

CONSOLIDATED

BY-LAW NO. 119-97

**BEING A BY-LAW TO REGULATE, RESTRICT AND PROHIBIT
THE KEEPING AND RUNNING AT LARGE OF DOGS,
IN THE TOWN OF FORT ERIE, AND TO
REPEAL BY-LAWS NO. 253-91, 23-92, 76-95, 182-95 AND 205-96**

AMENDED BY: 156-97; 23-2000; 82-2001; 81-2003; 32-04; 135-10; 58-12; 106-2015

**DATED:
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The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 119-97

BEING A BY-LAW TO REGULATE, RESTRICT AND PROHIBIT THE KEEPING AND RUNNING AT LARGE OF DOGS, IN THE TOWN OF FORT ERIE, AND TO REPEAL BY-LAWS NO. 253-91, 23-92, 76-95, 182-95 AND 205-96 (P14)

WHEREAS Section 11(1) of the *Municipal Act, 2001* provides inter alia a single tier municipality may pass by-laws respecting matters within the sphere of jurisdiction for animals, and

WHEREAS Section 11(2).9 of the said *Act* provides that the sphere is not assigned exclusively or non-exclusively to the upper or lower tier municipality, 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 *Act* provides 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.

WHEREAS the *Pounds Act*, R.S.O. 1990, c. P.17 generally provides for the appointment of a poundkeeper and for the recovery of expenses associated with impounding animals, and

WHEREAS the *Animals for Research Act*, R.S.O. 1990, c. A.22 generally provides for the redemption and destruction of impounded animals, and

WHEREAS By-law No. 253-91, as amended, regulates, restricts and prohibits the keeping and the running at large of dogs in the Town of Fort Erie, and

WHEREAS Council-in-Committee, at its meeting held July 14, 1997, approved Administrative Report No. F-34-97 and recommended that by-laws to amend current animal control fees and fines be submitted to Council;

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

PART I - INTERPRETATION

1. This by-law does not apply to:
 - (a) Dogs maintained in an Animal Hospital or Clinic or Boarding Kennel lawfully operated and supervised by a veterinarian who is a registered member of the Ontario Veterinary Association;
 - (b) The Fort Erie Society for the Prevention of Cruelty to Animals (S.P.C.A.);
 - (c) Dogs offered for sale in a licensed kennel or pet shop;
 - (d) Dogs maintained in a zoo, fair, exhibition or circus operated or licensed by a municipal or governmental authority;
 - (e) Dogs maintained at a research facility registered under the *Animals for Research Act*, R.S.O. 1990, c. A.22;

2. In this by-law,
 - (a) **“Animal Control Officer”** means a police officer and any officer duly appointed by the Poundkeeper and whose duties include the enforcement of this by-law;
 - (b) **“council”** means the Municipal Council of The Corporation of the Town of Fort Erie
 - (c) **“dog”** means any dog, male or female, whether neutered or spayed, but does not include a police dog or a guide dog within the meaning of the *Blind Persons Rights Act*, R.S.O. 1990, c.B.7, as amended or police work dog or guide dog owned by a disabled person as defined in the *Ontarians with Disabilities Act, 2001* where such dog is trained and licenced by the appropriate authority.”
 - (d) **“Fort Erie S.P.C.A.”** means the Ontario Corporation operating as the Fort Erie Society for the Prevention of Cruelty to Animals;

- (e) **“guard dog”** means any dog trained and used for security purposes on land used for industrial or commercial use;
- (f) **“license agent”** means the Fort Erie S.P.C.A. or such other person or organization as is authorized from time to time by the Council to act on behalf of the Town to enforce the provisions of this by-law;
- (g) **“owner”** includes any person who possesses or harbours a dog for any period of time, and where the owner is a minor, the person responsible for the custody of the minor; “owns” or “owned” have a corresponding meaning;
- (h) **“police work dog”** means a dog trained for and engaged in law enforcement;
- (i) **“pound”** means premises designated from time to time by the Town used for the detention, maintenance or disposal of dogs that have been impounded pursuant to this by-law;
- (j) **“Poundkeeper”** means the Fort Erie S.P.C.A. or such other person or organization as is authorized from time to time by the Council to act on behalf of the Town to enforce the provisions of this by-law;
- (k) **“running at large”** means to be found in any place other than the premises of the owner of the dog and not under the control of any person;
- (l) **“tag”** means a method of identifying a licensed dog; “dog tag” has like meaning
- (m) **“Town”** means The Corporation of the Town of Fort Erie.

PART II - KEEPING OF DOGS

- 3. (a) Except as otherwise provided, no person shall own, possess or harbour in any one (1) household or on any premises more than three (3) dogs.
- (b) No person shall breed or offer for sale dogs without a kennel license or pet shop license.
- (c) No person shall possess or harbour a rescue foster dog without a licence
- 4. The provisions of Section 3 are subject to the following:
 - (a) Sections 3(a) and (b) herein do not apply to any person keeping a kennel of purebred dogs registered with the Canadian Kennel Club, Incorporated, so

long as the said kennel is registered and the kennel, pens, or runs are operated and maintained in accordance with the provisions of this by-law.

- (b) The dog limit per household provided for in Subsection 3(a) may be exceeded for the purpose of fostering rescue dogs on agricultural property subject to the following:
 - (i) Completion of the appropriate application form which shall be accompanied by proof in writing from a bona-fide registered not-for-profit animal rescue organization declaring that the foster family applicant is/are a member in good standing;
 - (ii) The rescue foster dog licence fee shall be as established under Schedule “LLS-B” to By-law No. 40-09, as amended or superseded from time to time. The annual licence fee covers up to five (5) rescue dogs. When the subject dog(s) are adopted and when any new dog(s) are fostered by the applicant in the licence year, the tags shall transfer to the new rescue foster dog(s) despite Sections 9(b) and 10(b) herein;
 - (iii) The agricultural property has a minimum of five (5) acres of land;
 - (iv) A maximum of five (5) rescue foster dogs may be permitted in addition to the maximum three (3) dog limit provided for in Subsection 3(a) hereof, for a maximum period of twelve (12) months at any one time;
 - (v) In the event a rescue foster dog is pregnant and gives birth while in the foster home, the S.P.C.A. shall be notified immediately, and the foster family shall have eight (8) weeks in order to wean the puppies and remove them from the foster home;
 - (vi) Proof of adoption of a rescue foster dog to a Town resident shall be provided to the S.P.C.A.
- (c) The dog limit per household provided for in Subsection 3(a) may include the fostering of rescue dogs on non-agricultural property subject to the following:
 - (i) Completion of the appropriate application form which shall be accompanied by proof in writing from a bona-fide registered not-for-profit animal rescue organization declaring that the foster family applicant is/are a member in good standing;
 - (ii) The rescue foster dog licence fee shall be as established under Schedule “LLS-B” to By-law No. 40-09, as amended or superseded from time to time. The annual licence fee covers up to three (3) rescue dogs. When the subject dog(s) are adopted and when any new dog(s) are fostered by the applicant in the licence year, the tags shall transfer to the new rescue foster dog(s) despite Sections 9(b) and 10(b) herein;

(iii) A maximum of three (3) rescue foster dogs may be permitted within the maximum three (3) dog limit provided for in Subsection 3(a) hereof, for a maximum period of twelve (12) months at any one time;

(iv) In the event a rescue foster dog is pregnant and gives birth while in the foster home, the S.P.C.A. shall be notified immediately, and the foster family shall have eight (8) weeks in order to wean the puppies and remove them from the foster home;

(v) Proof of adoption of a rescue foster dog to a Town resident shall be provided to the S.P.C.A.

5. The license agent may issue more than three (3) licenses where the dogs are used as guard dogs.
6. The Town hereby authorizes and appoints the Fort Erie S.P.C.A. as license agent, to issue licenses required under this by-law, and every such license shall be executed on behalf of the Town by the Fort Erie S.P.C.A.
7. Every license issued under this by-law shall expire on the thirty-first (31st) day of December in the year in which it was issued.
8. Where a transfer of a licensed dog or dogs is effected, a license shall be re-registered forthwith and the fee for re-registration shall be five (\$5.00) dollars.
9.
 - (a) On payment of the license fee, the owner shall be furnished with a dog tag which the owner shall keep securely fixed on the dog at all times until the tag is renewed or replaced, provided that the tag may be removed while the dog is being lawfully used for hunting.
 - (b) No person shall use a tag upon a dog other than the dog for which the tag was issued and such tag is non-transferable.
10.
 - (a) No person shall own, possess or harbor a dog unless a license for the dog has been issued under this by-law;
 - (b) The license fee prescribed herein shall be payable by the owner as soon as such person becomes the owner of a dog or at any time when the dog is first possessed by the owner or harboured by the owner on the owner's premises, whichever shall first occur.
11.
 - (a) The following annual license fees shall be paid to the license agent by the person obtaining the license at the time the license is issued, namely:

TABLE "1"			
Column 1	Column 2	Column 3	Column 4
Section of By-law No. 119-97	Type of Licence	Fees & Charges	Amended Fees & Charges (effective April 1/04)
11(a)(i)	- Spayed or neutered dogs - unaltered	\$16.00 \$25.00	\$25.00 \$35.00
11(a)(ii)	Kennel licence	\$100.00	\$125.00
11(b)(i)	Licence purchased after June 30/04 (for new dogs) - spayed or neutered dogs - unaltered dogs	\$11.00 \$20.00	\$20.00 \$30.00
11(c)	Non-renewal by March 31	\$5.00	\$10.00 (effective April 1/05)

- (b) Notwithstanding subsection 11(a) herein, where the owner provides proof that the dog was purchased or lawfully acquired after June 30th of that year the fee for any license shall be;
 - (d) Every person who, while a bona fide resident of another municipality in Ontario obtains a dog license from such municipality for the then current year and later in such year becomes a resident of the Town of Fort Erie, shall upon presentation of the current license receipt issued by such other municipality for such dog and issuance of a license under this by-law, pay an annual license fee of five (\$5.00) dollars for such year provided that this paragraph shall not apply in the event that prior to the issuance of a valid license or license renewal under Section 10 herein, such dog is to be found running at large and/or such dog is claimed by the owner after having been impounded for running at large, at which time the regular license fee shall be applied.
 - (e) Kennel licenses are only issued or renewed subject to an inspection by the Fort Erie S.P.C.A. and certification that the kennel meets the standards and requirements of the Fort Erie S.P.C.A. and the Niagara Regional Health Department.
12. (a) Upon application for a license pursuant to Section 11 herein, the owner shall supply the Fort Erie S.P.C.A. with a description of each dog, sufficient to identify such dog together with a valid certificate verifying that such dog has been vaccinated against rabies.

- (b) Every kennel owner shall submit to the Fort Erie S.P.C.A., on a monthly basis, the names and addresses of Town residents who have purchased dogs from their kennels.
- 13.
 - (a) Where a tag has been lost, an application shall be made to replace the tag.
 - (b) The application shall be accompanied by proof that the current year's license fee has been paid and payment of a fee of Five (\$5.00) dollars paid to the license agent.
 - (c) The license agent shall issue a replacement tag.
- 14. The license agent is designated to keep a record in which shall be recorded the name of the owner of every dog registered under the provisions of this by-law, the date of such registration, the description of the dog, the registration number and the amount of the fee paid.
- 15. No person shall remove a tag from a licensed dog except as provided in Sections 9 and 31.
- 16. No owner shall allow or permit the dog to run at large.
- 17. Every owner of a dog and every person who has a dog under care, custody or control shall restrain or cause the dog to be restrained on a leash measuring no more than 182 cm. where the dog is at every place other than,
 - (a) on the property of the owner, or
 - (b) on the property of any other person with the consent of that person.
- 18. Any person who owns, harbours or possesses any dog shall forthwith remove and sanitarily dispose of any excrement of the said animal excreted while the said animal is not within the boundaries of the owner's property.
- 19.
 - (a) No person shall permit a dog to be on or in any cemetery, public beach, or park within the Town, except for the following parks:
 - Lions Sugarbowl Park
 - Battle of Ridgeway Park
 - The Friendship Trail
 - (b) No person shall permit a dog to be in any public park described in Section 19(a) except on a leash measuring no more than 182 cm. (6 feet) and only on the grassy areas of said parks.

- (c) Subject to Section 19(d), a person 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.
- (d) 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.

PART V - IMPOUNDING

- 20. The Poundkeeper or Animal Control Officer shall, and any police officer may, seize any dog found running at large contrary to this by-law.
- 21. Every dog seized by a police officer shall forthwith be delivered by the police officer to the Poundkeeper or to an Animal Control Officer.
- 22. The Poundkeeper shall impound any dog seized by him or delivered to him by a police officer or Animal Control Officer and shall adhere to the provisions of the *Animals for Research Act*; R.S.O. 1990, c. A.22.
- 23. The owner or keeper of an animal impounded for being at large shall be entitled to redeem such animal during the redemption period of seventy-two (72) hours from the time of impoundment, exclusive of the day of impoundment, statutory holidays, and days during which the Pound is otherwise closed, upon paying the Poundkeeper the applicable maintenance charges prescribed, and any other fines and expenses according to law.
- 24. (a) Where a dog that is distrained or impounded is injured or, in the opinion of the Poundkeeper should be destroyed without delay for humane reasons or for reasons of safety to persons or animals, the Animal Control Officer or other officer appointed by the Poundkeeper, may euthanize the dog as soon after capture or custody in a humane manner as soon after capture or custody as he may determine without permitting any person to reclaim the dog or without offering it for sale.

(b) Where a dog is distrained or impounded and the services of a veterinarian are secured by the Poundkeeper, the owner shall pay to the Poundkeeper all fees and charges of the veterinarian in addition to all other fees and per diem charges payable under this by-law, whether the dog is alive, dies or is euthanized.

25. The owner of a dog that has been impounded shall, upon application to the Poundkeeper, claim the dog before the Poundkeeper is entitled to dispose of the dog according to the provisions of Section 27 and shall compensate the Poundkeeper for boarding expenses incurred, as follows:
 - (a) The sum of twenty (\$20.00) dollars and costs for the first (1st) occurrence;
 - (b) The sum of twenty-five (\$25.00) dollars and costs for the second (2nd) occurrence;
 - (c) The sum of thirty (\$30.00) dollars and costs for the third (3rd) occurrence;
 - (d) The sum of thirty-five (\$35.00) dollars and costs for the fourth (4th) occurrence;
26. In addition to the costs referred to in Section 25, the cost of other services performed by the Pound and shall be at the rate of twelve (\$12.00) dollars for the (1st) day or part of the day; and nine (\$9.00) dollars for each day thereafter.
27. Where a dog that is impounded is not claimed by the owner thereof within the redemption period specified under this by-law the Poundkeeper may retain the dog for such further time as he may consider proper and during the time the Poundkeeper may;
 - (a) sell the dog for such price as he may consider proper; or
 - (b) euthanize the dog pursuant to the provisions of the *Animals for Research Act*, R.S.O. 1990, c.A.22
28. No compensation, damages, fees or any other sum of money shall be,
 - (a) recovered by any owner or other person; or
 - (b) paid by the Poundkeeper or the Town on account of or by reason of the impounding, euthanizing or other disposal of the impounded dog in the course of the administration and enforcement of this by-law.
29. Every pound fee and board fee that is unpaid in whole or in part is a debt due the Poundkeeper and is recoverable in any court of competent jurisdiction in which a debt or money demand may be recovered.
30. No person shall regain possession of a dog from the pound without first being in possession of a valid license for such dog and producing the dog for which the license was issued, or exhibiting the license therefore to the Poundkeeper.

31. (a) No resident of the Town shall take delivery of a dog from the pound without further being in possession of a valid license for such dog and producing the dog tag therefore to the Poundkeeper.
- (b) No person, other than the owner, or employee of any organization hired to carry out the requirements of this by-law or the Poundkeeper, shall remove a tag from a licensed dog during the year for which such tag was issued.

PART VI - GENERAL AND PENALTIES

32. No provision of this by-law shall be deemed to affect or inferentially repeal any prohibition or regulation contained in any restricted area, zoning or land use by-law in force in the Town.
33. (a) 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*
- (b) The set fines for an offence under this by-law are attached as Schedule "A" to and form part of this by-law.
- (c) 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.]
- (d) Each day during which there is a breach of this by-law shall be regarded as a separate and distinct offence and any person who continues in breach of this by-law, may be charged for each separate day during the continuation of the offence.
34. It is declared that, notwithstanding that any section of this by-law or part thereof may be found by any court of law to be bad, illegal or beyond the power of Council to enact, such section or part thereof shall be deemed to be severable and all other sections or parts of this by-law are separate and independent therefrom and enacted as such.
35. This by-law shall come into force and effect upon receipt of a Judge's Order from The Ministry of the Attorney-General approving the set fines herein.

36. By-law Nos. 253-91; 23-92; 76-95; 182-95 and 205-96 are hereby repealed, save and except the following sections of By-law No. 253-91, which shall remain in force and effect until such time as The Corporation is in receipt of a Judge's Order from the Ministry of the Attorney-General approving the set fines herein;
- a) Section 3
 - b) Section 9
 - c) Section 10
 - d) Section 15
 - e) Section 16
 - f) Section 17
 - g) Section 18
 - h) Section 19
37. Section 425 of the *Municipal Act, 2001* provides by-laws may be passed by all municipalities for providing that any person who contravenes any by-law of the municipality passed under this *Act*, is guilty of an offence."

READ A FIRST AND SECOND TIME THIS 21ST DAY OF JULY, 1997.

ORIGINAL SIGNED _____
MAYOR

ORIGINAL SIGNED _____
CLERK

READ A THIRD AND FINAL TIME THIS 18TH DAY OF AUGUST, 1997.

ORIGINAL SIGNED _____
MAYOR

ORIGINAL SIGNED _____
CLERK

I, the undersigned Clerk of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 119-97 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____, 19____.

**Schedule A to
By-law No. 119-97**

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Item	Description of Offense	Provision Creating or Defining Offense	Set Fine (Proposed)
1.	Keeping more than three (3) dogs	Section 3(a)	\$100.00
2.	Unlicensed breeding or offering for sale	Section 3(b)	\$350.00 58-12
3.	Failing to keep tag affixed	Section 9(a)	\$ 50.00
4.	Use of tag for other dog	Section 9(b)	\$ 50.00
5.	Owning, possessing, harbouring unlicensed dog	Section 10	\$ 50.00
6.	Removal of dog tag	Section 15	\$ 50.00
7.	Permitting dog to run at large	Section 16	\$150.00
8.	Failing to keep dog on leash	Section 17	\$150.00
9.	Failing to stoop and scoop	Section 18	\$150.00
10.	Permitting dog on beach, park or cemetery	Section 19	\$150.00
11.	Possessing or harbouring unlicensed rescue foster dog	Section 3 (c)	\$50.00