



The Municipal Corporation of the
Town of Fort Erie

Special Council Meeting Agenda

Monday, May 10, 2021 - 5:30 PM

Council Chambers via Video Teleconference

Due to the COVID-19 Pandemic and the Closure of Town Hall

All electronic meetings can be viewed at:

Town's Website:

<https://www.forterrie.ca/pages/CouncilAgendasandMinutes>

Town's YouTube Channel: www.youtube.com/townofforterie

or click on the YouTube icon on the home page of the Town's
website (www.forterrie.ca) or Cogeco TV

Page

1. Call to Order

2. Roll Call

3. Announcements/Addenda

4. Declarations of Pecuniary Interest

5. Closed Session

- (a) Pursuant to Section 239 (2) (c) of the *Municipal Act, 2001* - A proposed or pending acquisition or disposition of land by the municipality or local board

Re: Thunder Bay Beach Lands

Resolution: To be presented.

6. New Business

- (a) Short-Term Rental Appeals

Resolution:

That: Council appoints Councillors _____, _____ and _____ to hear any further Short Term Rental Licensing Appeals resulting from tickets issued on or before May 10, 2021.

3

[Memo - Appointments to Hear Appeals of Short Term Rental Tickets](#)

7. Motions

(a) Councillor McDermott

Re: Vaccination Clinics

(To be withdrawn)

8. Consideration of By-laws

- | | | |
|---------|----------------|---|
| 4 - 17 | 57-2021 | To Amend the Administrative Penalty By-law No. 111-2019, as amended (Short-Term Rentals)
<u>57-2021 To Amend the Administrative Penalty By-law No. 111-2019, as amended (Short-Term Rentals)</u> |
| 18 - 28 | 58-2021 | To Amend Business Licensing By-law 217-05, as amended (Short Term Rentals)
<u>58-2021 To amend Business Licensing By-law 217-05, as amended (Short Term Rentals)</u> |
| 29 | 59-2021 | To Confirm the Actions of Council at its Special Council Meeting held on May 10, 2021
<u>59-2021 Confirmatory</u> |

9. Adjournment



Interoffice Memorandum

May 3, 2021
File No. 1209

To: Mayor and Members of Council
From: Carol Schofield, Manager, Legislative Services/Clerk
Subject: **Appointments to Hear Appeals of Short Term Rental Tickets**

The purpose of this Memorandum is to provide members of Council with information with respect to the New Business Resolution on the May 10, 2021 Special Council Meeting Agenda to appoint three (3) members of Council to hear any further Short -Term Rental Appeals resulting from tickets issued on or before May 10, 2021.

Background

At the Council Meeting held on March 22, 2021, Council appointed Councillors Noyes, Dubanow and McDermott to hear the outstanding Short-Term Rental Licencing Appeal. The outstanding Appeal and 2 others which were also outstanding, were heard on April 21, 2021.

On April 26th Councillor McDermott's Motion that violations by Short Term Rental Operators be dealt with by the screening and hearing processes under the Administrative Penalty System, and the Business Licensing Appeals Committee be removed from Short-Term Rental licensing and appeals of violations, was passed by Council.

By-law Nos. 57-2021 and 58-2021 are on the Agenda for the May 10th Special Council Meeting to effect the required changes to Administrative Penalty By-law No. 111-2019 and Business Licensing By-law No. 217-05.

In the meantime, 4 more Appeals of tickets for Short-Term Rental violations have been filed; however, the original appointees were only for the outstanding appeals at that time. It is therefore necessary to appoint three (3) members of Council to hear any further Short-Term Appeals resulting from tickets issued prior to and including May 10, 2021.

Staff propose May 26, 2021 at 3:45 p.m. for the upcoming Appeals Hearing.

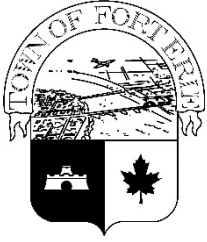
Respectfully submitted,

"Original Signed"

Carol Schofield, Dipl. M.A.

Manager, Legislative Services / Clerk

cc: T. Kuchyt, Chief Administrative Officer
K. Dolch, Director, Planning and Development Services
P. Chudoba, Coordinator, By-law Enforcement
C. Grummett, Manager, Economic Development & Tourism Services
D. Turner, Economic Development Officer



The Municipal Corporation of the Town of Fort Erie

By-law No. 57-2021

Being a By-law to Amend the Administrative Penalty By-law No. 111-2019, as amended (Short-Term Rentals)

Whereas By-law No. 111-2019 was passed by the Municipal Council of the Town of Fort Erie on July 15, 2019 to establish a system for Administrative Penalties; and

Whereas Council considered and approved Resolution No. 10 at the Council meeting held on April 26, 2021 to provide that Appeals of Short-Term Rental violations be dealt with by the screening and hearing processes under the Administrative Penalty System; and

Whereas Resolution No. 10 further provides that Administrative Penalty By-law No. 111-2019, as amended, be further amended to include Schedule "13" (Short-Term Rentals) of Business Licensing By-law No. 217-05 as being designated under the Administrative Penalty System; and

Whereas it is deemed desirable to make the aforesaid amendments to Schedule "A" to By-law No. 111-2019, as amended.

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

- 1. That** Schedule "A" to By-law No. 111-2019, as amended, is repealed and replaced with Schedule "A" attached to and forming part of this by-law.
- 2. 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 10th day of May, 2021.

Mayor

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 57-2021 of the said Town. Given under my hand and the seal of the said Corporation, this _____ day of _____, 20_____.

Schedule “A” to By-law 111-2019

1.0 **SHORT TITLE**

The Short Title of this by-law is the “Administrative Penalty By-law.”

2.0 **DEFINITIONS**

- 2.1 The following terms are defined for the purposes of this by-law:
- 2.2 “**Administrative Fee**” means any fee specified in this by-law listed in Appendix “2” of this by-law.
- 2.3 “**Administrative Penalty**” means a monetary penalty as set out in the established Schedules attached to this by-law and approved by Council for a contravention of a Designated By-law.
- 2.4 “**Council**” means the Municipal Council of the Corporation of the Town of Fort Erie.
- 2.5 “**Designated By-law**” means a by-law, or provision of a by-law which is a designated by-law, and is listed in Appendix “1” attached to this By-law.
- 2.6 “**Director**” means the Director of Community and Development Services from time to time or the holder of the officer exercising the functions presently performed by the said Director and includes his or her designate.
- 2.7 “**Fee – Appeal Hearing - No Show**” means an Administrative Fee from time to time established by Council in respect of a Person’s failure to appear at the time and place scheduled for a hearing before a Hearing Officer and listed in Appendix “2 “.
- 2.8 “**Fee – Late- Payment**” means an Administrative Fee from time to time established by Council in respect of a Person’s failure to pay an Administrative Penalty within the time prescribed in this By-law and listed in Appendix “2 “.
- 2.9 “**Fee – NSF**” means an Administrative Fee from time to time established by Council in respect for demand for payment received by the Town from a Person for payment of any Administrative Penalty or Administrative Fee, which has insufficient funds available in the account of which the instrument was drawn and listed in the Fees and Charges By-Law No. 40-09, as amended, from time to time.

- 2.10 “Fee - Screening No-Show”** means an Administrative Fee from time to time established by Council in respect of a Person’s failure to appear at the time and place scheduled for a review by a Screening Officer and listed in Appendix “2”.
- 2.11 “Hearing Officer”** means the Hearing Officer appointed by Council from time to time.
- 2.12 “Officer”** means each of the following:
- i. the Director
 - ii. a Municipal Law Enforcement Officer appointed by or under the authority of a Town by-law to enforce a Designated By-law; and
 - iii. a police officer employed by the Royal Canadian Mounted Police (RCMP), Ontario Provincial Police (OPP) or Niagara Regional Police Service (NRPS);
 - iv. a Fire Prevention Officer appointed by or under the authority of a Town by-law to enforce a Designated By-law and
 - v. a licensed agent of the Fort Erie SPCA appointed by or under the authority of a Town by-law to enforce a Designated By-law.
- 2.13 “Penalty Notice”** means a notice given to a Person pursuant to section 4.0 of this by-law.
- 2.14 “Penalty Notice Date”** means the date specified on the Penalty Notice, pursuant to section 4.3 (c) of this by-law.
- 2.15 “Penalty Notice Number”** means the number specified on the Penalty Notice pursuant to section 4.3 (d) of this by-law.
- 2.16 “Person”** includes an individual, partnership, association, firm or corporation, and in the case of a corporation, includes a director or officer who knowingly concurs in the contravention of a by-law.
- 2.17 “Request for Screening Form”** means the form that must be filed by a Person under Section 5.4 (a) and (b).
- 2.18 “Request for a Hearing Form”** means the form that must be filled out by a Person under Section 6.5 (a) and (b).
- 2.19 “Screening Decision”** means a decision made by a Screening Officer pursuant to Section 5.0.
- 2.20 “Screening Officer”** means a person who performs the functions of a Screening Officer in accordance with section 5.0 of this By-law.

2.21 “Town” means The Corporation of the Town of Fort Erie.

3.0 DESIGNATED BY-LAWS

3.1 The Town by-laws that are listed in Appendix “1”, to this By-law are Designated By-laws and are designated to be under an administrative penalty system pursuant to section 434.1 and section 434.2 of the *Municipal Act*, 2001 as amended.

3.2 Appendix “2” of this By-law provides Administrative Fees imposed for the purposes of this By-law.

3.3 All set fines provided for in the Designated By-laws shall be administrative penalties under this by-law upon passage of this by-law.

4.0 PENALTY NOTICE

4.1 An Officer who has reason to believe that a Person has contravened any provision of a Designated By-law may issue a Penalty Notice to the Person.

4.1.1 The Director may, before 5:00 pm of the tenth (10th) day after the Penalty Notice Date, cancel the Administrative Penalty.

4.2 The Penalty Notice shall be given to the Person as soon as is reasonably practicable and shall include the following information:

- a) Municipal Address
- b) Name of Person
- c) the Penalty Notice Date;
- d) Penalty Notice Number;
- e) particulars of the contravention;
- f) the amount of the Administrative Penalty;
- g) such information as the Director determines is appropriate respecting the process by which the Person may exercise the Person’s right to request a review of the Administrative Penalty; and
- h) a statement advising that an Administrative Penalty will, unless cancelled or reduced pursuant to the review and appeal processes, constitute a debt of the Person to the Town.
- i) signature of the Officer.

5.0 REVIEW BY SCREENING OFFICER

- 5.1** A Person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer.
- 5.2** A Person's right to request a review expires if it has not been exercised in the manner prescribed in Subsection 5.4 before 5:00 p.m. on the fifteenth (15th) day after the Penalty Notice Date.
- 5.3** A Person's right to request an extension of the time to request a review expires if it has not been exercised in the manner prescribed in Subsection **5.4** before 5:00 p.m. on the Thirtieth (30th) day after the Penalty Notice Date at which time:
- a) the Person shall be deemed to have waived the right to request a review;
 - b) the Administrative Penalty shall be deemed to be affirmed; and
 - c) the Administrative Penalty shall not be subject to review, including review by any Court.
- 5.4** A Person's rights to request a review or to request an extension of time to request a review are exercised by giving to the Town written notice of the request to review by:
- a) submitting a Request for Screening Form available at the Town's web page as set out in the Penalty Notice, by mail, fax or email and scheduling the time and place for the review; or
 - b) attending in person at the location listed on the Penalty Notice to complete a Request for Screening Form and scheduling the time and place for the review.
- 5.5** The Request for a Screening Form shall include the following Information:
- a) the Penalty Notice Number;
 - b) the Person's mailing address and, if applicable, facsimile transmission number and e-mail address;
 - c) in the case of a request to extend the time to request a review, the reasons, if any, for having failed to exercise the right to request a review within the time limit prescribed in Subsection 5.3;
 - d) particulars of all grounds upon which the request to review is based; and
 - e) the Person's election to:

- i. meet with a Screening Officer for the review, or
- ii. have the review undertaken by a Screening Officer in writing in respect of the particulars provided by the Person pursuant to this Subsection 5.5.

5.6 Where the Person elects to meet with a Screening Officer pursuant to Subsection 5.5 (e) i, the Person shall be given notice of the date, time and place of the review by facsimile, in-person, e-mail or mailing address as provided by the Person in the Request for Screening Form.

5.7 Where the Person elects to meet with a Screening Officer pursuant to Subsection 5.5 (e) i, and the Person fails to appear at the time and place scheduled for a review or fails to remain at such place until the Screening Officer has made a Decision respecting the Administrative Penalty:

- a) the Person shall be deemed to have abandoned the request for the review;
- b) the Administrative Penalty shall be deemed to be affirmed;
- c) the Administrative Penalty shall not be subject to review, including review by any Court; and
- d) the Person shall pay to the Town a Fee – Screening No-Show as set out in Appendix “2”.

5.8 Subject to Subsection 5.3, the Screening Officer may:

- a) deny an extension of time for a review in which case the Administrative Penalty is deemed to be affirmed; or
- b) grant an extension of time for a review.

5.8.1 For the purposes of Section 5.0 the Screening Officer may:

- (i) only extend the time to request a review of an Administrative Penalty where the Person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that warrant the extension of time, or
- (ii) cancel, reduce or extend the time for payment of the Administrative Penalty and any Administrative Fees respecting that Administrative Penalty, where the Screening Officer is satisfied that doing so would maintain the general intent and purpose of the Designated By-law and that:
 - i. there is reason to doubt that the Person contravened the Designated By-law;

- ii. the Person took all reasonable steps to prevent the contravention; or
- iii. that the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.

5.9 After a Review is complete, the Screening Officer shall serve the Person with a Screening Decision.

5.10 A Screening Officer has no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

6.0 APPEAL TO HEARING OFFICER

6.1 A Person may appeal to a Hearing Officer against the Screening Decision.

6.2 The right to appeal is limited to a Person who has been given a Screening Decision pursuant to Subsection 5.9.

6.3 A Person's right to appeal expires if it has not been exercised in the manner prescribed in Subsection 6.5 before 5:00 p.m. on the fifteenth (15th) day after the Screening Decision Date.

6.4 A Person's right to request an extension of the time to appeal expires if it has not been exercised in the manner prescribed in Subsection 6.5 before 5:00 p.m. on the thirtieth (30th) day after the Screening Decision Date at which time:

- a) the Person shall be deemed to have waived the right to appeal;
- b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed; and
- c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be final and not subject to any further review, including review by any Court.

6.5 A Person's rights to request an appeal of a Screening Officer's decision or to request an extension of time to make a Request for Review by Hearing Officer are exercised by giving to the Town written notice by:

- a) submitting a Request for Review Hearing Form available at the Town's web page as set out in the Penalty Notice by mail, fax or email and scheduling the time and place for the review; or

- b) attending in person at the location listed on the Penalty Notice to complete a Request for Review Hearing Form and scheduling the time and place for the review.

6.6 The Request for Review Hearing Form shall include the following Information:

- a) the Penalty Notice Number;
- b) the Person's mailing address and, if applicable, facsimile transmission number and email address;
- c) in the case of a request to extend the time to appeal, the reasons, if any, for having failed to exercise the right to appeal within the time limit prescribed by Subsection 6.4;
- d) particulars of all grounds upon which the appeal is made; and
- e) a copy of the Person's completed Request for Screening Form and the Screening Decision of the Screening Officer.

6.7 The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.

6.8 A request for review or a request for an extension of time to request a review shall only be scheduled by the Town if the Person has submitted the request within the time limits set out in Subsections 6.3 and 6.4.

6.9 Where the Person fails to appear at the time and place scheduled for a hearing of the Appeal:

- a) the person shall be deemed to have abandoned the Appeal;
- b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed;
- c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be final and are not subject to any further review or appeal, including review or appeal by any Court; and
- d) the Person shall pay to the Town the Fee – Hearing No-Show in accordance with Appendix 2.

6.10 A Hearing Officer shall not make any decision respecting an Appeal unless the Hearing Officer has given each of the Person, the Director, and the Officer who gave the Penalty Notice an opportunity to be heard at the time and place scheduled for the hearing of the Appeal.

- 6.11** Subject to Subsections 6.4 and 6.5 the Hearing Officer may:
- a) deny an extension of time for a Hearing in which case the Administrative Penalty including any Administrative Fees are deemed to be affirmed;
 - b) grant an extension of time for a Hearing;
 - i. for the purposes of Subsection 6.11(b) the Hearing Officer may only extend the time to request a Hearing of an Administrative Penalty where the Person demonstrates, on a balance of probabilities, the existence of extenuating circumstances that warrant the extension of time.
 - c) affirm, cancel, or vary the Screening Officer's Decision and extend the time for payment of the Administrative Penalty, including any Administrative Fee, on the following grounds:
 - i. where the Person establishes on a balance of probabilities, that he or she did not contravene the Designated By-law as described in the Penalty Notice; or
 - ii. where the Person establishes on a balance of probabilities, that the reduction or extension of time for payment of the Administrative Penalty including any Administrative Fee, is necessary to relieve any undue hardship.
- 6.12** All hearings conducted by the Hearing Officer shall be in accordance with the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, as amended.
- 6.13** After a hearing is complete, the Hearing Officer shall immediately serve the Person with a Hearing Decision.
- 6.14** The decision of a Hearing Officer is final and not subject to any further review including review by any Court.
- 6.15** A Hearing Officer has no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability of operability of any statute, regulation or by-law.

7.0 SERVICE OF DOCUMENTS OR NOTICE

- 7.1** Service of any document or notice, including a Penalty Notice, respecting this By-law may be given in writing in any of the following ways and is effective:
- a) immediately when a copy is served on the Person to whom it is addressed;

- b) on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to the Person's last known address;
- c) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number, or
- d) upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's last known e-mail address.

7.2 For the purpose of Subsection 7.1(b), (c) and (d), a Person's last known address, last known facsimile transmission number and last known e-mail address provided by the person to the Town address are deemed to include those provided by the Person pursuant to Subsections 5.5(b) and 6.6(b).

7.3 Any notice or document respecting this By-law to be given to the Town shall be in writing, shall be given in any of the following ways, and is effective:

- a) on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to "Administrative Penalties, Att: Director, Planning and Development Services, Town of Fort Erie, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6";
- b) upon conclusion of the transmission of a copy by facsimile transmission to (905) 871-4022; or
- c) upon the sending a Request for Screening by e-mail transmission to: <https://www.forterie.ca/resource/eservices.xsp>

8.0 FINANCIAL ADMINISTRATION

8.1 No Officer who gives a Penalty Notice may accept payment of the Administrative Penalty respecting the Penalty Notice.

8.2 An Administrative Penalty that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to this By-law, is due and payable and constitutes a debt to the Town of each Person to whom or to which the Penalty Notice was given.

- (a) In accordance with the *Municipal Act, 2001*, as amended or replaced where 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.

- 8.3 Where a Person has paid an Administrative Penalty or an Administrative Fee that is then cancelled or reduced pursuant to this By-law, the Town shall refund the amount cancelled or reduced.
- 8.4 Where an Administrative Penalty or any Administrative Fee respecting that Administrative Penalty are not paid within fifteen (15) days after the date that they become due and payable, a Person to whom the Penalty Notice was given shall pay to the Town a Fee – Late Payment in accordance with Appendix “2”.
- 8.5 Where a Person provides a payment to the Town for payment of any Administrative Penalty or Administrative Fee, which has insufficient funds available in the account on which the instrument was drawn, shall pay to the Town a Fee – NSF in accordance with Appendix “2”.

9.0 **ADMINISTRATION**

- 9.1 The Director shall administer this By-law and establish any practices, policies and procedures necessary to implement this By-law and may amend such practices, policies and procedures from time to time as the Director deems necessary.
- 9.2 The Director shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this By-law and may amend such forms and notices from time to time as the Director deems necessary.
- 9.3 The Director may designate areas within the Town for conducting screening reviews and hearings under this By-law.

10.0 **GENERAL PROVISIONS**

- 10.1 The Director shall administer this By-law and establish any additional practices, policies and procedures necessary to implement this By-law and may amend such practices, policies and procedures from time to time as the Director deems necessary, without amendment to this By-law.
- 10.2 The Director shall prescribe all forms and notices, including the Penalty Notice, necessary to implement this By-law and may amend such forms and notices from time to time as the Director deems necessary, without amendment to this By-law.
- 10.3 An Administrative Penalty, including any Administrative Fee(s), that is confirmed or reduced, or in respect of which the time for payment has been extended, remaining unpaid after the date when it is due and payable, constitutes a debt to the Town owed by the Person.
 - (a) 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.

- 10.4 Where an Administrative Penalty is not paid by the date on which the Administrative Penalty is due and payable, the Person shall pay to the Town a Late Payment Fee, in addition to the Administrative Penalty and any applicable Administrative Fee(s) in accordance with Appendix "2".
- 10.5 Where a Person makes payments to the Town of any Administrative Penalty, Administrative Fee(s) or Late Payment Fee(s), by negotiable instrument, for which there are insufficient funds available in the account on which the instrument was drawn, the Person shall pay to the Town the NSF Fee in accordance with Appendix "2".
- 10.6 Where an Administrative Penalty is cancelled by a Screening Officer or Hearing Officer, any Administrative Fee(s) are also cancelled.
- 10.7 Any time limit that would otherwise expire on a Holiday is extended to the next day that is not a Holiday.
- 10.8 A Person claiming financial hardship under this By-law shall provide documented proof of the financial hardship to the Director, the Screening Officer or the Hearing Officer, as applicable.

11.0 **COMPLAINTS AND COMMENTS**

- 11.1 Complaints and comments respecting the administration of the Town's system of Administrative Penalties may be given to the Director of Community and Development Services. The Director shall consider each such complaint or comment in relation to the Director's consideration of opportunities for improvements to the Town's system of Administrative Penalties.

12.0 **ENFORCEMENT**

- 12.1 An administrative penalty shall be enforced by an officer as defined in this by-law.
- 12.2 Every person who contravenes any part 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

13.0 **VALIDITY**

- 13.1 If a court or tribunal of competent jurisdiction declares any provision or part of a provision of this By-law to be illegal or unenforceable, then that particular provision or provisions or part of the provision shall be severed and the remainder of this By-law shall continue to remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

APPENDIX"1" to By-law No. 111-2019

**TOWN OF FORT ERIE ADMINISTRATIVE PENALTY OFFENCES
BY-LAW NO. 111-2019**

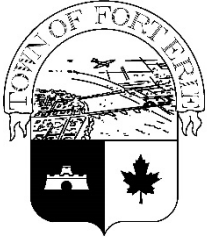
DESIGNATED BY-LAWS

Designated By-law	By-law Number
Highway Occupancy Policy	120-2015
Lot Maintenance	92-2019
Waterworks	66-2016
Fences	71-2016
Snow and Ice Removal	17-2009
Noise and Nuisance	30-2009
Swimming Pool	149-2008
Property Standards	186-2008
Sewage and Drainage	68-2006
Motorized Snow Vehicles	24-2006
Business Licensing	217-05
Parks and Beaches	119-03
Open Air Burning	167-03

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

APPENDIX "2" to By-law 111-2019**TOWN OF FORT ERIE ADMINISTRATIVE PENALTY SYSTEM BY-LAW NO. 111-2019
ADMINISTRATIVE FEES**

Administrative Fee Description	Fee Amount
Late Payment Fee	\$25.00
NSF Fee	\$30.00
Screening Non-Appearance Fee	\$100.00
Hearing Non-Appearance Fee	\$250.00



The Municipal Corporation of the Town of Fort Erie

By-law No. 58-2021

Being a By-law to amend Business Licensing By-law 217-05, as amended (Short Term Rentals)

Whereas By-law No. 217-05, as amended, was passed by the Municipal Council of the Town of Fort Erie on December 12, 2005, to licence and regulate various business in the Town of Fort Erie and to repeal certain by-laws; and

Whereas Schedule "13" to By-law No. 217-05, as amended, provides for the licensing of short-term rentals; and

Whereas Council considered and approved Resolution No. 10 at the Council meeting held on April 26, 2021 to provide that Appeals of Short-Term Rental violations be dealt with by the screening and hearing processes under the Administrative Penalty System; and

Whereas Resolution No. 10 further provides that Business Licensing By-law No. 217-05, as amended, be further amended to remove the Business Licensing Appeals Committee from Short-Term Rental licensing and appeals of violations;

Whereas it is deemed desirable to make the aforesaid amendments to Schedule "13" to By-law No. 217-05, as amended.

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

1. **That** Schedule 13 to By-law No. 217-05, as amended, is repealed and replaced with Schedule "A" attached to and forming part of this by-law.
2. **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 10th day of May, 2021.

Mayor

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 58-2021 of the said Town. Given under my hand and the seal of the said Corporation, this _____ day of _____, 20 .



THE CORPORATION OF THE TOWN OF FORT ERIE

SCHEDULE "13" - By-law No. 217-05

(By-law No. 217-05 as amended by By-law Nos. 113-2019, 22-2021, 41-2021, and 58-2021)

SHORT TERM RENTALS

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 Licensing 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 CO² detectors, the location of fire extinguishers and the established escape routes;

"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;

"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;

SCHEDULE “13” - SHORT-TERM RENTALS

“**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 LICENSING

- 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.

SCHEDULE "13" - SHORT-TERM RENTALS

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, 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.

SCHEDULE "13" - SHORT-TERM RENTALS

- 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 Owners 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 CO² 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;

SCHEDULE "13" - SHORT-TERM RENTALS

- 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.

4.6 In addition to any other provision of this Schedule with respect to the issuance of a licence, where a Penalty Notice has been issued for operating without a licence, a licence may not be applied for or be processed for a period of 7 days from the date of issuance of the Penalty Notice.

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;

SCHEDULE “13” - SHORT-TERM RENTALS

- 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, Provincial, Regional laws, Regulations or Orders, or Municipal By-laws (“Law”);
- l) Rent to an individual where a Law referred to in Subsection 5.1 (k) prohibits rentals to individuals who are not in need of housing, without obtaining valid verification that the individuals are in need of housing.
- m) Operate a Short-Term Rental if current and accurate information has not been provided to the Coordinator;
- n) Assign a Short-Term Rental licence.
- o) 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. Where an Owner has been imposed demerit points for carrying on a Short-Term Rental without a licence, the demerit points shall be applied when a Licence is issued.

SCHEDULE "13" - SHORT-TERM RENTALS

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;
- 6.3 A person who is required to attend a Hearing shall be notified by the Coordinator and the notice shall:
- (a) specify the time, place and purpose of the Hearing;
 - (b) inform the affected owner that he/she is required to attend the 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 Hearing.
- 6.4 The Committee at the 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.
- 6.6 An appeal that was commenced prior to this by-law being designated under Administrative Penalty By-law No. 111-2019 but not disposed of before such designation by by-law, shall be continued and disposed of by members of Council appointed from time to time to hear Appeals, under the same provisions as were in effect at the time of the commencement of the Appeal.

7.0 DEMERIT POINT SYSTEM

- 7.1 If at any time the Coordinator determines that the operation of a licensed 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 An owner is required to provide the Coordinator with the written the steps they intend to implement to mitigate further instances of awarding demerit points, to the

SCHEDULE "13" - SHORT-TERM RENTALS

satisfaction of the Coordinator, if the total of all demerit points in effect respecting a Short-Term Rental is seven (7) or more.

- 7.4 A Hearing is required if the total of all demerit points in effect respecting a Short-Term Rental is fifteen (15) or more, to determine if the Short-Term Rental licence should be revoked.

8.0 ADMINISTRATIVE PENALTIES

- 8.1 An Officer who has reason to believe that an 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; and
 - h) A statement advising that an Administrative Penalty will, unless cancelled constitutes a debt of the Owner to the Town.
- 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.

SCHEDULE "13" - SHORT-TERM RENTALS

9.0 PROVINCIAL OFFENCES

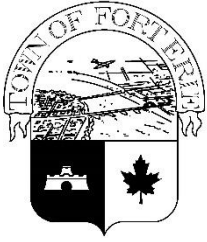
- 9.1 An Owner who obtains a Short-Term Rental licence shall comply with the regulations set out in this Schedule for such licence. Failure to comply with the regulations constitutes an offence.
- 9.2 Every Owner who contravenes any provision of this By-law, is guilty of an offence and upon conviction is liable to the penalties prescribed under the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

SCHEDULE "13" - SHORT-TERM RENTALS

APPENDIX "1" TO SCHEDULE 13

PENALTIES			
Column 1	Column 2	Column 3	Column 4
Infraction	Reference	Demerit Points	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	\$600.00
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
Failure to obtain valid verification of need of housing	5.1(l)	5	\$300.00
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.



The Municipal Corporation of the Town of Fort Erie

By-law No. 59-2021

Being a By-law to Confirm the Actions of Council at its Special Council Meeting held on May 10, 2021

Whereas it is desirable to have the actions and proceedings of Council adopted, ratified and confirmed by by-law;

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

1. That the actions of Council at its Special Council Meeting held on May 10, 2021 including all motions, resolutions and other actions are adopted, ratified and confirmed as if they were expressly embodied in this by-law, except where the law requires the prior approval of the Ontario Municipal Board or other authority.
2. **That** where no individual by-law has been or is passed with respect to the taking of any action authorized in or with respect to the exercise of any powers by the Council, then this by-law is deemed for all purposes to be the by-law required for such authorization or exercise of any powers.
3. **That** the Mayor and officers of The Corporation of the Town of Fort Erie are authorized and directed to do all things necessary to give effect to such actions or to obtain approvals where required.
4. **That** except where otherwise provided, the Mayor and the Clerk are authorized and directed to execute all documents arising from such actions.
5. **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 10th day of May, 2021.

Mayor

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 59-2021 of the said Town. Given under my hand and the seal of the said Corporation, this _____ day of _____, 20__.