

**TOWN OF FLORENCEVILLE-BRISTOL
A BY LAW RESPECTING PUBLIC SPACES
BY-LAW NO. 20**

A BY-LAW OF THE MUNICIPALITY OF FLORENCEVILLE-BRISTOL RESPECTING PUBLIC SPACES PURSUANT TO SECTION 10 OF THE LOCAL GOVERNANCE ACT OF NEW BRUNSWICK.

The Council of the Municipality of Florenceville-Bristol under authority vested in it by Section 10 of the Local Governance Act, RSNB 2017, c. 18 enacts the following by-law:

1. ADMINISTRATION

- 1.1. This by-law may be cited as the Florenceville-Bristol Public Spaces by-law.
- 1.2. This by law applies to the entire area within the boundaries of the municipality of Florenceville-Bristol.

2. PURPOSE

- 2.1. The purpose of this by-law is to regulate the conduct and activities of people in the public parks, spaces and squares to promote the safe, healthy, enjoyable and reasonable use of such property for the benefit and welfare of all citizens of the municipality.

3. DEFINITIONS

- 3.1. “CAMP” or “CAMPING” means and includes sleeping in a public space during the day or night, whether or not a tent or temporary abode of any kind is used.
- 3.2. “CAO” means the Chief Administrative Officer of the Town of Florenceville-Bristol.
- 3.3. “CONTROLLED SUBSTANCE” means a controlled substance as defined or described in the *Controlled Drugs and Substances Act*, SC 1996, c. 19, as amended, but does not include a controlled substance permitted under the Act.
- 3.4. “COUNCIL” means the Mayor and Council of Florenceville-Bristol.
- 3.5. “PERSON” shall include persons, corporations, partnerships or societies.
- 3.6. “PUBLIC SPACE” shall mean and include any place, building or public conveyance to which the general public habitually resort lawfully or otherwise or to which the general public is admitted either free or upon payment, including but not limited to parks, parking lots, playgrounds, and the boardwalk.

- 3.7. "TOWN" means the Town of Florenceville-Bristol.
- 3.8. "TREASURER" means the Treasurer appointed by Florenceville-Bristol Town Council.
- 3.9. "VEHICLE" means every device in, upon or by which any person or property is or may be transported or drawn upon a street; including a bicycle, motor driven cycle, motor vehicle, motorized snow vehicle, snowmobile, and animal drawn vehicle;

4. APPLICATION

4.1. This by-law does not apply to:

- 1) Land held by the Province of New Brunswick;
- 2) The driver, operator or crew member of an ambulance, police or fire department vehicle while in the performance of his or her duty.
- 3) An employee or agent of the Town while doing work or performing services in or upon a public space for or on behalf of the Town;
- 4) A person engaged in a filming production during a specified period in or upon a public space which has received prior written approval from the Chief Administrative Officer (CAO);
- 5) Activities, events or functions conducted by the Town.

5. MAINTENANCE AND OPERATION OF A PUBLIC SPACE

5.1. The maintenance, operation, control and overall financial responsibility of a public space shall be exercised by the Town.

6. USE OF A PUBLIC SPACE

6.1. Prohibited Activities / Uses

No person shall within the limits of a public space:

- 6.1.1. Climb or be in/on any tree, roof of a building or any part of a building, structure or fixture, except any portion which is a public walkway;
- 6.1.2. Drop or throw any object from a roof of a building;
- 6.1.3. Stand on any receptacle or container for plants, shrubs, trees, or refuse;

- 6.1.4. Throw or in any way propel any stone or other missile or projectile in a manner which may cause injury or damage to or endanger any other person or property or which interferes with the use and enjoyment of a public space by any other person;
- 6.1.5. Set, light or maintain any fire;
- 6.1.6. Light or carry any candle or torch, except a light stick, a glow stick or a battery-operated flame candle.
- 6.1.7. Occupy, camp or take up a temporary abode of any kind;
- 6.1.8. Deface, cut, break, injure, remove, climb or in any way destroy or damage (i) a tree, shrub, plant, turf, flower or (ii) a building or structure, including a fence, sign, seat, bench or ornament of any kind or (iii) any other real or personal property unless expressly authorized by the CAO;
- 6.1.9. Disturb any planting beds, including mulch, flowers, trees and shrubbery;
- 6.1.10. Pollute, enter into or bathe in a water fountain;
- 6.1.11. Deposit or leave garbage or refuse, including without limitation bottles, tin cans, or other waste or debris, except in garbage or refuse receptacles expressly provided for the purpose of disposal;
- 6.1.12. Construct, install, erect or place any structure, improvement or work of any nature;
- 6.1.13. Remove, cover or deface any Town sign;
- 6.1.14. Possess or use any explosive or explosive substance;
- 6.1.15. Drive, park or station a vehicle other than as expressly authorized or designated by the Town;
- 6.1.16. Carry on any commercial activity or enterprise unless a Peddler's License has been issued by the Town;
- 6.1.17. Place or display any work, character, sign or device designed to advertise any person, business, profession, group, association, article, thing, exhibition, matter or event, except on a public bulletin board provided for that purpose by the Town, or if permission has been granted through a Sign Permit;
- 6.1.18. Carry on or permit to carry on an activity of a hazardous or unsafe nature which may cause injury, harm or damage to a person or structure;

- 6.1.19. Possess or use a controlled substance;
- 6.1.20. Possess paraphernalia for the purpose of storing, transporting or using a controlled substance;
- 6.1.21. Obstruct the free use and enjoyment of the public space by another person;
- 6.1.22. Place posters or banners in or upon a public space, unless express permission has been granted through a Sign Permit; or
- 6.1.23. Paint advertisements in or upon a public space, unless express permission has been granted through a Sign Permit.

6.2. Activities/Uses, requiring permits:

The following events *may* be held in a public space only with the prior express written permission of the CAO and in accordance with any applicable terms and conditions set therein:

- 6.2.1. Processions, parades, rallies, demonstrations, marches, drills;
- 6.2.2. Performances, concerts, weddings;
- 6.2.3. Ceremonies, dances, festivals, block parties, community or other fairs, exhibitions, gatherings, meetings or other special events;
- 6.2.4. Sell items by registered charities and not-for-profit organizations;
- 6.2.5. Use any apparatus, mechanism or device for the amplification of the human voice, music or other sound-producing or noise-making instrument or device;
- 6.2.6. If a person wishes to erect or place a booth, tent, device or structure of any kind for the enhancement of an event referred to in subsections 6.2 (1), (2), (3), (4) or to provide shelter from heat of inclement weather during the event, it must be specified in their application and may be subject to the following:
 - a) Any necessary permits are first obtained by the appropriate Town authority; and
 - b) The booth, tent, device or structure is erected and secured so that:
 - i) The surfaces of public space are not damaged;

- ii) All fastening devices are clearly marked; and
- iii) The applicant provides a certified copy of a certificate of insurance, satisfactory to the appropriate Town authority, in which the Town is a named insured and is indemnified against all liabilities which may in any way arise from the booth, tent, device or structure being permitted on a public space.

6.2.7. Display an exhibit of any kind; or

6.2.8. Carry on or engage in a demonstration of any sport.

6.3. A request for permission must be made in writing to the CAO at least thirty (30) days prior to the event for which the application is made.

6.4. After receiving a request for permission under this section, the CAO may consult with Town staff or any other person or body in relation to the request.

6.5. If the CAO refuses a request for permission under this section, the person seeking permission may request that Town Council reconsider the decision. A request for reconsideration under this subsection must be submitted in writing to the Town Clerk within seven (7) days of the refusal to issue a permit.

7. IMPOUNDING

7.1. The CAO or a Town Maintenance Staff may remove, detain, impound or cause the removal, detention, or impounding of camping equipment or other item that contravenes this by-law and deliver or cause to be delivered same to a place of safekeeping until it is returned to the owner or disposed of in accordance with this by-law.

7.2. After removal, detention, or impounding of an object referred to in subsection 7.1, a person entitled to its possession may obtain the release of the object by:

(1) Signing an undertaking that the person will not again use the object in contravention of this by-law; and

(2) Paying the Town fees outlined in subsection 7.3.

7.3. For each removal, detention or impounding, the person entitled to possession of the detained object must pay to the Town a Thirty-Five (\$35.00) detention and removal fee.

7.4. The CAO may sell any object removed, detained or impounded by public sale on social media or public auction if:

- (1) The person entitled to the possession of the object does not satisfy the requirements of subsections 7.2 and 7.3 within thirty (30) days; and
 - (2) It appears to the CAO that the object has market value.
- 7.5. If the person entitled to the possession of the object does not satisfactorily comply with subsections 7.2 and 7.3 within thirty (30) days and it appears to the CAO that the object has no market value, then the CAO must cause the removed, detained or impounded object to be discarded.
- 7.6. The Treasurer must apply the proceeds from the sale of the removed, detained or impounded object by:
- (1) Firstly, deducting the costs associated with the sale or auction, if applicable;
 - (2) Secondly, deducting the fees payable to the Town under subsection 7.3; and
 - (3) Finally, paying the surplus, if any, to the person entitled if that person's identity and location are known.
- 7.7. If the identity or location of the person entitled to the surplus is not known, the Treasurer must apply the surplus referred to in subsection 7.6(3) in the following manner:
- (1) Hold the surplus for one (1) year from the date of the sale; and
 - (2) Pay the amount of the surplus into the Town's General Revenue Fund if the surplus is not claimed within one (1) year from the date of the sale.
- 7.8. Any Town By-Law Enforcement Officer is hereby authorized to take such action or issue such tickets as they may deem necessary to enforce any provision of this by-law.

8. OFFENCE / PENALTIES

- 8.1. A person who contravenes a provision of this by-law is guilty of an offence and a separate offence each day the violation is caused or allowed to continue against this by-law, and liable on summary conviction to a minimum fine of Five Hundred Dollars (\$500.00) and a maximum fine of One Thousand Dollars (\$1,000.00) in addition to the costs of prosecution, and is liable to a fine in an amount not less than that established by this by-law for each day of a continuing offence.
- 8.2. Nothing in this by-law limits the Town from utilizing any other remedy that would otherwise be available to the Town at law, including remedies available through prosecution or civil remedies, including injunctive relief.

9. SEVERABILITY

Every provision of this by-law is independent of all other provisions. If any provision of this by-law is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this by-law shall remain valid and enforceable.

READ FIRST TIME: November 20, 2018

READ SECOND TIME: November 20, 2018

READ THIRD TIME AND ENACTED THIS 18th DAY OF December, 2018.

MAYOR

CLERK