

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

BY-LAW NO 2014-47

**A BY-LAW TO REGULATE THE EXTERNAL USES OF WATER WITHIN THE
TOWN OF WASAGA BEACH AND TO REPEAL BY-LAW NO. 2002-25
(THE “LAWN WATERING BY-LAW”)**

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 it is deemed expedient to regulate the use of the municipal water system to water lawns, gardens and for other external uses; to ensure there is an adequate water supply to operate the water system at all times, including peak demand times;

AND WHEREAS it is deemed prudent to promote and encourage water conservation practices for the overall economic, social and environmental well-being of the municipality;

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 “Water Use By-Law”.

2. Definitions

2.1 “**Town**” shall mean the Corporation of the Town of Wasaga Beach.

2.2 “**Calendar Day**” shall be construed to mean one day commencing at 00:00 hours and ending at 23:59:59 hours, local time.

- 2.3 **“Director”** shall mean the Director of Public Works for the Corporation of the Town of Wasaga Beach or his/her designate.
- 2.4 **“External Use”** For the purposes of this By-Law, the term “external use” shall be broadly defined as the discharge of water referred to in Section 3, which is not wholly contained within any building, shed, structure or device and includes water released onto or into the natural environment, surrounding any said building, shed, structure or device.
- 2.5 **“Permitted Water Use Hours”** shall mean the four (4) consecutive morning hours from 5:00 a.m. to 9:00 a.m. and again in the evening; the four (4) consecutive hours from 5:00 p.m. to 9:00 p.m. of the same day, both periods being on the permissible day of watering set out in Section 3.
- 2.6 **“Chief Administrative Officer (C.A.O.)”** shall mean the person appointed by Municipal Council of the Corporation of the Town of Wasaga Beach as the Chief Administrative Officer, or his/her designate, and also known as the C.A.O.
- 2.7 **“Clerk”** shall mean the Clerk of the Corporation of the Town of Wasaga Beach or his/her designate.
- 2.8 **“Officer”** shall include a Police Officer and a Municipal Law Enforcement Officer of the Town of Wasaga Beach that is appointed under the authority of the *Police Services Act*.
- 2.9 **“Water Works Utility”** shall mean any works for the collection, production, treatment, storage, supply or distribution of water, or any part of any such works.
- 2.10 **“Designated Staff”** shall mean any person designated by the Municipality to administer or enforce the provisions of this By-Law.
- 2.11 **“Waterworks Employee”** shall mean any person who is employed by the Town, whose main job assignment is pertaining to the delivery or maintenance of the water works utility.
- 2.12 **“Community Emergency Management Coordinator”** shall mean the person or persons, that are designated or authorized to act on behalf of the Town concerning Emergency issues, and for purposes of clarity; may be several individuals.

- 2.13 **“Senior Municipal Law Enforcement Officer”** shall mean the person appointed by the Town to act as the Senior Officer of the Municipal Law Enforcement and Licensing Department.
- 2.14 **“Residential Use”** shall mean use of water in relation to a property zoned as residential under the current Zoning By-law for the Town.
- 2.15 **“Commercial Use”** shall mean use of water for enhancement of lawns, gardens, landscaped areas, or other uses that benefit the overall appearance of the property that is viewable by the public at large of the public themselves.
- 2.16 **“Prohibited Period”** or a **“Period of Prohibition”** shall be deemed to be any period of time in which external water usage is not permitted or authorized by this By-Law.
- 2.17 **“Prohibited Watering”** shall mean the act of permitting the release of water for external use at a time that is not a water-use hour(s) nor has it been exempted under this By-Law.

3. General Restrictions

- 3.1 Except where a specific or general exemption has been granted pursuant to Section 4, below, no person, who being an owner, tenant, occupant, inmate, servant, agent or employee of any house, dwelling unit, building, or other place or structure, supplied water from the Town water supply system shall use, permit or cause to permit the use of water from the said system to water or sprinkle by hose, pipe, or any other connection, lawns, gardens, grass, plots, boulevards or grounds of any description or for any other external use, between the 15th day of April, each year and the 15th day of October, of the same year, save and except as hereinafter provided;
- 3.1.1 Each person, who being an owner, tenant, occupant, inmate, servant, agent or employee of any house, dwelling unit, building, or other place or structure, designated by an even-numbered municipal address, by the Town, may water or sprinkle by hose, pipe or any other connection, lawns, gardens, grass, plots, boulevards on grounds of any description or for any other external use on even-numbered calendar days during permitted water use hours only.

- 3.1.2 Each person, who being an owner, tenant, occupant, inmate, servant, agent or employee of any house, dwelling unit, building, or other place or structure, designated by an odd-numbered municipal address, by the Town, may water or sprinkle by hose, pipe or any other connection, lawns, gardens, grass, plots, boulevards on grounds of any description or for any other external use on odd-numbered calendar days during permitted water use hours only.
- 3.2 No person, who being an owner, tenant, occupant, inmate, servant, agent or employee, or any other person, without municipal approval, shall:
 - 3.2.1 hinder or interrupt, or cause or procure to be hindered or interrupt the Town, or any of its officers, contractors, agents, servants, or workers, in the exercise of any of their duties with respect to the supply of water within the Town;
 - 3.2.2 let off or discharge water so that the water runs waste, or useless;
 - 3.2.3 improperly waste the water, lend, sell or dispose of the water, give it away, permit it to be taken or carried away, use or apply it to the use or benefit of another, or to any use and benefit other than the person's own,
 - 3.2.4 open or close any hydrant, or obstruct the free access to any hydrant, stopcock, chamber, pipe or hydrant- chamber, by placing on or near it, any building material, rubbish, or any other obstruction;
 - 3.2.5 throw or deposit any injurious, noisome, or offensive matter into the water or water works, or in any way foul the water, or commit any damage, or injury to the works, pipes, or water, or encourage the same to be done;
 - 3.2.6 alter any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or later the amount of water registered;
 - 3.2.7 lay or cause to be laid any pipe or main to communicate with any pipe or main of the water works, or in any way obtain or use the water without the consent of the Director.
- 3.3 No person shall install or use or cause to be installed or used a water source heating or air conditioning system which uses water supplied from the Town's water supply system for its operation, without the express permission to the Director, in writing.

- 3.4 No person, who being an owner, tenant, occupant, inmate, servant, agent or employee of any house, dwelling unit, building or other place or structure, supplied from the Town of Wasaga Beach water supply system shall use, permit, or cause to permit the use of water from the said system to water or sprinkle by hose, pipe, or any other connection laws, gardens, grass, plots, boulevards or grounds of any description or for any other external use during the period of prohibition (prohibited period).

4. Exemptions

- 4.1 The Chief Administrative Officer, Director, Clerk, or Senior Municipal Law Enforcement Officer, of the Corporation of the Town of Wasaga Beach or designates, upon application, may exempt such persons or businesses from any provisions of this by-law for such times and manner as deemed necessary.

5. Prohibition

- 5.1 The Chief Administrative Officer of the Town or the Director or Clerk, may declare at any time and for such time and manner as deemed necessary, in order to secure for the inhabitants a continued supply of pure and wholesome water, or to prevent/limit its use for any benefit of the Town, declare a prohibition of the use of water from the said system for all external water usage or any other usage; under such terms and conditions as are declared.

6. Power of Entry

- 6.1 The Director, Senior Municipal Law Enforcement Officer, Officers, Waterworks Employees or other Designated employees, may enter on to any property at any reasonable time, given the circumstances, and upon producing proper identification; to inspect for compliance with this By-Law.
- 6.2 Where such inspection determines that a violation of this By-Law is occurring, they may take such steps to gain immediate compliance with the By-Law. These steps may include ordering the owner or other apparent person-in-charge, to discontinue the activity or, where such persons cannot be easily or readily contacted at that premises, take such actions as are required to stop the offence.
- 6.3 Such authorities granted under 6.1 and 6.2 do not include those portions of a property that are actually used as a dwelling, without first obtaining a search warrant pursuant to *the Provincial Offences Act*.

7. Presumptive Clause

- 7.1 Where a violation under this By-Law is detected in respect to a municipally addressed property, the owner and/or tenant of such property; in absence of reasonably demonstrative evidence to the contrary, shall be deemed to have been a party to the offence, and is responsible for allowing the offence to have occurred or permitted it to continue.

8. Orders

8.1 Municipal Work Orders

“Pursuant to Sections 444 and 445 of the *Municipal Act R.S.O. 2001* as amended, that the Director or an Enforcement Officer may order a contravening activity to cease and, additionally may issue a Municipal Order to comply with any section of this by-law that is brought to their attention.”

8.2 Offence- Orders/Provisions

“Any person who fails to comply with a Municipal Order/Direction to cease contravention, or causes any other person to fail to comply with this Order, is guilty of an offence and is subject to such fines and penalties authorized pursuant to the *Municipal Act, 2001 S.O. 2001, c.25*, as amended.”

8.3 Orders- Remedial Actions

Where an Order under 8.1 is not complied with or partially complied with, the Municipality may exercise its authority to take remedial actions under Section 446 the *Municipal Act* and add all such costs to the tax roll for that property.

9. Offences

- 9.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and is subject to such fines and penalties authorized pursuant to the *Municipal Act, S.O., 2001, c.25*, as amended.

10. System of Offences

- 10.1 For the purpose of establishing a system of fines, as set out in Subsection 429 (2) of the *Municipal Act*, the following applies:

10.1.1 where the offence of prohibited watering occurs on a property and is:

- 10.1.1.1 uninterrupted, and
- 10.1.1.2 from one device or appliance, and
- 10.1.1.3 at one fixed location, and
- 10.1.1.4 continues for more than one (1) hour,

it shall be deemed to be a continuing offence, and the minimum fine for each hour of prohibited watering shall be \$100 dollars per hour.

10.1.2 where the offence of prohibited watering occurs on a property and is;

- 10.1.2.1 interrupted or intermittent during the period, or
- 10.1.2.2 emanates from multiple fixtures or devices, or
- 10.1.2.3 occurs at multiple locations on the property, or
- 10.1.2.4 resumes after being instructed by any Town employee, officers, contractors, agents, servants, or workers, to cease watering,

each event, location, device/fixture or failure to comply with instructions shall be considered multiple offences and each offence shall have a minimum fine of \$250.00 each, per day.

10.1.3 where a person or business has been previously convicted for the same offence, the minimum fine for each subsequent offence shall be \$500.00 for a second conviction. Third and subsequent convictions shall add \$1000.00 per conviction as minimum fine additions to other penalties available.

10.1.4 where any person or business has contravened this By-Law and has gained any economic advantage as a result, then, in addition to the regular fines as specified, a special fine may be imposed to eliminate or reduce any economic advantage.

11. Severability

11.1 Any provision or section of this by-law that is struck down or declared ultra vires by a court of competent jurisdiction, is severed from the by-law and the remaining provisions continue to be in force and effect and continue to be binding.

12. Transition Provisions

12.1 That upon the final date of the passing of this by-law it shall be in affect and, that By-law 2002-25 is rescinded to the extent, that any future offences, from the date of final passing of this by-law shall be subject to this new by-law, however, the former by-law shall remain in effect for any offences that occurred prior to enactment of this by-law. For purposes of clarity, that where either by-law may also apply, the by-law that is more restrictive, and to the benefit of the municipality, shall apply.

13. Previous By-Laws Repealed

13.1 THAT By-Law No. 2002-25 be repealed and where the provisions of any other by-law, resolution or action of Council are inconsistent with the provisions of this by-law, the provision of this by-law shall prevail.

14. Effective Date

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

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13th DAY OF MAY, 2014.

Cal Patterson, Mayor

Twyla Nicholson, Clerk