

~~(This copy is a consolidation of the Parks and Beaches By-law and subsequent amendments. It is intended for office use and convenience only. For accuracy, reference should be made to the amending by-laws and schedules on file in the office of the Town Clerk – As amended by 126-03, 155-04, 25-06, 133-06, 94-09, 74-10 (MLEO), 135-10, 69-11 (MLEO), 54-12 (MLEO), 85-2014, 105-2017, 55-2019; 51-2020; 60-2020; 63-2020)~~



The Municipal Corporation of the
Town of Fort Erie
BY-LAW NO 119-03

**BEING A BY-LAW TO REGULATE THE USE OF PARKS AND
BEACHES IN THE TOWN OF FORT ERIE AND TO REPEAL BY-LAW
NOS. 54-89, 35-2000, 151-2000 AND 123-2001
120503**

WHEREAS Section 11(1).5 of the *Municipal Act*, 2001 provides a single tier municipality may pass by-laws respecting matters within the sphere of jurisdiction for culture, parks, recreation and heritage, and

WHEREAS Section 11(2).5 of the said Act provides that the culture, parks, recreation and heritage sphere of jurisdiction is non-exclusive and therefore both the upper-tier municipality and its lower tier municipalities have the power to pass by-laws under that sphere or part, and

WHEREAS Section 9(1) of the said Act provides Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues, and

WHEREAS Section 9(2) of the said Act provides in the event of ambiguity in Sections 8 and 11, those sections shall be interpreted broadly to include, rather than exclude, municipal powers that existed on December 31, 2002, and

WHEREAS Section 9(3) of the said *Municipal Act* provides inter alia without limiting the generality of subsections (1) and (2), a by-law under Section 11 respecting a matter may, regulate or prohibit respecting the matter, and as part of the power to regulate or prohibit respecting the matter, require persons to do things respecting the matter, and

WHEREAS By-law No. 35-2000 as amended by By-law Nos. 151-2000 and 123-2001 regulates the use of the Friendship Trail, and

WHEREAS By-law No. 54-89 regulates parking and use of vehicles and conveyances of every description and whatever the motive power within public parks and certain parking lots owned and/or operated and maintained by the Town of Fort Erie, and

WHEREAS By-law No. 119-97 as amended regulates the keeping and running-at-large of dogs in the Town of Fort Erie, and

WHEREAS it is deemed desirable to collectively regulate the use of parks and beaches in the Town of Fort Erie;

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

DEFINITIONS

1. In this By-law:

- (a) **“Council”** means the Municipal Council of the Town of Fort Erie;
- (b) **“Town”** means The Corporation of the Town of Fort Erie;
- (c) **“Director”** means the Director of Parks and Leisure Services of the Town or designate;
- (d) **“Liquor”** means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter: (“alcohol”)
- (e) **“Motor Vehicle”** shall mean and include an automobile, motorcycle, motor assisted bicycle and any other vehicle propelled or driven otherwise than by muscular power, a motorized snow vehicle, traction engine, farm tractor and self-propelled implement of husbandry, save and except a motorized wheelchair or like device used by disabled persons;
- (f) **“Municipal Facilities”** means any and all lands, buildings and parking lots owned and/or under the care and control of the Town used for municipal purposes;
- (g) **“Off-Leash Dog Area”** means a fenced area within a park for which signs are posted by the Town of Fort Erie indicating dogs are permitted to run at large.
- (h) **“Park”** means any and all lands owned and/or under the care and control of the Town designated for public park and/or recreation purposes and includes but is not limited to public beaches, public boat ramps, recreational trails, equestrian trails, community centers and arenas, and all lands surrounding buildings owned by the Town including any and all parking lots thereto; Schedule “A” identified as P1, P2, P3 Municipal Parking Lots pursuant to definition of Parks under Section 1 (h) hereinafter called “Bay Beach Municipal Parking Lots”. South side of Terrace Lane in proximity to the CB Waterfront Park Boat Ramp is hereby established as a municipal parking lot hereby called the “Crystal Beach Waterfront Park Boat Ramp Municipal Parking Lot”.

- (i) **“Place of Residence”** means the place where a person who does not have a usual place of residence in a dwelling unit, makes his/her home, whether during the daytime or overnight.
- (j) **“Posted Area”** means an area where permissive, warning or prohibition signs are erected; and
- (k) **“Recreational Trail”** means those lands known as the “Fort Erie Friendship Trail” and described as lands extending from Lakeshore Road to Edgemere Road to Kraft Road westerly to Crescent Road, being approximately 6.6 acres (Part of CN PIN 44744); lands extending from Crescent Road westerly to Six Mile Creek being approximately 22.65 acres (Part of CN PIN 44744); and lands extending from Six Mile Creek westerly to Prospect Point Road being approximately 12.8 acres (Part of CN PIN 44744); and lands extending from Prospect Point Road westerly to Holloway Bay Road being approximately 28.66 acres (Part of CN PIN 44745).
- (l) **“Run at Large”** means to be found in any place other than the premises of the owner of the dog, and not under control of any person.

APPLICATION OF BY-LAW

- 2. This by-law applies to all parks within the boundaries of the Town of Fort Erie.

GENERAL REGULATIONS AND PROHIBITIONS

- 3. No person shall in any park:
 - (a) park any vehicle for the purpose of hire;
 - (b) willfully cause damage to any park property, including equipment, by any means whatsoever;
 - (c) play or practice golf or strike or throw a golf ball or play or practice sports such as, but not limited to, baseball, football, ball hockey or any activity deemed by the Director to be dangerous to the public safety in any area of any park except those areas physically laid out, designated and/or improved for such use;
 - (d) distribute or expose any kind of commercial circular or advertisements or post, stencil or otherwise affix any notice or bill or other paper to any tree, shrub, fence, building or structure within the park;
 - (e) leave or deposit any ashes, bottles, garbage or waste of any kind whatsoever except in receptacles provided for such purposes;

- (f) permit or allow any animal in the control of any person to swim in any water in or adjoining any park, bathing beach or swimming pool;
- (g) sell or keep for sale any goods, wares, merchandise or refreshments of any kind except in accordance with Town by-laws and regulations;
- (h) perform for reward any act, skill or service;
- (i) subject to the provisions of any other by-law, operate an amplifying system or loud speaker, except:
 - (a) inside a community centre or arena prior to 11:30 p.m.; or
 - (b) inside a community centre or arena after 11:30 p.m. with a permit issued pursuant to subsection 3(l);
- (j) light or build a fire except in appliances provided for by the Town when first authorized, in writing, by the Director and the Fire Chief;
- (k) moor or beach a boat in areas other than posted for that purpose;
- (l) organize or arrange any public meeting, carnival, festival, concert, fireworks display, large picnic, overnight camping, organized sporting event or other such events without a permit issued by the Town and in that connection an application for such a permit shall be submitted in the prescribed form and submitted to the Director of Parks and Leisure Services Department of the Town for approval by the Council or the said Director, as may be determined;
- (m) The possession of liquor is prohibited in any park, and
 - (i) no person shall bring into a park, or have in their care, custody or possession liquor while in a park without the prior approval of the Corporation and only then under the authority of a "Special Occasion Permit" issued under Section 8 of the Liquor Licence Act R.S.O. 1990 as amended from time to time, and
 - (ii) any Police Officer upon discovery of liquor in a Park, may remove the liquor pursuant to Section 56 of the said Liquor Licence Act, and
 - (iii) notwithstanding subsections (i) and (ii) above, liquor may be kept in a mobile home, recreational vehicle, trailer or tent that is designed for use as, and is being used as, a residence in a section of a park designated by the Town for such use.

- (m) No person shall enter or be found in any park between the hours of 11:00 p.m. and 6:00 a.m. on any day save and except this section shall not apply to public boat ramps, community centres and arenas. No person shall enter or be found on any recreation trail or equestrian trail between the hours of 11:00 p.m. and 5:00 a.m. on any day; and
 - (o) notwithstanding Subsection 3 (n) above, no person shall enter or be found in any part or all of a park which has been closed for public safety reasons, including but not limited to during in an emergency, or during construction or repair.
 - (p) keep or permit a horse, or any other animal in any park, except as provided herein.
 - (q) no person shall bring to any park an umbrella(s) with a centre pole greater than 2.3 metres (7 ft. 6 ins.) in height and/or a maximum shade area of 2.47 metres (9 ft.), table(s), tent(s), tarp(s), cabana(s), pavilion(s), sports-brella(s), or the like.
 - (r) stay in any park as their place of residence at any time.
- 3.1
- (a) No person shall defecate or urinate in any park except in a public washroom.
 - (b) Every person who contravenes subsection 3.1 (a) of this by-law is guilty of an offense and is liable to the set fine established under Schedule "C" attached and forming part of this by-law.
 - (c) The set fine established in Schedule "C" of this by-law shall come into force and effect upon receipt of the Judge's Order from the Ministry of the Attorney General.

RECREATIONAL TRAIL REGULATIONS

4. The Recreational Trail be and it is hereby declared as a public park and a recreational trail for the purposes of the *Occupier's Liability Act*.

5. No person shall keep or permit a horse or any other animal, other than a dog, to be on the Recreational Trail save and except for the Phase III portion of the Recreational Trail (from Gorham Road westerly to Holloway Bay Road) after the completion of the design, funding and construction criteria are met for the Phase III portion of the Recreational Trail and the Phase III section of the trail is designed in such a way that it does not impede the future development of the paved multi-use trail.
- 5.1 No person shall operate any motorized vehicle on the Recreational Trail (Fort Erie Friendship Trail). **(Schedule B amended – Part I and II)**

DOGS

6. No person shall:
- (a) permit a dog to be in any park within the Town, except for the following parks:

Lions Sugar Bowl
Battle of Ridgeway Park
The Friendship Trail
 - (b) permit a dog to be in any public park as described in Section 6(a) except on a leash measuring no more than 182 cm. (6 feet) and only on the grassy areas of said parks;
 - (c) permit or allow a dog to defecate upon park property described in Section 6(a) unless the owner or person in charge of the dog cleans up the excrement and sanitarily disposes of same forthwith.

OFF-LEASH DOG AREA REGULATIONS

- 6.1 (a) Subject to Section 6.1 (b), a dog owner may permit a dog licensed under By-law 119-97 as amended, or any successor by-law thereto, to run at large in an Off-Leash Dog Area.
- (b) Owners of dogs that are required to be muzzled as defined in the *Dog Owners' Liability Act*, R.S.O. 1990, c.D.16, as amended or replaced from time to time, may not permit the dog that is required to be muzzled to run at large in an Off-Leash Dog Area.
- (c) The following general regulations shall apply to the use of established Off-Leash Dog Areas:

- (i) All dogs must display a current dog license and vaccinations tags;
- (ii) Users must remain within the designated Off-Leash Dog Area with their dog and the dog must remain within sight and voice control at all times;
- (iii) Dogs must be secured on a leash prior to entering and upon leaving an Off-Leash Dog Area;
- (iv) Aggressive dogs, female dogs in heat, sick dogs, and puppies under four (4) months of age, are not permitted in an Off-Leash Dog Area;
- (v) Dogs within an Off-Leash Dog Area are not permitted to wear prong or spike collars;
- (vi) No glass containers or food are permitted within an Off-Leash Dog Area;
- (vii) Children under twelve (12) years of age are not permitted in an Off-Leash Dog Area; and
- (viii) Notwithstanding Section 3(n), the use of Off-Leash Dog Areas is restricted to the hours between 6:00 a.m. and 11:00 p.m. on any day.

PARKING AND MOTOR VEHICLE REGULATIONS

- 7. (a) No person shall park a motor vehicle in a park or parking lot thereto except in those areas within parks and parking lots that are clearly and unmistakably identified as vehicular roadways and/or parking lots;
- (b) Unless written permission of the Director is previously obtained, no person shall park a motor vehicle on vehicular roadways and/or parking lots in any park between the hours of 11:00 p.m. and 6:00 a.m.;
- (c) Notwithstanding Subsection 7 (b) above, no person shall park a motor vehicle in any part or all of a park which has been closed for public safety reasons, including but not limited to in an emergency, or during construction or repair.
- (d) No person shall park any vehicle weighing in excess of 3,600 kgs. on vehicular roadways and/or parking lots of parks and municipal facilities; and
- (e) The operator of a motor vehicle not being the owner is liable to any penalty provided under this by-law and the owner of the motor vehicle is also liable to such a penalty unless at the time the offence was committed the motor vehicle was in the possession of a person other than the owner without the owner's consent.
- (f) No person shall in any park, ride, park or drive any motorized vehicle, trailer or bicycle except upon the roadways therein designated for vehicular use.

- (g) Any police officer, municipal law enforcement officer or designate, may upon discovery of a vehicle parked in contravention of Section 7 of By-law No. 119-03, cause that vehicle to be removed and impounded or restrained and immobilized, at the vehicle owner's expense, and subsection 170(15) of the *Highway Traffic Act* applies herein and such costs shall form a lien upon the vehicle of the owner which may be enforced in the manner provided by the *Repair and Storage Liens Act*.
- (h) No person shall park in the Bay Beach Municipal Parking Lots without paying the appropriate fee as set out in By-law No. 133-06.
- (i) No person shall park in the Crystal Beach Waterfront Park Boat Ramp Municipal Parking Lot without paying the established fee
- (j) Notwithstanding subsections 7(g) and 7(h), persons with a Veteran Status who are otherwise legally parked and exhibiting their Veteran Status on their vehicle licence plate, shall not be required to pay the established fees.

PENALTIES

- 8. In the event of a conflict between this by-law and the provisions of any other by-law or statute, the provisions that are the most restrictive shall prevail, save and except the provisions of Administrative Penalty By-law No. 84-2014.
- 9. Every person who contravenes any provision of this by-law is guilty of an offence and is liable upon conviction and at the discretion of the presiding Justice of the Peace or Judge of the Ontario Court (Provincial Division) or other relevant Justice or Judge or Court, to a fine pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33 as amended.
- 10. Every person who contravenes Sections 3, 4, 5, 5.1, 6 and 7 of this by-law is guilty of an offence and is liable to the set fines established under Schedule "B" annexed hereto, as well as Part IV of Dog Licensing and Regulation By-law No. 119-97, as amended and the set fines thereto.

11. Any person found to be in contravention of this by-law, shall be issued a notice of such violation. Every such person may, within seventy-two hours of the time when such notice was issued, pay at the Town of Fort Erie Municipal Offices a penalty for and in full satisfaction of such violation as set out in Schedule "B" annexed hereto. The failure of such person to pay the said sum as set forth in Schedule "B" hereto, subjects him or her to the penalties hereinbefore provided for the violation of the provisions of this the by-law.
12. The court, in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
13. In the event that any provision of this by-law is found to be invalid or unenforceable, all other provisions of this by-law shall remain in force or effect.
14. The set fines described herein shall come into force and effect upon receipt of the Judge's Order from the Ministry of the Attorney General.

ENFORCEMENT

15. This by-law shall be enforced by the Municipal Law Enforcement Officers of the Town of Fort Erie and the Niagara Regional Police.
16. This by-law may also be enforced by the Fort Erie SPCA or other like entity as it applies to Section 6 of this by-law and Dog Licensing and Regulation By-law No. 119-97, as amended.

EXCEPTION TO BY-LAW

17. This by-law shall not apply to the Town of Fort Erie, Niagara Regional Police, Ambulance Service, Fort Erie SPCA and any others by permission of the Town of Fort Erie for emergency services, maintenance, enforcement, and community event purposes.
- 17.1 Notwithstanding any other provisions of this by-law with respect to the standing, stopping and parking of vehicles and the penalties and set fines related thereto, the provisions of Administrative Penalty By-law No. 84-2014 shall prevail.

SHORT TITLE

18. This by-law may be referred to as the Parks and Beaches By-law.

SCHEDULE "B" TO PARKS AND BEACHES BY-LAW

Town of Fort Erie By-law No. 119-03

Title: Regulation of Parks and Beaches

PART I - PROVINCIAL OFFENCES ACT

<u>Item</u>	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine (includes costs)
1.	Play or practice dangerous sports or activities	Section 3(c)	\$50.00
2.	Distribute material or affix same	Section 3(d)	\$100.00
3.	Leave or deposit refuse or waste	Section 3(e)	\$100.00
4.	Permit animal to swim in park waters	Section 3(f)	\$50.00
5.	Sell goods without licence in park	Section 3(g)	\$350.00
6.	Perform for reward any act, skill or service	Section 3(h)	\$50.00
7.	Operate any amplifying system or loudspeaker	Section 3(i)	\$100.00
8.	Light or build prohibited fire	Section 3(j)	\$100.00
9.	Moor or beach boat in prohibited area	Section 3(k)	\$100.00
10.	Organize event without permit	Section 3(l)	\$350.00
11.	Person found in park between hours of 11:00 p.m. – 6:00 a.m.	Section 3(n)	\$100.00
12.	Permit animal in park	Section 3(o)	\$100.00
13.	Permit dog in park	Section 6(a)	\$100.00
14.	Fail to keep dog on leash	Section 6(b)	\$100.00
15.	Fail to clean up dog excrement	Section 6(c)	\$100.00
16.	Ride or drive in prohibited area of park	Section 7(e)	\$50.00
17.	Drive motorized vehicle on Recreational Trail	Section 5.1	\$250.00
18.	Defecate or urinate in any park except in a public washroom	Section 3.1(a)	\$500.00
19.	Use a park as a place of residence.	Subsection 3(q)	\$100.00
20.	Person found in park when park is closed.	Subsection 3 (o)	\$300.00
21.	Motor vehicle found in park when park is closed	Subsection 7 (c)	\$300.00

NOTE: The general penalty section for the offences listed above is section 9 of By-law No. 119-03, a certified copy of which has been filed.

SCHEDULE "B" TO PARKS AND BEACHES BY-LAW

Town of Fort Erie By-law No. 119-03

Title: Regulation of Parks and Beaches

PART II - PROVINCIAL OFFENCES ACT

<u>Item</u>	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Early Voluntary Payment Payable Within 7 Days	COLUMN 4 Set Fine
1.	Park any vehicle for the purpose of hire	Section 3(a)	\$40.00	\$50.00
2.	Parking vehicle in prohibited area of park or parking lot	Section 7(a)	\$40.00	\$50.00
3.	Park vehicle in park, roadway or parking lot between 2:00 a.m. and 6 a.m. – No Permit	Section 7(b)	\$40.00	\$50.00
4.	Parking vehicle on municipal property in excess of 3,600 kgs.	Section 7(c)	\$80.00	\$100.00
5.	Drive motorized vehicle on Recreation Trail	Section 5.1	\$225.00	\$250.00
6.	Park any vehicle in Bay Beach Municipal Parking Lot without paying appropriate fee	Section 7(f)	\$40.00	\$50.00
7.	No person shall park in the Crystal Beach Waterfront Park Boat Ramp Municipal Parking Lot without paying the established fee	Section 7(g)	\$40.00	\$50.00

NOTE: The general penalty section for the offences listed above is section 9 of By-law No. 119-03, a certified copy of which has been filed.