

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

BY-LAW NO. 2014-63

**A BY-LAW TO AMEND BY-LAW NO. 2007-38, BEING A BY-LAW TO
LICENSE, REGULATE AND GOVERN BUSINESSES CARRIED ON WITHIN
THE MUNICIPALITY**

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 151 and Section 160 of the *Municipal Act, 2001*, provides that a local municipality may provide for a system of licenses with respect to a business and pass by-laws licensing businesses under any section of the *Municipal Act* or any other Act;

AND WHEREAS Council of The Corporation of the Town of Wasaga Beach passed By-Law No. 2007-38, to license, regulate and govern businesses carried on within the Municipality, deems it expedient to amend the said by-law regarding provisions for motorized/non-motorized refreshment vehicles, enhanced enforcement respecting illegal business activities, and mixed uses;

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

1. THAT By-Law No. 2007-38, is hereby amended, by adding the following under Section "B DEFINITIONS" :
 1. (21b) "Operate a Business" means any deed or action of a basic business, that is undertaken by or on behalf of that business to obtain or provide, or attempt to obtain or provide any goods and/or services, that would appear to be in exchange for money or other valuable consideration, whether or not such transaction is completed or not; and without limiting the foregoing, may include the following:

- i) Soliciting or attempting to solicit business by the placing of advertising by means of signage, leaflets, flyers or similar means within the Town or,
 - ii) Soliciting or attempting to solicit business in person, by any manner including door-to-door soliciting or by telemarketing to persons or addresses clearly located within the Town or,
 - iii) Soliciting or attempting to solicit business by use of advertising using any print media or any electronic media; by any means, including but not limited to, the internet, Facebook, Twitter, texting or by similar programs, where the goods or services appear to target, or be in relation to, persons, businesses or addresses situated within the Town, however
 - iv) Does not include:
 - a. The placement of generic ads for products/services available for retail purchase/sale without naming a specific retail vendor or contact information,
 - b. The incorporation of advertising of any kind upon a vehicle or trailer which is properly licensed and used for its manufactured purpose.
2. THAT By-Law No. 2007-38, is hereby amended by adding the following under Section "B. DEFINITIONS":
 1. (25b) "Resident" means, for the purposes of making determinations of fees in relation to Schedule B, "Refreshment Vehicle Motorized/Non-Motorized A40" means;
 - i) The registered owner(s) of real property that is situated within the Town, and, includes the parents, spouses and children that normally reside at such premises on an annual basis, or
 - ii) the tenant of real property that is situated within the Town who can demonstrate that that have maintained such tenancy for a minimum of six (6) months immediately preceding the date of application to which this definition applies, and includes the parents, spouses and children that normally reside at such premises on an annual basis.
3. THAT By-Law No. 2007-38 is hereby amended by adding the following fee to Schedule B, in the "BUSINESS LICENCE FEE" column for the class and category of "Refreshment Vehicle- Motorized/Non-Motorized", by inserting:

"or \$160.00 for Residents"

4. THAT By-Law No. 2007-38 is hereby amended by adding:

H. ISSUANCE OF LICENCES AND INVESTIGATIONS

2. Notwithstanding the requirement of Section 1, above, where the applicant is clearly a controlling owner of multiple types of businesses that operate from the same premises, the Business licensing Officer may accept a single "Mixed Use" application where:
- i) the applicant can demonstrate that all individual businesses comply fully with the respective "REQUIREMENTS AND CONDITIONS OF LICENCE", set out in Schedule A for each business type, and
 - ii) the Business Licensing Officer is satisfied that the controlling ownership of each type of business has been clearly demonstrated, and
 - iii) the Business Licensing Officer believes, that combining such required applications into one "Mixed Use" licence, would not frustrate the purpose of the By-Law.

5. THAT By-Law No. 2007-38 is hereby amended by adding:

H. ISSUANCE OF LICENCES AND INVESTIGATIONS

3. PRESUMPTIVE CLAUSE;

- a.) In the absence of reasonably demonstrative evidence to the contrary, the posting of signs or advertisements, including those on the internet or other electronic media, shall be interpreted broadly, as to be regulated by this By-Law,
- b.) for purposes of clarity and not to restrict the application of subsection 3(a) above, the following presumptions will automatically apply:
 - i) where a sign is placed or erected in Town that advertises a business, product or service, it shall be deemed to have been placed or erected on behalf of said business for the purpose of operating a business, whether or not a Business Licence has been issued.
 - ii) where a residentially zoned property within the Town, is posted on the internet or advertised in anyway as being available for rent and does not clearly state or define the rental to be for the purpose of establishing a residential tenancy, then it will be deemed as being offered for a commercial business purpose as a Tourist or Short-term rental that requires compliance with this and other by-laws

6. 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 24th DAY OF JUNE, 2014.

Original Signed by Mayor

Cal Patterson, Mayor

Original Signed by Clerk

Twyla Nicholson, Clerk

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