

# THE CORPORATION OF THE TOWN OF WASAGA BEACH

## BY-LAW NO. 2020-62

A By-law to regulate the use of Public Docks within the Town of Wasaga Beach

**WHEREAS** pursuant to section 9 of the Municipal Act, 2001 S.O. 2001, chapter 25 a municipality has the capacity, rights, powers and privileges of a natural Person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** pursuant to section 8. (1) of the Municipal Act, 2001 S.O. 2001, chapter 25 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 to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** section 123 of the Municipal Act, 2001 S.O. 2001, chapter 25 states a local municipality may, for the purpose of public safety, regulate with respect to cliffs, pits, deep waters and other dangerous places;

**AND WHEREAS** access to public docks and launches owned by the Town of Wasaga Beach, is provided to the public at large, and this access has been interfered with in a manner which obstructs public use;

**AND WHEREAS** the Town intends to control that interference with public privileges, pursuant to Section 128 of the Municipal Act;

**AND WHEREAS** it is desirable to regulate the use of Public Docks and Ramps to ensure safe usage;

**NOW THEREFORE THE COUNCIL OF THE TOWN OF WASAGA BEACH HEREBY ENACTS AS FOLLOWS:**

### **1.0 BY-LAW TITLE**

This By-law shall be known as the "Public Dock and Ramp By-law."

### **2.0 DEFINITIONS**

For the purpose of this by-law, the following definitions shall apply:

- a. **"Boat"** means any vessel which floats on the surface of the water and is capable of carrying people or material whether motorized or not and includes but is not limited to pleasure crafts, scows, Personal water crafts, canoes, row Boats, pontoon Boats, float planes when on water or land, and Boats used in commercial operations;

- b. **“C.A.O”** means the Chief Administrative Officer of the Town of Wasaga Beach, or his/her designate;
- c. **“Council”** means the Council of the Corporation of the Town of Wasaga Beach;
- d. **“Dock/Docking”** means securing a Boat in any way to a Public Dock whether it is attended by Persons or not and shall include removing a Boat wholly or partially from the water and placing it on land owned by the Town, whether stored directly on land, or a rack, trailer or other storage apparatus, and also includes storage of materials;
- e. **“Emergency and Government Vehicle or Boat”** means a vehicle or Boat providing ambulance, fire, police, public service or similar services for the maintenance, benefit and safety of the general public and includes federal, provincial and municipal agencies;
- f. **“Fish/Fishing”** means to engage in or attempt to engage in the act of catching Fish;
- g. **“Launching Ramp”** means an area adjacent to or used in connection with a Public Dock, which is not a structure, and which serves as an area to launch or recover Boats from the water, and which is owned by, or leased to, the Town;
- h. **“Marina”** means an establishment where Boats, Personal watercraft, and snowmobiles and related accessories are stored, serviced, repaired or kept for sale or rent, and where facilities for the sale of marine fuels and lubricants may be provided;
- i. **“Marine Facility”** means an accessory building or structure that is used to take a Boat into or out of a waterbody, to moor, to berth or to store a Boat. This definition may include a Boat Launching Ramp, Boat lift, Dock or Boat house, but shall not include any building for human habitation or any Boat service, repair or sales facility;
- j. **“Nuisance”** means the Parking, placing, storing, or abandoning of Boats or materials in contravention of this by-law in a location or manner which interferes with the use of a Public Dock or a Launching Ramp by the general public;
- k. **“Officer”** means any Person authorized by the Town to enforce this by-law or to carry out inspections in relation to this by-law, and includes a Municipal Law Enforcement Officer or a Police Officer;
- l. **“Owner”** means an individual or corporation who owns a Boat or the Person operating or having care and control of a Boat at any particular time;
- m. **“Person”** means any individual, corporation, partnership, association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;
- n. **“Provincial Park”** means any area under jurisdiction of the Ministry of the Environment, Conservation and Parks regulations;

- o. **“Public Dock”** means any structure located on land owned by the Town and used as a Dock, wharf, pier, Boat launch or recovery area together with all adjacent and underlying lands related thereto;
- p. **“Swim/Swimming”** means to intentionally play, bathe, submerge or propel one’s self in water;
- q. **“Town”** means the Corporation of the Town of Wasaga Beach.

### **3.0 GENERAL PROVISIONS**

- a) In the area of a Public Dock, no Person shall at any time:
  - i. Swim;
  - ii. Attempt to engage in Swimming;
- b) In the area of a Public Dock, no Person shall at any time:
  - i. Fish;
  - ii. Attempt to engage in Fishing;
- c) For the purposes of this section, it is not an offence when a Person unintentionally falls into the water and must Swim to a ladder or Dock for safety;
- d) Unless otherwise specifically permitted in this by-law, a Public Dock shall be for the loading and unloading of people and materials only and not for the long term Docking of Boats;
- e) No Person shall Dock a Boat at any Public Dock except as permitted by this by-law;
- f) No Person shall Dock a Boat at any Public Dock overnight, unless specifically permitted by this by-law;
- g) No Person shall Dock a Boat at any Public Dock for a continuous period in excess of twenty (20) minutes unless a permit authorizing the Docking of a Boat for a longer period of time has been obtained from the Town or unless specifically permitted elsewhere in this by-law;
- h) No Person shall store materials on a Public Dock except on a temporary basis just prior to loading or after unloading;
- i) No Person shall store materials on a Public Dock for a continuous period in excess of twenty (20) minutes;
- j) No Person shall store materials on a Public Dock or on lands owned or under control of the Town at any time in a location which would prevent the use of a Dock by others;

- k) No Person shall Dock or store a Boat or leave materials on a Launching Ramp, a Public Dock, or lands owned or under the control of the Town adjacent to a Public Dock so that it constitutes a Nuisance;
- l) No Person shall service or wash a Boat in municipally owned or operated Dock or Boat launch area;
- m) No Person shall leave a Boat on any beach in any municipally owned or operated Dock or Boat launch area;
- n) No Person shall leave a Boat unattended in a location which would impede or interfere with the use of a Launching Ramp;

#### **4.0 SIGNAGE AND EMERGENCY EQUIPMENT**

- a) No Person shall remove or deface any signs or notices erected in a municipally owned or operated Docking and Launching Ramp area;
- b) No Person shall interfere with or misuse any lifesaving, fire prevention or other emergency equipment situated in a municipally owned or operated Docking and Launching Ramp area.

#### **5.0 EXEMPTIONS**

This by-law shall not apply to:

- a) Employees or agents of the government, ambulance, police and fire services acting in the scope of their duties to provide emergency services or enforcement activities;
- b) The Corporation, its vehicles, and its employees or agents acting within the scope of their duties as employees or agents of the Corporation;
- c) Notwithstanding anything contained in this By-law, any person may make application a minimum of 48 hours prior to the date(s) requiring an exemption, to the C.A.O of the Town to be granted an exemption from any of the provisions of this By-law. The C.A.O may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period of a duration during which it is effective;
- d) Docks or ramps located on private property or Provincial Park owned land.

## **6.0 ENFORCEMENT**

- a) This by-law may be enforced by any Person designated as an Officer for the purposes of this by-law;
- b) No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer exercising a power or performing a duty under this by-law;
- c) The Owner of a Boat, or the Person operating or having care and control of a Boat, is responsible for compliance within the provisions of this by-law;
- d) In addition to the provisions included in Section 3, where an Officer deems a violation of this by-law to constitute a hazard to the public, or where a boat has been abandoned, whether the owner or operator of the boat can be identified or not, an Officer may, without notice, cause the violation to be remedied at the expense of the owner. The Town shall not be responsible for any damage that may be sustained by the property of the owner;
- e) The owner of a boat or material which is relocated or removed, the Town may recover its costs of remedying the violation of this by-law by applying all fees included in the current Fees and Charges by-law by invoicing the owner or by adding the cost to the tax roll in the same manner as municipal taxes. The exercise of any such remedy shall not preclude the exercise of any other available remedy.

## **7.0 PENALTIES**

- a) Every Person who contravenes any provision of this by-law, or orders made under this by-law, or every director or Officer of a corporation who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to:
  - i. a first offence, to a fine not more than \$10,000.00; and
  - ii. on a second offence and each subsequent offence, to a fine of not more than \$100,000.00;
- b) Every Person who is issued a Part I offence notice or summons and is convicted of an offence under this by-law shall be subjected to a fine, to a maximum as provided for in the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended;
- c) In the case of a continuing offence, for each day or part of a day that the offence continues, a maximum fine of \$10,000.00. The total of all of the daily fines for the offence is not limited to \$100,000.00; No person shall hinder or obstruct, any Officer exercising a power or performing a duty under this by-law;
- d) Every person who is alleged to have contravened any of the provisions of this by-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of their duties;

e) Upon conviction, any penalty imposed under this by-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended.

## **8.0 SEVERABILITY**

a) Every provision of this By-law is declared to be severable from the remainder and if any provision of this By-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder.

## **9.0 EFFECTIVE DATE**

a) This by-law shall come into effect immediately upon passing.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED  
THIS 11<sup>TH</sup> DAY OF JUNE, 2020.**

**THE CORPORATION OF THE TOWN OF WASAGA BEACH**

\_\_\_\_\_  
Nina Bifulchi, Mayor

\_\_\_\_\_  
Dina Lundy, Director, Legislative Services & ClerkClerk