

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2019-14

A By-law to provide for the maintenance of land in a clean and clear condition and to repeal by-law 2009-50

WHEREAS Section 127 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;

AND WHEREAS Section 128 of the *Municipal Act, 2001*, S.O. 2001, c.25, 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 Section 131 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a local municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for the sale or other disposition;

AND WHEREAS Section 425(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws providing that a person who contravenes a By-law of the municipality passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, is guilty of an offence;

AND WHEREAS Section 429(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may establish a system of fines for offences under a By-Law passed under the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may direct that where an owner has defaulted, the municipality may have the default remedied at the owner's expense and add the cost to the tax roll in the same manner as municipal taxes.

NOW THEREFORE be it resolved that the Council of The Corporation of The Town of Wasaga Beach enacts as follows:

1. DEFINITIONS: In this By-law:

- a. "By-law" shall mean the Clean and Clear By-law 2019-__
- b. "Clerk" shall mean the Town Clerk of the Town of Wasaga Beach or his or her designate.

- c. "Debris" shall mean any material whatsoever capable of holding water, and without limiting the generality of the foregoing, includes tires, motor vehicles, boats, bird baths, wheelbarrows, containers of any kind and garden fixtures;
- d. "Derelict Motor Vehicle" shall mean a vehicle having missing bodywork, components or parts, including tires or damaged components, parts, bodywork, glass or deteriorated or removed adjuncts, which prevent its mechanical function, and includes a motor vehicle that is not licensed for the current year by the Ministry of Transportation;
- e. "Domestic Waste" shall mean any article, thing, matter or any effluent belonging to or associated with a house or household or concerning or relating to the home or family that appears to be waste material; and for greater certainty, but so as to restrict the generality of the foregoing terms of this section, it is hereby declared that domestic waste extends to the following classes of waste material:
 - i. accumulations, deposits, leavings, litter, remains, rubbish, trash;
 - ii. refrigerators, freezers or other appliances, any attached hinges or latching, locking or other closing mechanism or device, or any part thereof;
 - iii. derelict motor vehicles, vehicle parts and accessories;
 - iv. paper, cartons;
 - v. furniture;
 - vi. crockery;
 - vii. sewage;
 - viii. salvage materials;
 - ix. waste material;
- f. "Erosion" shall mean the gradual wearing away of land surface materials, especially rocks, sediments and soil, by the action of water and wind.
- g. "Industrial Waste" shall mean any article, thing, matter or any effluent belonging to or associated with industry or commerce or concerning or relating to manufacturing or relating to any trade, business, calling or occupation that appears to be waste material or salvage material; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this Section, it is hereby declared that industrial waste extends to the following classes of waste material:
 - a. articles, things, matter, effluent, which in whole or in part or fragments thereof, are derived from or are constituted from or consist of:
 - i. agricultural, animal, vegetable, paper, lumber, or wood products;
 - or

- ii. mineral, metal, steel, aluminum, or other ferrous or non-ferrous material or alloy, or chemical products, whether or not the products are manufactured otherwise processed, or are products or by-products, products manufactured or otherwise processed;
 - b. automotive parts, inoperative motor vehicle, batteries, vehicle parts, mechanical equipment, mechanical parts, accessories or adjuncts to the vehicles and mechanical equipment, or any part thereof;
 - c. piping, tubing, conduits, cable and fittings or other accessories, or adjuncts to the piping, tubing, conduits or cable;
 - d. containers of any size, any type or any composition;
 - e. material resulting from, or as part of, construction or demolition projects;
 - f. rubble, inert fill
 - g. bones, feather, hides;
 - h. sewage:
 - i. salvage material;
 - j. waste material.
- h. "Infestation" shall mean the overrunning of a property by vermin, rodents and insects;
- i. "Motor Vehicle" shall mean an automobile, truck, motorcycle, snowmobile, trailer, recreational vehicle and any other vehicle propelled or driven by other than muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running solely upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine within the meaning of the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended;
- j. "Municipal Law Enforcement Officer" shall mean a Municipal Law Enforcement Officer as appointed by the Council of the Town of Wasaga Beach;
- k. "Owner" shall mean the registered owner, occupant, tenant, person for the time being managing or receiving the rent of the property, whether on his or her account or on account of an agent or trustee of any other person, or any one of the aforesaid;

- l. "Town" shall mean the Corporation of the Town of Wasaga Beach;
- m. "Turf Grass" shall mean ground cover comprised of one or more species of growing grass, with or without trees, shrubbery or maintained planting beds or other vegetation;
- n. "Weed" shall mean a noxious weed designated by or under the Weed Control Act, R.S.O. 1990, C. w.5, as amended;

2. PROPERTY MAINTENANCE

- a. No owner shall fail to keep his or her land free and clear of all garbage, refuse, domestic or industrial waste of any kind, and shall ensure that his or her land is free and clear of infestation.
- b. No owner shall fail to trim or cut weeds or turf grass, whether dead or alive, that is more than 30 cm in height.
- c. No owner shall fail to keep vegetation other than weeds and turf grass, trimmed and kept from becoming unreasonably overgrown, supporting infestation, under grown causing erosion or in a fashion that may affect safety, visibility, or the passage of the general public.

3. DERELICT MOTOR VEHICLES

- a. No owner shall use any property for the parking or storage of the following:
 - i. derelict motor vehicles or motor vehicles that are unfit to be operated on a highway due to damage or poor repair;
 - ii. a motor vehicle that is not licensed for operation for the current year pursuant to the provisions of the Highway Traffic Act;
 - iii. motor vehicle parts or components on lands used for human habitation
- b. Section 3a) does not apply to those properties that comply with all applicable land use criteria which permits the retail, wholesale, repair and wrecking of motor vehicles or a competition or hobby vehicle located in a fully enclosed building.

4. EXEMPTIONS

- a. Notwithstanding any other provision of this By-law, upon application in writing to the Clerk or designate an exemption may be granted to Section 2b) of this By-law.

- b. The written application for exemption under Section 4a) of this By-law shall set out the reason the exemption is being requested, address of property, description of neighboring properties, size of property, zoning of property and shall be filed with the Clerk or designate within ten (10) days of receipt of the written notice from a Municipal Law Enforcement Officer.
- c. Upon review of the written application the Clerk or designate shall notify the applicant in writing of the approval or refusal of the exemption.
- d. If the applicant is not satisfied with the decision of the Clerk or designate, the applicant may appeal the decision to the General Government Committee of the Town of Wasaga Beach; the decision of the committee shall be final.
- e. Any appeal shall be in writing addressed to the Clerk or designate stating the reasons for the appeal.

5. ENFORCEMENT

- a. This By-law shall be enforced by Municipal Law Enforcement Officers.
- b. A Municipal Law Enforcement Officer may enter on land at any reasonable time for the purpose of carrying out an inspection for the purpose of enforcing this By-law, including for the purposes of making a determination of whether or not this By-law; a direction, requirement or notice of violation made under this by-law; or an order under Section 431 of the Municipal Act, 2001 are being complied with.
- c. A power of entry may be exercised by a Municipal Law Enforcement Officer to carry out an inspection and the Municipal Law Enforcement Officer may:
 - i. require the production for inspection of documents or things relevant to the inspection;
 - ii. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii. require information for any person related to a matter relevant to the inspection;
 - iv. alone or in conjunction with any person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- d. An order for inspection made under section 4c) may be served personally or by registered mail to the last known address of such person affected by the order for inspection.

- e. No person shall hinder or obstruct, or attempt to hinder or obstruct, a Municipal Law Enforcement Officer from carrying out inspections of land to ensure compliance with this By-Law.

6. NOTICE OF VIOLATION

- a. If a Municipal Law Enforcement Officer is satisfied that a violation or contravention of the By-Law has occurred, the Municipal Law Enforcement Officer may serve written notice upon the owner of the property, directing that the violation be remedied within a specific period of the delivery of such notice. Such notice shall contain reasonable particulars of the violation adequate to identify same and the location of the property as well as the date by which compliance must be effected. In the event that the violation in the notice is not remedied within the aforesaid period of time, the Municipal Law Enforcement Officer may 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.
- b. Where a Municipal Law Enforcement Officer deems a violation of this By-Law to constitute a hazard to the public, the Municipal Law Enforcement 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.
- c. Any notice given under this By-Law may be given by regular mail or personal delivery. Delivery by regular mail shall be deemed to have been affected five (5) days after mailing.
- d. The Town may recover its costs of remedying a violation of this By-Law by invoicing the owner, by instituting court proceedings 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. PENALTY

- a. Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to a maximum fine of \$100,000.00.
- b. A director or officer of a corporation who knowingly concurs in the violation or contravention by the corporation of any provision of this By-law is guilty of an offence and, upon conviction, is liable to a maximum fine of \$100,000.00.

8. SEVERABILITY

- a. When a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

9. EFFECTIVE DATE

- a. This By-law shall come into full force and take effect on the day it is passed.
- b. THAT By-law #2009-50 is hereby repealed.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 19TH DAY OF FEBRUARY, 2019.**

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Nina Bifulchi, Mayor

Dina Lundy, Director, Legislative Services & Clerk