



## The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 93-06

---

### BEING A BY-LAW TO RESTRICT VEHICULAR ACCESS FOR CERTAIN UNOPENED LAKE ERIE WATERFRONT ROAD ALLOWANCES AND TO DESIGNATE CERTAIN WATERFRONT LANDS AS PARKLAND

---

**WHEREAS** Subsection 11(2) of the *Municipal Act*, 2001, as amended provides for spheres of jurisdiction and under the table thereafter it states that a lower tier municipality and an upper tier municipality may pass by-laws respecting highways, including parking and traffic on highways, and

**WHEREAS** Section 30 of the said *Municipal Act*, 2001, as amended states that a highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person, and

**WHEREAS** Section 35 of the said *Municipal Act*, 2001, as amended provides a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway, and

**WHEREAS** Report No.CS-45-05 was approved at the Council-in-Committee meeting of November 21, 2005 as follows:

**THAT:** *A by-law be submitted to Council to restrict vehicular access except for emergency vehicles, for the following unopened road allowances leading to Lake Erie, namely:*

Prospect Point Road	Burleigh Road	Stonemill Road/Thunder Bay Road
Maple Leaf Avenue	Bernard Road	Bertie Bay Road
(and Waterfront Lands)	Windmill Point Road	Buffalo Road
Crescent Road	Beachview Avenue	
Kraft Road	Pierce Avenue	
Rose Avenue	Centralia Avenue	

*Provided that fishing boat launch vehicles shall be permitted for the following unopened road allowances leading to Lake Erie, namely:*

Prospect Point Road	Stonemill Road/Thunder Bay Road
Buffalo Road	Kraft Road
, and further	

**THAT:** *Prior to the consideration of the by-law, notice be published in the local newspaper informing the public of same, as well as notice to the property owners immediately adjacent to the subject road allowances, and further*

**THAT:** *Staff be directed to obtain surveys for each of the aforesaid road allowances, subject to the 2006 Budget deliberations, and further*

**THAT:** *Staff be directed to undertake improvements to the waterfront road allowance parkettes as stated herein in time for the 2006 summer season, subject to the 2006 Budget deliberations, and further*

*THAT: Staff be directed to undertake development of the Windmill Point, Rose, Beachview and Bertie Bay waterfront road allowances in time for the 2006 summer season, subject to the 2006 Budget deliberations, and further*

*THAT: The balance of the waterfront road allowances be considered for development / improvement in future budgets.*

**WHEREAS** By-law No. 2194 (1955) was passed by the Municipal Council of the Township of Bertie on the 18<sup>th</sup> day of July, 1955, to stop up and close that part of the Bernard Road road allowance south of Thunder Bay Road between Lots 18 & 19, Broken Front Concession, Lake Erie, former Township of Bertie, and

**WHEREAS** the lands south of North Shore Drive to Lake Erie, commonly referred to as Maple Leaf Lane, were acquired by the Town of Fort Erie through the Ridgeway Shores Golf Club Limited subdivision agreement for park purposes, and a strip of waterfront lands in front of properties fronting on North Shore Drive east of Maple Leaf Lane to Burleigh Road (approximately 330 metres along Lake Erie) were acquired by the Town of Fort Erie from the Public Guardian and Trustee, and

**WHEREAS** no person shall be deprived of the sole means of motor vehicle access to and from their lands by virtue of the passage of this by-law, and

**WHEREAS** Section 2.2.2 of Public Notice Policy By-law No. 24-04 provides that where notice is not so prescribed under the *Act*, notice shall be given at least once, not less than five (5) days prior to the Council meeting at which the proposed by-law is intended to be passed by publishing same in the local newspaper, inclusion on the Council and/or Council-in-Committee agenda where appropriate, and posting on the Town's Website. In addition, personal notice by prepaid (regular) mail, may be given in the discretion of the Clerk in those situations pertaining to the altering of a highway, and

**WHEREAS** notice of the intention of the Municipal Council of the Town of Fort Erie to consider a by-law to restrict vehicular access for certain unopened Lake Erie waterfront road allowances was published in The Times on April 22<sup>nd</sup> and 29<sup>th</sup>, 2006, in The Shopper on May 2, 2006, and posted on the Town's Website, and

**WHEREAS** personal notice by prepaid mail was given to the owners immediately abutting the subject unopened road allowances (to the first intersection), and

**WHEREAS** the public meeting was held on May 8, 2006 where the public had an opportunity to appear before Council and make comments, and

**WHEREAS** it is deemed desirable to restrict vehicular access for the unopened Lake Erie waterfront road allowances set out herein for the purpose of improving public access to the Lake Erie waterfront, and

**WHEREAS** it is deemed desirable to only permit boat launch vehicles at the Stonemill / Thunder Bay Roads, Kraft Road and Prospect Point Road unopened road allowances;

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

**1. THAT** for the purposes of this by-law:

- (a) **“construction and maintenance vehicles and associated equipment”** shall mean vehicles and/or equipment normally associated with the transport, delivery or operation of machinery necessary to facilitate the general upkeep, repair or enhancement of a private waterfront property.
- (b) **“emergency vehicles”** shall mean vehicles usually associated with Police, Fire and Ambulance services, and without restricting the generality of the foregoing, includes vehicles operated by the Town of Fort Erie, Niagara Regional Police, Ambulance Service, Fort Erie SPCA, rescue vehicles and trailers used as a means to launch such vehicles, and any others by permission or by acquiescence of the Town of Fort Erie for emergency services and enforcement.
- (c) **“boat launch vehicles”** shall mean vehicles and trailers used as a means to launch boats for recreational purposes only.
- (d) **“motor vehicle”** shall mean any vehicle propelled or driven otherwise than by muscular power, and without restricting the generality of the foregoing, includes a truck, automobile, motorcycle, motor assisted bicycle, 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.
- (e) **“Town of Fort Erie maintenance vehicles and associated equipment”** shall mean vehicles and/or equipment normally associated with the transport, delivery or operation of machinery necessary to facilitate the general upkeep, repair or enhancement of the road allowances described in Section 2 below.

**2. THAT** the removal or restriction of the common law right of passage by the public with motor vehicles and the common law right of access with a motor vehicle by an abutting owner of land over or with regards to the following unopened Lake Erie waterfront road allowances which are generally described as:

Prospect Point Road	Burleigh Road	Stonemill Road	Thunder Bay Road
Bertie Bay Road	Windmill Point Road	Buffalo Road	Crescent Road
Beachview Avenue	Kraft Road	Pierce Avenue	Rose Avenue
Centralia Avenue	Maple Leaf Alley		

and which road allowances are more particularly described in Schedule “A” annexed hereto, is hereby authorized, declared and approved.

3. **THAT** notwithstanding Section 2 above, emergency vehicles and Town of Fort Erie maintenance vehicles and associated equipment shall be permitted access to the road allowances described therein.
4. **THAT** notwithstanding Section 2 above, construction and maintenance vehicles, and associated equipment may be permitted access to the road allowances described therein, upon prior notice to or arrangements with the Town of Fort Erie where access is physically restricted.
5. **THAT** notwithstanding Section 2 above, the owner of a boat launch vehicle shall be permitted to use the following unopened waterfront road allowances to launch boats and to park a motor vehicle/trailer thereon:

Stonemill Road / Thunder Bay Road      Kraft Road      Prospect Point Road

6. **THAT** the lands comprising the road allowances described in Section 2 above shall be subject to the provisions of the Parks and Beaches By-law No. 119-03, as amended, and for the purposes of enforcement of the provisions of that By-law, such lands shall be deemed to be park lands.
7. **THAT** the municipal lands more particularly described in Schedule "B" annexed hereto, be and they are hereby declared as park lands and Parks and Beaches By-law No. 119-03, as amended, shall apply accordingly, including enforcement thereof.
8. **THAT** pursuant to the provisions of Section 227 of the Municipal Act, 2001, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections to the text of this by-law and the schedules thereto that are solely of a descriptive, administrative, numerical or grammatical nature or kind as such may be deemed necessary after passage of this by-law.
9. **THAT** this by-law shall be commonly called the "Waterfront Road Allowance By-law".

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29<sup>th</sup> DAY OF MAY, 2006.**

  
MAYOR

  
CLERK

I, Carolyn J. Kett, 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. 93-06 of the said Town. Given under my hand and the seal of the said Corporation this day of \_\_\_\_\_, 2006.

**UNOPENED LAKE ERIE WATERFRONT ROAD ALLOWANCES**

**Beachview Avenue** (South of Edgemere Road)

Baxter Avenue Plan 351, Bertie; Baxter Avenue, Plan 358 Bertie; being Baxter Avenue South of Edgemere Road; Fort Erie

BEING ALL OF PIN 642111-0006 (LT)

**Bertie Bay Road** (South of MacDonald Drive)

Part of the Road Allowance between Lots 10 & 11, Concession 1, Lake Erie, former Township of Bertie being Bertie Bay Road (AKA Erie Road); Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of Lot 1, Plan 392 (also being the south limit of MacDonald Drive), from the North East corner of said Lot 1 at its intersection with the West limit of the said road allowance, continuing along the said projection easterly to the North West corner of Lot 1 Block C, Plan 385 at its intersection with the East limit of the said road allowance;

BEING PART OF PIN 64204-0047 (LT)

**Buffalo Road** (South of Stockton Lane)

Part of the Road Allowance between Lots 6 & 7, Concession 1, Lake Erie, former Township of Bertie, South of Dominion Street, AKA Buffalo Avenue; Fort Erie, more particularly described as follows:

Being all that part of the said road allowance south of a line being the projection easterly of the North limit of the lands described in Instrument Number RO710080 (also being the south limit of Stockton Lane), at its intersection with the West limit of the said road allowance, continuing along the said projection easterly, to a point in the East limit of the said road allowance;

BEING PART OF PIN 64205-0001 (LT)

**Burleigh Road** (South of North Shore Drive)

Part of the Road Allowance between Lots 20 & 21, Broken Front Concession, Lake Erie, former Township of Bertie, being Burleigh Road South, formerly Burleigh Road; Fort Erie, more particularly described as follows:

Being all that part of the said road allowance south of a line being the projection easterly of the North limit of Lot 1, Plan 436, (also being the south limit of North Shore Drive) from the North East corner of the said Lot 1, at its intersection with the West limit of the

said road allowance, continuing along the said projection easterly, to a point in the East limit of the said road allowance;

BEING PART OF PIN 64199-0187 (LT)

**Centralia Avenue** (South of Thunder Bay Road)

Firstly: Part of the Road Allowance Between Lots 16 & 17, Broken Front Concession, Lake Erie, former Township of Bertie, Except BL19;

Secondly: Part of Lot 16, Broken Front Concession, Lake Erie, former Township of Bertie as in BE41151;

Being part of Centralia Avenue (formerly Centralia Avenue South); Fort Erie

More particularly described as follows:

Being that part of the said road allowance and said lot comprising part of Centralia Avenue (formerly Centralia Avenue South) south of the north easterly corner of the lands described in PIN Number 642000034 (LT)

BEING PART OF PIN 64200-0040 (LT)

**Crescent Road** (South of Kam Road)

Part of the Road Allowance between Lots 4 & 5, Concession 1, Lake Erie, former Township of Bertie, except RO584926, AKA Crescent Road; Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of Lot 1, Plan 377 (also being the south limit of Kam Road), from the North East corner of said Lot 1 at its intersection with the West limit of the said road allowance, continuing along the said projection easterly to the North West corner of the lands described in Instrument Number RO440635 at its intersection with the East limit of the said road allowance;

BEING PART OF PIN 64205-0129 (LT)

**Kraft Road** (South of Edgemere Road)

Part of the Road Allowance between Lots 2 & 3, Concession 1, Lake Erie, former Township of Bertie, being Kraft Road South of Dominion Road; Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of Lot 11, Plan 352 from the North East corner of said Lot 11 to a point in the West limit of the said road allowance (being the point of commencement), and continuing along the said projection easterly to its intersection with the East limit of the said road allowance;

BEING PART OF PIN 64211-0001 (LT)



**Maple Leaf Alley**

Alley, Plan 436, Bertie; Fort Erie

BEING ALL OF PIN 64188-0090 (LT)

**Pierce Avenue** (South of Edgemere Road)

Pierce Avenue, Plan 351, Bertie; Pierce Avenue, Plan 358, Bertie, South of Edgemere Road; Fort Erie

BEING ALL OF PIN 64211-0008 (LT)

**Prospect Point Road** (South of Lost Lane)

Part of the Road Allowance between Lots 22 & 23, Broken Front Concession, Lake Erie, former Township of Bertie, being Prospect Point Road South (formerly Prospect Point Road); Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of the lands described in Instrument Number RORO406183 (also being the southerly limit of Lost Lane) from the North East corner thereof at its intersection with the West limit of the said road allowance, continuing along the said projection easterly to the North West corner of Lot 8, Plan 413 at its intersection with the East limit of the said road allowance;

BEING PART OF PIN 64188-0001 (LT)

**Rose Avenue** (South of Edgemere Road)

Rose Avenue, Plan 351, Bertie; Rose Avenue, Plan 358, Bertie; being Rose Avenue South of Edgemere Road; Fort Erie

BEING ALL OF PIN 64211-0004 (LT)

**Stonemill Road (South of Thunder Bay Road)**

Part of the Road Allowance between Lots 12 & 13, Broken Front Concession, Lake Erie, Bertie, being Stonemill Road; Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of the lands described in Instrument Number RO427934 (being the southerly limit of Thunder Bay Road), from the North East corner thereof at its intersection with the West limit of the said road allowance, continuing along the said projection easterly to the intersection of east limit of the said road allowance with the south limit of the road allowance between Concession 1, Lake Erie and Broken Front Concession, Lake Erie, Bertie (Thunder Bay Road);

BEING PART OF PIN 64204-0001 (LT)

**Thunder Bay Road** (East of Stonemill Road)

Part of the Road Allowance between Concession 1, Lake Erie, and Broken Front Concession, Lake Erie, former Township of Bertie; Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance east of the east limit of the road allowance between Lots 12 & 13, Broken Front Concession, Lake Erie, Bertie; (Stonemill Road); Fort Erie

BEING PART OF PIN 64204-0011 (LT)

**Windmill Point Road** (South of Windmill Point Lane)

Part of the Road Allowance between Lots 14 & 15, Broken Front Concession, Lake Erie, Bertie, being Windmill Point Road; Fort Erie, more particularly described as follows:

Being all of that part of the said road allowance south of a line being the projection easterly of the North limit of Lot 16, Plan 407 (also being the south limit of Windmill Point West Lane) from the North East corner of said Lot 16 at its intersection with the West limit of the said road allowance, continuing along the said projection easterly to the North West corner of Lot 15, Plan 407 at its intersection with the East limit of the said road allowance and the south limit of Windmill Point East Lane;

BEING PART OF PIN 64200-0090 (LT)



**SCHEDULE "B" TO BY-LAW NO. 93-06**

**MUNICIPAL WATERFRONT LANDS**

**Bernard Road (Closed by By-law No. 2194-55)** (South of Thunder Bay Road)

Road Allowance between Lots 18 & 19, Broken Front Concession, Lake Erie, former Township of Bertie, Closed by RO75810; Fort Erie

BEING ALL OF PIN 64200-0001 (LT)

**Lands south of North Shore Drive to Lake Erie** (Commonly referred to as Maple Leaf Lane and strip of waterfront lands in front of properties fronting on North Shore Drive east of Maple Leaf Lane to Burleigh Road)

FIRSTLY: Part of Lot 21, Broken Front Concession, Lake Erie, former Township of Bertie, being Part 1 on Reference Plan 59R-11188; Fort Erie

BEING ALL OF PIN 64188-0093 (LT)

SECONDLY: Part of Lot 21, Broken Front Concession, Lake Erie, former Township of Bertie, as in RO771884; S/T RO771884; Fort Erie

BEING ALL OF PIN 64188-0092 (LT)