

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2023-74

A By-Law to Prohibit Vehicular Nuisance Events

WHEREAS Section 8 of the *Municipal Act, 2001*, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, as amended, grants municipalities the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS under Section 11 of the *Municipal Act, 2001*, as amended, a lower tier municipality may pass by-laws respecting matters within the sphere of jurisdiction set out therein;

AND WHEREAS Section 11(2) of the *Municipal Act, 2001*, permits a municipality to pass by-laws respecting the public assets of the municipality, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, as amended, provides that a 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 the Town has been the targeted location for disruptive events that do not have a permit or permission from the Town involving motor vehicles;

AND WHEREAS Council is of the opinion that these events could cause a public nuisance;

AND WHEREAS Section 128(2) of the *Municipal Act, 2001*, as amended, provides that if the opinion of council under this section, if arrived in good faith, is not subject to review by any court;

AND WHEREAS The Corporation of the Town of Wasaga Beach has enacted By-law No. 2019-15 being a By-law to control Noise and Nuisance within the Municipality;

AND WHEREAS pursuant to the *Municipal Act, 2001*, SO. 2001, C.25, as amended, Section 11(3), a Municipality may pass by-laws respecting matters within their jurisdiction which includes highways, including opened and unopened road allowances and rights of way under the jurisdiction of the Town, and to permit temporary encroachment thereupon;

AND WHEREAS Section 35 of the *Municipal Act, 2001*, states that 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;

AND WHEREAS Section 23.1 of the *Municipal Act, 2001*, confirms that a municipality has authority to delegate its powers and duties;

NOW THEREFORE, the Council of the Corporation of the Town of Wasaga Beach HEREBY ENACTS as follows:

1. **Short Title**

This by-law shall be known as the “*Car Rally By-law*”

2. **Assumption of By-law 2019-15**

2.1 For the purposes of interpreting and implementing this By-law, the provisions within By-law 2019-15, known as the “Noise and Nuisance By-law” are applicable to the matters within this By-law.

3. **Definitions**

3.1 **Car Rally** means any formal or informal event or exhibition consisting of the gathering of Vehicles. Such event may include, but are not, limited to Street-takeovers, Contests or Stunts;

3.2 **Contest** means any activity where one or more Persons engage in any of the following:

1. Driving two or more Vehicles at a rate of speed that is a marked departure from the lawful rate of speed and in a manner that indicates the drivers of the Vehicles are engaged in a competition;

2. Driving a Vehicle in a manner that indicates an intention to chase another Vehicle;

3. Driving a Vehicle without due care and attention, without reasonable consideration for other persons using the highway, or in a manner that may endanger any person by,

- i. driving a Vehicle at a rate of speed that is a marked departure from the lawful rate of speed,
- ii. outdistancing or attempting to outdistance one or more other Vehicles while driving at a rate of speed that is a marked departure from the lawful rate of speed, or

- iii. repeatedly changing lanes in close proximity to other Vehicles so as to advance through the ordinary flow of traffic while driving at a rate of speed that is a marked departure from the lawful rate of speed;
- 4. Racing a Vehicle, tests of physical endurance involving Vehicles, or exhibition of speed or acceleration on any highway, roadway, property, or parking lot;
- 3.3 **Person** means the singular or plural of an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, or other entity of any kind;
- 3.4 **Spectator** means any Person who is knowingly present at, and views, a Car Rally, when such presence is the result of an affirmative choice to attend or participate in the event. For purposes of determining whether a Person is a spectator, finders of fact shall consider the relationship between the operator of the Vehicle and the Person. Evidence of gambling or betting on the outcome of a Contest or Stunt, filming or recording the event, posting the event on social media, and any other factor that would tend to show knowing attendance or participation. This definition excludes *bona fide* members of the news media for news media purposes;
- 3.5 **Stunt** means any activity where a Person engages in any of the following:
 - 1. Driving a Vehicle in a manner that indicates an intention to lift some or all of its tires from the surface of the ground, but not including the use of lift axles on commercial motor vehicles;
 - 2. Driving a Vehicle in a manner that indicates an intention to cause some or all of its tires to lose traction with the surface of the road;
 - 3. Driving a Vehicle in a manner that indicates an intention to spin it or cause it to circle, without maintaining control over it;
 - 4. Driving two or more Vehicles side by side or in proximity to each other, where one of the Vehicles occupies a lane of traffic or other portion of the highway intended for use by oncoming traffic for a period of time that is longer than is reasonably required to pass another Vehicle;
 - 5. Driving a Vehicle with a Person in the trunk or on top of the motor vehicle;
 - 6. Driving a Vehicle while the driver is not sitting in the driver's seat;

7. Driving a Vehicle without due care and attention, without reasonable consideration for other Persons, or in a manner that may endanger any Person;

8. Operating a Vehicle for the purpose of filming or recording activities of a street takeover, Contest, or exhibition;

9. Performing a burnout whereby a Vehicle is kept stationary, or is in motion, while the wheels are spun, resulting in friction which causes the Vehicle's tires to emit smoke;

10. Performing a doughnut whereby the front or rear of the Vehicle is rotated around the opposite set of wheels in a continuous motion which may cause a circular skid-mark pattern of rubber on the driving surface or the tires to emit smoke from friction, or both;

3.6 **Vehicle** means any means of transportation propelled or driven by any kind of power, excluding purely muscular. Examples include, but are not limited to, all motor vehicles, trailers, traction engines, farm tractors, road-building machines, motorcycles, autocycles, mopeds, electric bicycles, all-terrain vehicles, and off-road vehicles. This definition includes vehicles not licensed to operate on a highway or roadway.

4. **General Prohibitions**

4.1 No Person shall, within the boundary of the Municipality, sponsor, collect money for, conduct, coordinate, facilitate, advertise, continue, host, create, cause, permit, participate in, be a Spectator, and/or attend any Car Rally that is unsanctioned and unapproved by the Town of Wasaga Beach.

4.2 No Person shall knowingly ride as a passenger in a Car Rally.

4.3 No Person shall purposefully cause the movement of traffic, including pedestrian traffic, to slow, stop, or be impeded in any way for such Car Rally.

5. **Fees, Enforcement, Orders, and Remedial Action**

5.1 Any Municipal Law Enforcement Officer, Ontario Provincial Police Officer, Fire Chief and anyone else appointed by Council to administer this By-law may take any action within By-law 2019-15 to enforce this By-law, and issue orders and charges against any Persons found to be contravening this by-law, including the owner or occupier of the land on which the contravention occurs.

- 5.2 A Municipal Law Enforcement Officer, Ontario Provincial Police Officer, Fire Chief, and anyone else appointed by Council to administer this By-law is authorized to order a road closure for the purposes of upholding this by-law.
- 5.3 A Municipal Law Enforcement Officer, Ontario Provincial Police Officer, Fire Chief, and anyone else appointed by Council to administer this By-law may temporarily close any road to public travel for the purpose of preventing or stopping a Car Rally for a period of time not more than 3 consecutive days.
- 5.4 Where a road or portion of a road has been temporarily closed under this by-law, the common law right of passage by the public over the road and the common law right of access to the road are restricted.

6. **Effective Date**

- 6.1 THAT this By-law shall come into force and take effect on the date of its final passing.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 29TH DAY OF JUNE, 2023.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Brian Smith, Mayor

Nicole Rubli, Clerk