory Use	Value-Added Uses are permitted only in conjunction with an Agricultural Use
Maximum gross floor area for Value Added Production and Support Uses	500 sq. m.
Maximum gross floor area for Value Added Marketing Uses	100 sq. m.

- 16. That** Subsection 8.2 of By-law No. 129-90, as amended, is further amended by replacing Subsection 8.2 (b) with the following:

“(b) Agriculturally related use and Value-added Uses”

- 17. That** Subsection 8.2 of By-law No. 129-90, as amended, is further amended by deleting the following:

“(c) Farm Product Market”

- 18. That** Subsection 8.3 of By-law 129-90, as amended, is further amended by deleting “Except for Farm Product Market” from its heading.

- 19. That** Subsection 8.3 of By-law No. 129-90, as amended, is further amended by deleting the following provision:

Minimum Floor Area	100 sq. m.
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- 20. That** Section 8 of By-law No. 129-90, as amended, is further amended by adding the following Subsection:

**“8.4 REGULATIONS FOR A SINGLE DETACHED DWELLING AS A PRINCIPAL USE ON A RURAL (RU) ZONE LOT**

Minimum Lot Frontage	46 m
Minimum Lot Area	(i) 1.0 ha (ii) 0.4 ha, if a hydrogeological study undertaken by an applicant demonstrates that a private septic system can be achieved on lot with less than 1.0 ha of lot area with no negative impacts on surface and/or ground water features subject to review and approval by the relevant approval authority.
Maximum Lot Coverage	15 percent
Minimum Front Yard	7.5 m
Minimum Interior Side Yard	3 m
Minimum Exterior Side Yard	7.5 m
Minimum Rear Yard	10 m
Maximum Height of Building	i) 2.5 storeys

	ii) 9 m
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**21. That** Subsection 8.6 of By-law No. 129-90, as amended, is repealed and replaced with the following:

**“8.7 REGULATIONS FOR VALUE-ADDED USES**

The provisions of Subsection 8.3 relating to dwellings shall apply in addition to the following:

Accessory Use	Value-Added Uses are permitted only in conjunction with an Agricultural Use
Maximum gross floor area for Value Added Production and Support Uses	500 sq. m.
Maximum gross floor area for Value Added Marketing Uses	100 sq. m.

**22. That** Subsection 9.3 of By-law No. 129-90, as amended, is further amended by deleting the following provisions:

Minimum Floor Area for Dwelling	(i)	1 storey	140 sq.m.
	(ii)	1.5 storey or split-level	160 sq.m.
	(iii)	2 or 2.5 storey	180 sq.m

**23. That** Subsection 10.3 of By-law No. 129-90, as amended, is further amended by deleting the following provisions:

Minimum Floor Area for Dwelling	(i)	1 storey	95 sq.m.
	(ii)	1.5 storey or split-level	135 sq.m.
	(iii)	2 or 2.5 storey	150 sq.m

**24. That** Subsection 13.5 of By-law No. 129-90, as amended, is further amended by deleting the following provision:

Minimum Floor Area	83.5 sq. m.
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**25. That** Subsection 14.3 of By-law No. 129-90, as amended, is repealed and replaced with the following:

Minimum Lot Area	300.00 sq m per unit, except 200 sq.m for a street townhouse lot and 270 sq.m for a street townhouse corner lot
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**26. That** Subsection 16.3 of By-law No. 129-90, as amended, is further amended by deleting the following provisions:

Minimum Floor Area for Dwelling	(i)	1 storey	95 sq.m.
	(ii)	1.5 storey or split-level	135 sq.m.
	(iii)	2 or 2.5 storey	150 sq.m

**27. That** Subsection 16A.3 of By-law No. 129-90, as amended, is further amended by removing the following provisions:

Minimum Floor Area for Dwelling	(i)	1 storey	140 sq.m.
	(ii)	1.5 storey or split-level	160 sq.m.
	(iii)	2 or 2.5 storey	180 sq.m

**28. That** Subsection 20.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**29. That** Subsection 21.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**30. That** Subsection 22.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre
- Studio”

**31. That** Subsection 26A.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**32. That** Subsection 26B.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**33. That** Subsection 26C.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**34. That** Subsection 26D.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**35. That** Subsection 26E.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**36. That** Subsection 26F.2 (a) of By-law No. 129-90, as amended, is further amended by adding the following:

- “Fitness Centre”

**37. That** Subsection 31.5 of Section 31 - Institutional (I) Zone of By-law No. 129-90, as amended, is repealed and replaced with the following:

**“31.5 REGULATIONS FOR DWELLING UNITS ACCESSORY TO A PERMITTED USE**

- Notwithstanding Subsection 6.13 (a), more than one dwelling unit may be permitted accessory to and on the same lot as a permitted institutional use
- Single detached dwellings shall be subject to the regulations of Section 12.3, save and except for minimum lot area and minimum lot frontage requirements
- Semi-detached dwellings shall be subject to the regulation of Section 13.4, save and except for minimum lot area and minimum lot frontage requirements
- Townhouse dwellings shall be subject to the regulations of Section 14.3, save and except for minimum lot area and minimum lot frontage requirements
- Dwelling units and dormitories shall be subject to the regulations of Section 15.3, save and except for minimum lot area and minimum lot frontage requirements
- Maximum lot coverage shall not exceed the requirements of the Institutional Zone”

**38. That** those sections of Comprehensive Zoning By-law No. 129-90 amended by this by-law, shall be renumbered as appropriate as a result of any addition or deletion of a section or subsection thereto.

**39. 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 25<sup>th</sup> day of April, 2022.**

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Mayor

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Clerk

I, Carol Schofield, Clerk of The Corporation of the Town of Fort Erie, hereby certify the foregoing to be a true copy of By-law No. 44-2022 of the said Town. Given under my hand and the seal of the said Corporation, this       day of       , 22

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