



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

BY-LAW NO. 72-99

**BEING A BY-LAW TO ADOPT A MUNICIPAL ALCOHOL POLICY
FOR THE CORPORATION OF THE TOWN OF FORT ERIE AND
TO REPEAL BY-LAW NO. 185-95 (A09.27)**

WHEREAS Section 102 of the Municipal Act, R.S.O. 1990, Chapter M.45 as amended, provides interalia that every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this act as may be deemed expedient and are not contrary to law, and

WHEREAS By-law No. 185-95 being a by-law to adopt a Municipal Alcohol Policy for the Corporation of the Town Fort Erie, was approved by Council at its Regular Meeting of Council held September 25, 1995, and

WHEREAS Report No. PALS-08-99 was approved by Council-in-Committee at its meeting held May 3rd, 1999, authorizing amendments to By-law No. 185-95 as outlined in the report, and

WHEREAS it is deemed desirable to repeal By-law No. 185-95 for ease of administering the by-law and to prepare a new by-law and a new Municipal Alcohol Policy for the Town of Fort Erie;

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

- (1) **THAT** the Municipal Alcohol Policy annexed hereto as Schedule "A" to this by-law be and it is hereby adopted.
- (2) **THAT**. the Clerk shall provide a copy of the policy to the Niagara Regional Police, the Liquor License Board of Ontario Inspector, all volunteer associations utilizing town-owned facilities, Howard Beattie, Frank Cowan and Company as well as any others that have an interest in this policy.
- (3) **THAT** By-law No. 185-95 be and it is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10th DAY OF MAY, 1999.

MAYOR

CLERK

I, the Clerk, Carolyn J. Booth, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 72-99 of the said Town. Given under my hand and the seal of the said Corporation this ___ day of _____

SCHEDULE “A” to

By-law No. 72-99

CONSOLIDATED AND AMENDED BY 172-2001 AND 260-2002

**MUNICIPAL
ALCOHOL
POLICY**

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TOWN OF FORT ERIE

ALCOHOL MANAGEMENT POLICY

INTRODUCTION:

The subject of the responsible serving of alcohol in a municipal/community setting must be continually monitored to ensure adherence to public standards and compliance with liability standards.

In recent years there has been increasing public concern about alcohol related incidents. The Corporation of the Town of Fort Erie owns and manages facilities where it wishes to prohibit the consumption of alcoholic beverages. In addition, it wishes to permit the consumption of alcoholic beverages in other Town facilities through one or more legal alternatives. This policy is intended to promote a safe enjoyable environment for those who use the facilities. The strict management and enforcement of this policy will greatly reduce the potential for alcohol related problems and reduce the Corporation's exposure to liability.

A review of the Alcohol Management Policy which was adopted by By-law No. 185-95 is in order. The following is a brief description of the original process.

On February 20, 1995 Council adopted Administrative Report CAO-8-95 which recommended:

THAT an Adhoc Municipal Alcohol Policy Committee be established and include representatives from the following areas:

- Mayor John Teal ~ Ex Officio
- A member of Municipal Council ~ Councillor Darlene Hazlett
- The Director of Parks & Leisure Services ~ Emile McIlvenna
- The Fire Chief ~ Tom Cartwright
- A member of a Board of Management for a community centre facility ~ Bill Stevenson, Stevensville Hall
- One representative from the public ~ Jack Schaerer

THAT Council adopt the Terms of Reference for the Ad-hoc Municipal Alcohol Policy Committee, being Appendix "4" to Administrative Report CAO-8-95;

THAT Council direct the Ad-hoc Committee to present its Report in concert with the Calendar of Milestone Events as shown as Appendix "5" to Administrative Report CAO-8-95.

In the preparation of the original policy the Committee recognized four (4) potential options that are suitable for Town owned facilities.

They are: 1) Prohibition

- 2) Special Occasion Permit (S.O.P.)
- 3) Licensed (L.L.B.O.)
- 4) Catered (from a licensed facility).

DEFINITIONS:

- Municipal Representative means Smart Serve trained bartender hired by the Town or Town employee.
- RIDE means Ontario's Reduce Impaired Drivers Everywhere.
- Facility Attendant means Town employee at event.
- Facility Booking Coordinator means Hall Manager or designate.

OBJECTIVES OF THE POLICY:

1. To provide appropriate procedures and education to individuals or groups wishing to hold events in municipally owned facilities in order to ensure that all legislation applicable to the Liquor Licence Board of Ontario is understood and strictly complied with.
2. To ensure proper supervision and proper operation of Special Occasion Permit and catered events in order to protect the organizers, the participating public, volunteers, the Corporation and its staff from liability by providing education in prevention and intervention techniques and through effective management procedures.
3. The Corporation will not allow any Special Occasion Permits or permit a catered event when in the sole opinion of the Town of Fort Erie the primary reason for the event involves minors. Non-consumption by participating adults provides a positive example for young people.

SECTION 1: PROHIBITION

Facilities and Events

Where the Consumption of Alcohol is Prohibited:

- 1.1 The following areas are designated as **NOT** suitable for the consumption of alcoholic beverages.

- Locations:
- Town Hall
 - John L. Gibson Centre
 - Underwater Recovery Unit

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• ~~Fort Erie Tennis Club~~

- Fort Erie Minor Ball Clubhouse
- Fort Erie Youth Soccer Club
- Kinsmen Pool
- Empire Loyalist Park Clubhouse
- Beach Areas
 - Crystal Beach
 - Thunderbay Beach
 - Crescent Beach
 - Point Abino Beach
 - Waverly Beach Park
- Parks
 - Bowen Road
 - Oakes Park
 - Lions Sugar Bowl
 - Douglas
 - Albert Street
 - Bertie Centennial (Ferndale Park)
 - Battlefield Park & Pavilion
 - Crystal Beach Waterfront Park
 - Stevensville Park
 - Stevensville Mini Park (West Main Street)
 - Empire Loyalist Park
 - A.C. Douglas Park
 - Crystal Beach - Derby Circle
 - Cherryhill Circle
 - All arena dressing rooms
 - Athletic and playing fields
 - Parking lots
 - Open park areas, trails and woodlots
 - All parks under the control or ownership of the Town.

1.2 Any group or individual consuming alcoholic beverages in any of the above areas in violation of the Liquor Licence Act will be refused rental privileges and may be charged by the Niagara Regional Police.

Rationale: Public areas, outdoor parks and children's play areas are regarded as inappropriate for the consumption of alcohol.

SECTION 2: SPECIAL OCCASION PERMITS (S.O.P.)

2.1 The following areas are considered suitable for Special Occasion Permits (S.O.P.) provided the nature of the event coincides with the objectives of the Alcohol Management Policy:

-
-
- Crystal Ridge Community Centre
 - Main Floor
 - Mezzanine
- Leisureplex Club Rooms
 - Kinsmen Club of Fort Erie
 - Lions Club of Fort Erie
 - Kinsmen Minor Hockey of Fort Erie
 - Fort Erie Figure Skating Club
 - Ridgeway Minor Hockey Association
 - Jaycee Room
 - Activity Hall
- Stevensville Hall
- Fire Halls 1, 2, 4, 5 & 6
- **Fort Erie Tennis Club**
- Libraries
 - Centennial
 - Crystal Ridge
 - Stevensville
- Museums
 - Fort Erie Railroad Museum
 - Ridgeway Battlefield Museum
 - Fort Erie Historical Museum
 - Mildred M. Mahoney Silver Jubilee Doll House Museum

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2.2 • Community Events or Festivals

Community events or festivals will require approval from the Council of the Town of Fort Erie. All events or festivals utilizing Town owned streets or boulevards will be required to provide a minimum of \$1,000,000 (one million dollars or an amount determined by Council, in liquor liability insurance naming the Town as an additional insured. In addition, all requirements of the Municipal Alcohol Policy and the L.L.B.O. must be strictly adhered to.

- Any board or committee insured by The Corporation of the Town of Fort Erie holding a community event on municipal property may not require the approval of Council, all of which is at the discretion of the Director of Parks & Leisure Services and the Town Clerk.

2.3 CONDITIONS FOR SPECIAL OCCASION PERMITS

2.3.1 Permit Holder Responsibility

The event sponsor conducting a Special Occasion Permit function is responsible to ensure that all requirements of the Liquor Licence Board and conditions of the Town of Fort Erie Facility Rental Agreement are strictly adhered to.

Rationale: The event sponsor is responsible for the behaviour of event participants and guests. L.L.B.O. rules are established to ensure sensible and safe use of alcohol. Town of Fort Erie Facility Rental Regulations are to ensure safe, responsible use of the facility.

2.3.2 Signage

The following signs be prominently displayed:

"ALL BARTENDERS ARE SMART SERVE CERTIFIED.
BARTENDERS RESERVE THE RIGHT TO REFUSE SERVICE."

- You are encouraged to participate in a Designated Driver Program.
- We support R.I.D.E. program.

Rationale: Servers are required by law not to serve an intoxicated person, nor to serve anyone to the point of intoxication. This message demonstrates that the event sponsor is aware of the Liquor Licence Act and prepared to enforce it.

Signs provide support to servers and supervisors. It is illegal to serve a person to a point of intoxication.

The sign gently reminds participants that the Niagara Regional Police Force conducts roadside sobriety spot checks.

2.3.3 Transportation Assistance Awareness

As a condition of rental, the event sponsor must support the Designated Driver Program by clearly identifying designated drivers and:

- providing non-alcoholic beverages free;

- providing alternative transportation for all those suspected to be intoxicated;
- advertising that a Designated Driver Program is in effect.

Rationale: This program is to ensure no one leaving an event from a Town of Fort Erie facility who is the driver of a motorized vehicle is impaired. The greatest risk of liability is viewed as the impaired driver leaving an alcohol related event. Event sponsors are responsible to take the necessary steps to reduce the possibility of impaired driving.

2.3.4 Non-Alcohol / Low Alcoholic Beverages

In order to rent a facility, the sponsor must provide an adequate supply of non-alcoholic and low alcoholic beverages.

Rationale: The availability of non-alcoholic beverages supports the Designated Driver Program. Low alcohol drinks reduce the consumption of absolute alcohol, reduce the likelihood of intoxication while permitting participants to socialize throughout the evening without becoming intoxicated.

The availability of low alcohol drinks reduces the likelihood of impaired driving.

2.3.5 Smart Serve Program

In order to rent a Town of Fort Erie facility for a Special Occasion Permit function, the event sponsor must provide a bartender(s) who has attended a Smart Serve Program course endorsed by the Ministry of Consumer and Commercial Relations or if required by the facility Coordinator, hire a Town of Fort Erie Smart Serve Trained Bartender. Proof of Smart Serve certification must be provided two weeks prior to the event. Proof of certification must be shown to the Facility Attendant prior to the start of the event.

Rationale: Reducing the risk of litigation requires not only the components of a policy and procedure, but also the recruitment of appropriately trained servers.

The Municipality is obligated to inform user groups of the potential for litigation and to provide them with the direction to avoid such action.

The Ministry of Consumer and Commercial Relations has endorsed the Smart Serve Program currently conducted by the Addiction Research Foundation. The A.R.F. provides certificates to those who have successfully completed the courses.

2.3.6 Contracts

That in order to rent a Town of Fort Erie facility for a Special Occasion Permit event, the event sponsor must demonstrate to the satisfaction of the Facility Booking Coordinator that the alcohol management policy is

understood, that regulations will be strictly enforced and that sufficient controls are in place to ensure compliance with the Town of Fort Erie Alcohol Management Policy. These controls include the following:

- a) The event sponsor must provide the Town with a copy of the Smart Service Program certificate along with a photo I.D., of all bartenders at least two (2) weeks prior to the event.
- b) The event sponsor must obtain a Special Occasion Permit from the Liquor Licence Board of Ontario and submit a copy of the same to the Facility Booking Coordinator two (2) weeks in advance of the event.
- c) The only acceptable form of identification will be an "age of majority" card or a driver's licence with photo. Servers reserve the right to refuse acceptance of I.D., if questionable.
- d) The person, or her/his designate, who signs the Special Occasion Permit application and the rental agreement must attend the event and be responsible for making decision regarding the operation of the event.
- e) The event sponsor is responsible for decision making during the event and therefore must remain accountable and maintain a responsible level of sobriety. All event workers must maintain a responsible level of sobriety to be able to assist in maintaining control at the event.
- f) The event sponsor must monitor the premises and ensure the physical setting is safe at all times.
- g) It is the responsibility of the event sponsor to ensure the guests at the event are properly supervised and to ensure no one consumes alcohol in an unauthorized location or leaves the facility in an intoxicated state.
- h) The event sponsor will ensure that a floor supervisor is available upon request to assist ticket sellers in managing a person who is refused sale.
- i) All bottles must be retained within the bar area. All drinks must be served in paper/plastic cups.
- j) At least one municipal representative with authority to demand correction and/or to shut down an event on behalf of the Town of Fort Erie, will attend all S.O.P. events.
- k) Marketing practices which encourage increased consumption, such as oversize drinks, double shots of spirits, drinking contests and volume discounts are not permitted.
- l) A minimum of two people will be designated to sell tickets where alcohol tickets are available for sale.

- m) Tickets should be colour coded to assist bartenders to distinguish different sale tickets.
- n) Unused tickets are to be redeemable for cash on demand at any time during the event.
- o) The Town of Fort Erie reserves the right to require the presence of police officers or a private security company for the duration of an event, the cost of which will be borne by the event sponsor.
- p) There will be no "last call". Hours of operation of the bar must be posted.
- q) All licensed events (including a free bar) must have a Smart Serve trained bartender. Alcohol cannot be left available for self serving.
- r) All event workers must wear highly visible identification.
- s) All S.O.P. events must have one (1) Smart Serve bartender per 125 patrons.
- t) All S.O.P. events must have one (1) door/floor supervisor per 200 patrons in addition to event sponsor designate.
- u) The bar must close at least forty five (45) minutes prior to closing of event.
- v) All facilities must be vacated by closing time as stated in the rental contract.

Rationale: The law clearly states that the event sponsor has a "duty to control" - that is, to protect participants from foreseeable harm to themselves or others.

Although police will be called if a situation becomes risky, it is the responsibility of the event sponsor to ensure proper management of an event.

2.3.7

Insurance

The event sponsor of a Special Occasion Permit event being held in a Town of Fort Erie facility is required to carry one million dollars (\$1,000,000) in public liability insurance. This policy shall state that "The undersigned covenants ... naming the Town of Fort Erie as additional insured to cover the specific event." Proof of adequate insurance must be provided to the Facility Manager one week prior to the event.

In addition, coverage shall be documented and a certified copy provided to the Town of the existing policy of insurance containing, if necessary, an

endorsement naming the event sponsor as an additional named insured under said policy.

Rationale: Case law indicates that judges and juries are sympathetic toward the injured plaintiff S.O.P. permit holders, the Town of Fort Erie, Club executives and volunteers could be named in a lawsuit.

Municipalities can be jointly liable and could end up paying the predominant share of an award to a plaintiff should the event sponsor be uninsured.

The Director of the Parks & Leisure Services Department may waive the addition of the party alcohol liability insurance if it is determined that the groups have adequate coverage through other services.

Groups such as the Fire Department or the Senior Citizens Committee are already covered by the Town's insurance and should be excluded from paying the additional insurance premiums.

2.3.8 Enforcement

Should staff observe individuals or members of the contracted group contravening the Municipal Alcohol Policy or the Liquor Licence Act of Ontario:

- (a) The rental privileges may be revoked immediately or the sponsor be advised in writing that:
 - (i) a second offence will result in rental privileges being revoked;
 - (ii) charges may be laid in accordance with existing legislation.

2.3.9 Policy Monitoring and Revisions

This policy be reviewed annually by senior management staff and reported to Council with suggested policy changes, if required.

Rationale: Permits policy changes to meet changing community needs, the addition of new facilities and new program demands.

Permits adjustments to any future changes to the Liquor License Act.

SECTION 3: TOWN LICENSED FACILITIES

3.1 The following locations are suitable to be licensed by the L.L.B.O.

- Fort Erie Leisureplex
- Bertie Boating Club
- Fort Erie Conservation Club

- Fire Halls 1, 2, 4, 5 & 6
 - Crystal Ridge Community Centre
- 3.2 The Corporation of the Town of Fort Erie has entered into a lease agreement that anticipates the operation of a licensed lounge at the Leisureplex. By-law 186-95 authorizes entry into a lease agreement for the operation of a licensed lounge at the Leisureplex.
- 3.3 Currently the Bertie Boating Club and the Fort Erie Conservation Club and the Crystal Ridge Community Centre have licensed facilities and are owned by the Corporation of the Town of Fort Erie.
- 3.4 Fort Erie Fire Halls 1, 2, 4, 5 and 6 to be self determined as to whether or not they wish to be licensed.
- 3.5 Notwithstanding the ability to amend this policy from time to time, the above locations will be the only liquor licences supported by the Town of Fort Erie for any facilities owned or operated by the Corporation.

SECTION 4: CATERED FROM A LICENSED FACILITY

- 4.1 The following facilities may be catered by the Leisureplex Licensee only under a catering endorsement of his licence.
- Leisureplex
 - Main Floor
 - Kinsmen Club Room
 - Lions Club Room
 - Kinsmen Minor Hockey Room
 - Fort Erie Figure Skating Club Room
 - Ridgeway Minor Hockey Association
 - Jaycee Room
 - Multi-purpose /Banquet Hall
 - Atrium
 - Crystal Ridge Community Centre
- 4.2 The Leisureplex Licensee will be required to meet all requirements of the Corporation as it relates to training and insurance. The Corporation will receive a percentage of all revenues as contained in the lease agreement between the Town of Fort Erie and the Licensee.

Rationale: Having an event catered by a licensed facility provides an alternative to the issuance of a Special Occasion Permit (S.O.P.) and offers protection to the Corporation by limiting its exposure to Liability.

The licensee is required by law to provide liability insurance and the Town can set the amount necessary for a licensee to carry.

The licensee must have properly trained Smart Serve Certified staff serving the alcohol.

Protection of the licence is the responsibility of the licensee, therefore, all requirements of the L.L.B.O. such as underage drinking, serving after hours, serving of unauthorized alcohol or any other such rule or regulation as prescribed by the L.L.B.O. or Town of Fort Erie Alcohol Management Policy is the responsibility of the Caterer.

4.3 The following facilities may be catered by a licensee having a catering endorsement licence providing he meets all of the training and insurance requirements of the Corporation.

- Leisureplex – Multipurpose/Banquet Hall – provided that the conditions in any lease agreement between the Town and the Leisureplex Licensee are met.
- Crystal Ridge Community Centre
- Stevensville Memorial Hall
- Fire Companies 1, 2, 4, 5 & 6.

4.4 All Bartenders be Smart Serve trained.

4.5 The Caterer to provide for a minimum of two million dollars (\$2,000,000) public liability insurance and the Corporation be named as second insured, except for the Leisureplex multi-purpose banquet hall where a ~~Five Million Dollar (\$5,000,000)~~ **Two Million Dollar (\$2,000,000)** public liability insurance **shall be** required, **naming the Town as additional insured.**

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4.6 The Caterer meets all of the relevant criteria contained in the Special Occasion Section of this Policy.

Appendix "A"

SPECIAL OCCASION PERMIT HOLDER AGREEMENT

NAME OF TEAM/GROUP

(Please Print)

NAME OF CONTACT PERSON

(Please Print)

ADDRESS _____

PHONE

NO.

CERTIFICATION:

1. The Permit Holder has received and reviewed a copy of the Municipal Alcohol Management Policy.
2. The Permit Holder agrees to adhere to the conditions of this policy and the Liquor Licence Act of Ontario.
3. The Permit Holder understands that if an infraction of the policy occurs, the Town of Fort Erie may refuse future rentals. The length of suspension will be determined by the Municipality.
4. The Permit Holder understands they can be held liable for injuries and damage arising from failing to adhere to the Liquor Licence Act of Ontario, or from otherwise failing to take action that will prevent foreseeable harm from occurring.
5. The Permit Holder understands that the Police and/or a Liquor Licence Inspector can lay charges for infractions of the Liquor Licence Act of Ontario or other relevant legislation.

SIGNATURE

(Contact Person)

OFFICE USE

S.O.P. LICENCE #

INSURANCE COMPANY

AMOUNT

AGREEMENT APPROVED BY: _____ DATE:
(Facility Coordinator)