

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2020-77

A By-law to prohibit and regulate the entry and use of closed public places in the Town of Wasaga Beach

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on 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*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

AND WHEREAS Section 11(2) of the *Municipal Act* 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 the *Municipal Act*, S.O. 2001, c. 25, Section 128, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS the Council of the Corporation of the Town of Wasaga Beach has deemed it necessary to enact a by-law to prohibit and regulate the entry and use of public places on behalf of the public interest;

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

TITLE

This By-law shall be known as the "Public Property Nuisance By-law."

1.0 DEFINITIONS

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

1.1 "Loitering" means the lingering, hanging about and sleeping in a Public Place without permission from the Town, obstructing or making difficult the passage of

persons or vehicles in a Public Place, or failing to move on after having been requested to do so.

- 1.2 "Occupier" includes a person who is in physical possession of premises, or a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, even if there is more than one occupier of the same premises
- 1.3 "Officer" means a Municipal Law Enforcement Officer or Police Officer.
- 1.4 "Person" means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law.
- 1.5 "Public Place" means any property, location, lot, beach, facility, park, cemetery, parkette, parking lot, building (inside and outside), highway, sidewalk, recreational amenity, tennis court, ball diamond, campground, etc. owned by, occupied by or under the custody and control of the Town.
- 1.6 "Town" shall mean the Corporation of the Town of Wasaga Beach, its employees, Council, contractors and representatives.

2.0 GENERAL CONDUCT

- 2.1 No Person shall be in or on any Public Place which has been closed, or where entry has been prohibited, or deemed by the Town not to be occupied for any reason whatsoever.
- 2.2 No person shall loiter in or on any Public Place.
- 2.3 No person shall fail to leave a Public Place immediately after he or she is directed to do so by the Occupier of the premises or a person authorized by the occupier.

3.0 ENFORCEMENT

- 3.1 The provisions of this By-law may be enforced by an Officer.
- 3.2 Where any person contravenes any provision of this By-law, an Officer may direct such person to comply with this By-law. Every person so directed shall comply with such direction without undue delay.

3.3 Where an Officer has reasonable grounds to believe that a person has contravened any provision of this By-law, the Officer may require the name, address and proof of identity of that person, and the person shall supply that information. Failure to provide sufficient or any identification shall constitute obstruction of the Officer as set out in section 4.0 of this By-law.

4.0 OBSTRUCTION

4.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.

5.0 PENALTY

5.1 Any Person, who contravenes or fails to comply with any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

5.2 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.

5.3 Every person who is convicted of an offence, is liable to a maximum fine of \$25,000 for a first offence and a maximum fine of \$50,000 for a subsequent offence.

5.4 Upon conviction, in addition to any other remedy and to any penalty imposed by this Chapter, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

5.5 Where it is deemed appropriate by the Town and in addition to any other fine or penalty, the following corrective actions may be implemented:

5.5.1 The person in violation will be removed from the Public Place but permitted re- entry later in the same day;

5.5.2 The person in violation will be removed from the Public Place but permitted re-entry at some point in the future, generally not to exceed a ban of more than one month;

5.5.3 The person in violation will be removed from the Public Place and not permitted re-entry. A total ban will be dependent upon the nature of the violation and may include legal remedies to support a total ban.

6.0 SEVERABILITY

6.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the validity of this By-law as a whole or any part thereof, other than that part which is declared invalid, shall not be affected and it shall continue to apply in full force and effect to all other circumstances.

7.0 CONFLICTS

7.1 If any provision of this By-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive shall prevail.

8.0 EFFECTIVE DATE

8.1 This By-law shall come into force and effect on the final passage thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 2ND DAY OF JULY, 2020.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Nina Bifulchi, Mayor

Dina Lundy
Director, Legislative Services and Clerk