



# The Municipal Corporation of the Town of Fort Erie By-law No. 92-2019

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## Being a By-law to Provide for the Maintenance of Property and Land within the Town of Fort Erie and to Repeal By-law No.165-08 (Lot Maintenance By-law)

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**Whereas** Section 11 of the *Municipal Act, 2001*, S. 2001, c. 25, as amended, provides that the municipality may pass by-laws respecting matters within the spheres of jurisdiction set out therein; and

**Whereas** Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a local municipality may require an Owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings; regulate when and how such matters shall be done; prohibit the depositing of refuse or debris on land without the consent of the Owner or occupant of the land; and define "refuse" for this purpose; and

**Whereas** Section 128 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

**Whereas** Section 131 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition; and

**Whereas** Subsections 446 (1) and (3) of the *Municipal Act, 2001*, S.O. 2001, as amended, provides that if a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and may recover the costs by adding them to the tax roll and collecting them in the same manner as property taxes;

**Whereas** it is desirable to pass a by-law:

- (a) For the maintenance of lands by Owners and occupants, and
- (b) For prohibiting refuse on lands for the purposes of promoting proper recycling and re-use resources, limiting waste and wasteful practices, limiting

or eliminating nuisances, and eliminating other unhealthy practices and conditions arising from litter, refuse or neglect within the municipality.

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

## **1.0 SHORT TITLE**

The Short title of this By-law is the "Lot Maintenance By-law".

## **2.0 DEFINITIONS**

**2.1 "agricultural operation"** means an agricultural operation as defined by the *Farming and Food Protection Act, 1998*, S.O. 1998, c. 1, as amended or replaced;

**2.2 "boulevard"** means that portion of the highway between the Town property line and roadway, which is not used or intended for use for vehicular travel by the general public, and includes any landscaped areas and boulevards that are separated from private property by sidewalks;

**2.3 "derelict vehicle"** means a used vehicle or the body or chassis of a used vehicle that:

a) is not in an operating condition and is rusted, wrecked or partly wrecked or is dismantled or partly dismantled; or

(b) does not have affixed to it a licence plate with a current permit validation as required under the *Highway Traffic Act, R.S.O.1990,c.H .8*, as amended or replaced;

**2.4 "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.

**2.5 "highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

**2.6 "inoperative machinery, trailers or boats"** means such items that are unable to operate as a result of being dismantled, partially dismantled, wrecked or incomplete, discarded or abandoned and in particular includes vehicles with missing parts, wheels, tires, engine(s), drivetrain, body components or windows.

**2.7 "indoor furniture"** means and includes any furniture intended for or made of such a material that would require the furniture to be sheltered from the natural elements such as rain and snow and shall include, but not be limited to items such as couches, sofas, wooden furniture, fabric covered chairs, mattresses and appliances.

**2.8 "Officer"** means a Municipal Law Enforcement Officer, Building Inspector or Fire Prevention Inspector of The Town of Fort Erie or Weed Inspector appointed under the *Weed Control Act*, R.S.O. 1990 c. W.5 or other person appointed or employed by the Town of Fort Erie for the enforcement of by-laws;

**2.9 "operating condition"** means, in relation to a vehicle, that it is capable of being driven on a highway in compliance with the *Highway Traffic Act*, R.S.O. 1990, c.H. 8, as amended or replaced;

**2.10 "Order"** means any notice of non-compliance issued under this By-law;

**2.11 "Owner"** means a registered Owner, and includes an occupant, lessee, tenant or any other person in charge of, or in control of premises;

**2.12 "parking area"** means an area on a property where the main use of which is vehicular parking;

**2.13 "person"** means an Owner, who may be a natural person, firm, corporation, partnership or association;

**2.14 "refuse"** means and includes:

(a) debris, junk, rubbish, or effluent belonging to or associated with a house or household or any industry, trade or business, and without limiting, all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements;

(b) inoperative machinery, trailers or boats;

(c) derelict vehicles;

(d) accumulations of broken concrete or asphalt pavement, brick or stone pavers, sidewalk slabs, rubble, inert fill, and all other used building materials;

(e) waste lumber, construction and demolition waste, skids or pallets;

(f) dilapidated, collapsed or partially constructed structures which are currently not under construction, and which are not larger than 10 square metres (108 square feet);

(g) indoor furniture, dilapidated outdoor furniture, household appliances and electronic equipment;

(h) furnaces, furnace parts, ducting, plumbing, pipes, fittings to pipes, water or fuel tanks, cables, wire, or wire fencing;

(i) wrecked, incomplete, dismantled, partially dismantled, inoperative, discarded or abandoned mechanical equipment, mechanical parts, accessories, or adjuncts to piping, tubing, conduits or cable;

(j) containers of any size, type or composition not being used;

(k) organic waste, other than organic waste placed in a composting container;

(l) uncut wood in its natural state including but not limited to logs, branches, tree trunks, or limbs, that has not been split or cut into lengths and stacked neatly to be used as firewood or to be collected by a waste management facility;

(m) sewage;

(n) ashes;

(o) animal excrement;

(p) any article, product, or goods of manufacture, that by reason of its state, condition or excessive accumulation:

(i) has been cast aside, discharged or abandoned;

(ii) is disused from its usual and intended use, or

(iii) is used up, in whole or in part, or expanded or worn out, in whole or in part.

(q) refuse as defined by this by-law does not cease to be refuse by reason only that it may be commercially saleable or recyclable.

**2.15 "Region"** means The Regional Municipality of Niagara;

**2.16 "sewage"** means any liquid waste containing human, vegetable or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off;

**2.17 "standing water"** means any water on property other than:

- (a) a natural, moving body of water that exists on a permanent basis;
- (b) a body of water that is maintained in such a way so as to prevent the breeding of and/or larvae growth of mosquitoes, through the operation of a re-circulation and filtration system and or the additive of an approved substance that will prevent the breeding of and/or larvae growth of mosquitoes;
- (c) any body of water containing live fish;
- (d) any body of water natural to its surrounding environment including natural ponds, bogs, marshes, vernal pools and wetlands;
- (e) any body of water within a municipally owned Storm Water Management Facility; and
- (f) any body of water contained for less than four (4) days.

**2.18 "turf grass"** means ground cover comprised of one or more species of growing grass with or without trees, shrubbery or maintained planting, or other vegetation;

**2.19 "vehicle"** includes a motor vehicle, trailer, boat, motorized snow vehicle and any mechanical equipment designed to be drawn, propelled or driven by any type of power, including muscular power;

**2.20 "weed(s)"** means a noxious weed or weeds designated by or under the *Weed Control Act*, R.S.O. 1990, c.W.5, as amended or replaced, including any weed designated as a local or noxious weed under a by-law of the Town passed under that *Act*.

### **3.0 MAINTENANCE STANDARDS - REFUSE**

**3.1** Every Owner of land shall keep the land clean and free of refuse.

**3.2** Every Owner shall ensure that accessory buildings are kept clean and free from conditions that create a health or safety hazard.

**3.3** Every Owner of land shall ensure that a public highway, sidewalk and the boulevard in front of and flanking the land, and any back lane in the rear of the land, is kept free of refuse.

**3.4** No person shall deposit or allow to be deposited refuse either deliberately or accidentally onto another person's land, unless the other land is designated by by-law, for the purpose of dumping or disposing of refuse, or consent is given by the land Owner.

**3.5** Refuse as defined by this By-law does not cease to be refuse by reason only that it may be commercially saleable or recyclable.

**3.6** Every Owner of land on which refuse has been thrown, placed, dumped, stored, or deposited shall remove the refuse from their land so that the land is in a clean and tidy condition.

**3.7** A person shall be deemed to have not breached sections 3.1, 3.3 3.4 or 3.6 above by placing refuse out for collection in accordance with Municipal or Regional By-laws and collection schedules.

**3.7** Every Owner shall ensure that all refuse accumulated on their land, when not placed out for collection, is stored in containers which are:

- (a) made of rigid watertight construction, and in good condition;
- (b) have a tight fitting cover, which may be removed only when the container is empty or is being actively loaded; and
- (c) located only in the side or rear yard or screened from public view against a building, structure, fence or retaining wall and arranged in an orderly manner.

#### **4.0 MAINTENCE STANDARDS - EXTERIOR WALLS**

**4.1** Every Owner shall ensure that the exterior walls of a building and its components, including soffits, fascia, doors, and windows, shall be maintained in good repair free from cracked, broken or loose brick, masonry units, stucco and other damaged defective cladding, siding or trim.

**4.2** Every Owner of a building shall ensure the exterior of the building is protected by paint, suitable preservative coating, cladding, siding, trim, or similar approved material of the same colour that is applied and maintained so as to prevent deterioration due to weather conditions, insects or other damage.

4.3 Every Owner shall ensure that exterior windows or door glass of a building shall be replaced where it is broken, cracked or missing.

4.4 Every Owner shall keep their land clean and free from unsightly chalk marks, graffiti, painted slogans and similar markings or defacements on the exterior surfaces of buildings or structures including fences.

4.5 No person shall permit exterior lighting to be directed or deflected towards adjacent land so as to disturb the comfort and enjoyment of the inhabitants, or be placed in such a position or manner to confuse or distract persons driving vehicles on the public highway.

**5.0 MAINTENANCE STANDARDS - DERELICT VEHICLES**

5.1 Every Owner shall keep their land clean and free of derelict vehicles.

5.2 The restriction in section 5.1 shall not apply to a derelict vehicle that is wholly contained within a building.

**6.0 VEGETATION ON PROPERTY**

6.1 Every Owner shall ensure that, other than on land zoned for agricultural operations, turf grass or similar vegetation is kept trimmed to a maximum length of 15 (6 inches), including the grassy boulevard portion of any highway or part thereof, in front of, alongside, or at the rear of, any building or land;

6.2 Every Owner shall ensure that weeds are controlled by:

(a) pulling or otherwise removing the plants from the soil;

(b) cutting the roots or stalks of the plants before the seeds have developed sufficiently to ripen after cutting;

(c) turning the soil in which the plants were growing so as to kill the weeds; or

(d) in the case of poison ivy, treating it with a herbicide that causes the plant to be destroyed, or prevents the growth of plants or the ripening of its seeds, provided that nothing in this clause authorizes the use of any herbicide contrary to any other law in force in the Province of Ontario.

6.3 Every Owner shall keep their land and structures clean and free from:

- (a) dead, decayed, felled, fallen or damaged trees, or other natural growth, and the branches or limbs thereof which may create an unsafe condition, and
- (b) injurious insects, termites, rodents, vermin or other pests or other conditions which may result in the harbouring of such pests.

**6.4** Every Owner shall ensure that trees or shrubs on their land do not interfere with:

- (a) the Town's or Region's highways, works, including sewer and water pipes;
- (b) pedestrian or vehicular traffic on a highway;
- (c) motorists or pedestrians view of directional signs or traffic control devices on a highway; or
- (d) the sightlines of motorists or pedestrians;

## **7.0 STANDING WATER AND WATER DISCHARGE**

**7.1** Every Owner shall keep their land free of standing water.

**7.2** Every Owner shall keep their land free of containers or refuse capable of holding standing water in such a manner as to be exposed to the breeding of and/or larvae growth of insects.

**7.3** Every Owner shall ensure that a swimming pool, hot tub, wading pool, or residential ornamental landscaped water feature, does not become stagnant or abandoned, and is maintained in a proper operating condition, and in good repair.

**7.4** Every Owner shall ensure that their land is free and clear of excavations capable of holding standing water.

**7.5** Every Owner shall ensure that sump pump water is discharged into the front, rear or exterior side yard a minimum of 1.22 metres (4 feet) from the building face, and shall not be discharged into any interior side yard.

**7.6** Every Owner shall ensure that where downspouts or roof gutters are provided, roof water shall be discharged via a downspout a minimum 1.22 metres (4 feet) from the building into the front, rear or exterior side yard and shall not be discharged into any interior side yard.

**7.7** Where a sump pump discharge pipe or downspout has been connected to an underground discharge piping system, the water discharge shall be directed to a catch basin, swale, or ditch located on the property, or shall not be discharged within 3 metres (10 feet) of adjoining properties including Town sidewalks and highways.

**7.8** Notwithstanding where a sump pump discharge or downspout discharge, they shall not impact neighbouring or Town property.

### **7.9 Permitted Exception**

Where sump pump water or a downspout discharges, into a side yard that has adequate drainage in the form of a natural drainage pattern, a swale, storm drain or other such drainage design and does not affect neighbouring property the sump pump discharge pipe or downspout can remain unchanged.

## **8.0 PARKING AREAS AND WALKWAYS**

**8.1** Every Owner shall ensure that areas used for vehicular traffic or parking areas shall be:

(a) kept in good repair free of dirt, refuse and standing water.

**8.2** Every Owner shall ensure that steps, walkways, driveways, parking spaces and other similar areas are maintained so as to afford safe passage in all weather conditions.

## **9.0 STREET NUMBER DISPLAY**

**9.1** Every Owner of a building within the urban area shall cause to be displayed and maintained thereon the street number of the building in such manner as to be plainly legible and visible from the centre of the street upon which the building fronts.

## **10.0 VACANT BUILDINGS**

**10.1** Every Owner of a vacant building shall seal the building by covering all unsecure openings with at least 12.7 mm (0.5 inch) sheet plywood securely fastened to the building and painted a colour compatible with the surrounding walls. Such plywood shall be installed within the reveal of the frame or cladding, where feasible.

**11.0 PERMITTED EXCEPTIONS**

**11.1** Notwithstanding the provisions of this By-law, used lumber, used building materials, inoperative or derelict motor vehicles, trucks, trailers, unused machinery, machinery parts and automotive parts may be stored on an agricultural operation provided that:

(a) such material is screened from view from any land zoned residential in the Town's Comprehensive Zoning By-law, or all public highways within 152.4 metres (500 feet); and

(b) the material is used for replacement parts, vehicles or materials as part of the agricultural operation.

**11.2** Every Owner of land zoned residential shall ensure that a compost heap is:

(a) no larger than 1.0 square metre wide (10.76 square feet) and 1.22 metres ( 4.0 feet) in height; and

(b) is enclosed on all sides by concrete block, lumber, in a 170 litre (45 gallon) container, or a commercial plastic enclosed container designed for composting.

**11.3** Every Owner shall ensure that a compost heap is only located in the rear yard of their land.

**11.4** Every Owner shall ensure that a compost heap is not located closer than 1.22 metres (4 feet) to an abutting property line.

**12.0 ENFORCEMENT**

**12.1** An Officer may enter upon land and inspect the land or structures for the purpose of determining whether:

(a) the land is in compliance with this By-law;

(b) the Owner has complied with any Order issued by an Officer; or

(c) to enforce the Order.

**12.2** Every Owner shall permit an Officer and any person required to assist the Officer, to inspect the lands or structure(s) for the purpose of the enforcement of section 12.1 of this By-law.

**12.3** Upon request of the Owner an Officer shall produce proper identification.

**12.4** If in the opinion of the Officer there is doubt as to the condition of the land, structure, or tree(s), the Officer may Order the examination and testing of the condition by a qualified professional, at the Owner's expense. If the opinion of the Officer is upheld.

**12.5** An Officer may make an Order requiring that the Owner bring the land into compliance with the applicable section(s) of this By-law.

**12.6** The Order shall give reasonable particulars of why the land is in non-compliance with this By-law and shall provide the time for compliance of the Order. If the Order is not complied with within the time prescribed in the Order, the Town may take any steps necessary to enforce the Order and bring the land into compliance at the Owner's expense.

**12.7** An Order may be served by being personally delivered, served by registered mail, posted on the land, prepaid mail service, regular paid mail service, facsimile transmission, or electronic mail transmission. When an Order is sent by electronic mail it will also be sent by regular paid mail. Where no building or structure exists, the Order may be affixed to a stake erected by the Officer on the land, and the Order shall be deemed to have been served at the time of posting on the land.

**12.8** Where an Order is served in accordance with section 12.7 of this by-law the Order shall be deemed delivered on receipt of the Order by the addressee or on the fifth (5<sup>th</sup>) day following the date of mailing.

**12.9** Where an Order has been issued and compliance has not been achieved within the required time period set out in the Order, the Town may, through its employees, agents or persons acting on its behalf, enter upon the land to take the steps required to obtain compliance, with the Order and all expenses incurred shall be added to the tax roll and collected from the Owner in the same manner as municipal taxes.

**12.10** An Officer is authorized to enforce an Order issued under section 12.5 of this By-law that has not been complied with by the Owner.

**12.11** Where it is necessary for the Town to enforce an Order under the provisions of this by-law, an applicable Administrative Fee as determined by the Fees and Charges by-law as amended from time to time shall be added to the tax roll and collected from the Owner in the same manner as municipal taxes.

### **13.0 OFFENCES**

**13.1** No person shall fail to comply with an Order issued under this By-law.

13.2 No person shall hinder or obstruct an Officer appointed to enforce this By-law, nor shall any person obstruct any employee or agent authorized to carry out work for the Town, specified in an Order issued hereunder.

13.3 Every person 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.

**14.0 ADMINISTRATION AND INTERPRETATION**

14.1 If there is a conflict between a provision of this By-law and a provision of any other Town By-law, the provisions that establish the highest standard to protect the health and safety of the public, shall apply.

14.2 The Clerk of the Town of Fort Erie is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature ~~or kind~~ to this by-law ~~and~~ or its schedules after the passage of this by-law.

14.3 Should a Court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed to be severed from this By-law.

14.4 This By-law shall come into force and effect on the day it is passed.

14.5 By-law No. 165-08 as amended is repealed.

**Read a First, Second and Third Time and Finally Passed This 17<sup>th</sup> Day of June, 2019.**

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Mayor

\_\_\_\_\_  
Clerk

I, Carol Scholfield, the Clerk of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true certified copy of By-law No. 92-2019 of the said Town. Given under my hand and the seal of the said Corporation this            day of            , 20

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**SCHEDULE 'A' Lot Maintenance By-law No. 92-2019**

**Title: To Provide for the Maintenance of  
Property and Land within the Town of Fort  
Erie (Lot Maintenance)**

**PART 1 PROVINCIAL OFFENCES ACT**

<b>ITEM</b>	<b>COLUMN 1</b> Short Form Wording	<b>COLUMN 2</b> Provision Creating or Defining Offence	<b>COLUMN 3</b> Set Fine
1	Deposit refuse onto non designated property	3.4	\$700
2	Fail to comply with an Order	13.1	\$500
3	Obstruct an Officer	13.2	\$300
4	Obstruct an authorized employee or agent from carrying out Town work specified in an Order	13.2	\$300

Note: the general penalty section for the offence listed above is section 13.2. (1) of the Town of Fort Erie By-law No. 92-2019 a certified copy of which has been filed under section 61 of the *Provincial Offences Act, R.S.O. 1990, c.P. 33.*