

**THE CORPORATION OF THE
TOWN OF WASAGA BEACH
BY-LAW NO 2015-77**

**A BY-LAW TO PROVIDE FOR THE PROTECTION AND CONSERVATION
OF THE WATERCOURSES 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, including matters related the Economic, social and environmental well-being of the municipality;

AND WHEREAS it is recognized that the water and watercourses are key to the economic, social and environmental well-being of this municipality;

AND WHEREAS it is deemed expedient to protect all watercourses within the municipality, including the Nottawasaga River and all watercourses that flow into it or otherwise terminate into the Nottawasaga Bay in areas affronting 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 "Watercourse Protection By-law".

2. Definitions

2.1 DEBRIS shall mean all waste material such as discarded and demolished building material, trees and shrubs or parts thereof, leaves, grass cuttings, yard and garden waste, and any other like or similar waste material;

2.2 DELETERIOUS SUBSTANCE shall mean:

- (a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or
- (b) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water,

and without limiting the generality of the foregoing includes:

- (c) any substance or class of substances prescribed pursuant to paragraph (2)(a),
- (d) any water that contains any substance or class of substances in a quantity or concentration that is equal to or in excess of a quantity or concentration prescribed in respect of that substance or class of substances pursuant to paragraph (2)(b), and
- (e) any water that has been subjected to a treatment, process or change prescribed pursuant to paragraph (2)(c);

2.3 DEPOSIT shall mean the act of, or the permitting thereof, any discharging, spraying, releasing, raking, blowing, spilling, leaking, seeping, pouring, fouling, emitting, emptying, throwing, dumping, placing or any by another other action or inaction that, directly or indirectly, results in any foreign materials entering a watercourse or watercourse system or being situated where it will likely enter a watercourse or watercourse system;

2.4 FOREIGN MATERIAL shall mean any liquid, solid or gaseous “thing” that did not immediately originate from within the watercourse or the bed of the watercourse, including, but not limited to, garbage, refuse, debris, domestic or industrial waste, a deleterious substance or anything that is prohibited entirely or in specific quantities, by any other by-law or statute or Regulation of the Province of Ontario or by the Parliament of Canada;

2.5 GARBAGE shall mean all vegetable and animal matter subject to decay, whether it be household, commercial or industrial waste and shall include the wrappings in which the same is placed;

- 2.6 OFFICER** shall mean all Municipal Law Enforcement Officers or Police Officers or other designated individuals appointed by Council to enforce the By-laws of the Municipality;
- 2.7 ORDER** shall mean an Order issued under a By-law of the Municipality pursuant to section 444 and 445 of the *Municipal Act 2001*, S.O. 2001, c. 25; as amended;
- 2.8 OWNER** shall have the same meaning as the “owner of Shoreline Materials”;
- 2.9 OWNER OF SHORELINE MATERIALS** shall include the owner or tenant of:
- (a) the real property upon which the Shoreline Materials are partially or fully situated upon or form a part thereof, and
 - (b) the real property which immediately affronts the shoreline materials, which may be partially or fully upon lands owned by other person(s) but are utilized, attached or historically formed as an extension of one or more adjoining real property(s) that provide access and proximity to the adjacent water body including docks and other structures that are under the control of said owners/tenants.
- 2.10 REFUSE** shall mean all waste material such as, but not limited to, crockery, glass, bones, metal, rags, discarded wearing apparel, discarded furniture and appliances, and all such other kinds of discarded items which may be subject to decay;
- 2.11 REGULATED AREA** shall be the area under jurisdiction of the Nottawasaga Valley Conservation Authority regulations;
- 2.12 SHORELINE** shall mean the area(s) of lands which are adjacent to, touching from time to time, or covered by the waters of a watercourse, and includes lands “regulated” by the Nottawasaga Valley Conservation Authority to the extent necessary to accomplish the purpose of the by-law;
- 2.13 SHORELINE MATERIALS** shall mean any soils, or components thereof, rocks, wood or wood works, cement works, metal works, docks, breakwalls, wave walls, retaining walls or any other natural or artificial or foreign materials that are situated to affront a watercourse or is in direct contact with the watercourse wholly or from time to time;
- 2.14 WATERCOURSE** means a creek, pond, lake, river, stream, or brook, whether usually containing water or not and any spring or wetland that is integral to a watercourse;

- 2.15 WATERCOURSE SYSTEM** means Watercourses and waterworks, ditches, drains or sewers, drainage works, mains, pipes, culverts, catch basins. Leads, and curbs and gutters, located in the District on private or public property, by which surface or ground water is conveyed to receiving waters; excludes stormwater control basins (but not their discharge outlets or channels);
- 2.16 WETLAND** means land, with or without visible banks, which is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions supports, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas, also includes all land within 7.5 metres of any land meeting that description, measured horizontally.

3. General Prohibitions

- 3.1** Except where otherwise explicitly authorized by law, no person shall deposit or permit the deposit of any foreign materials into any watercourse or watercourse system that exits or flows within the municipality boundaries of the Town of Wasaga Beach.
- 3.2** Except where otherwise explicitly authorized by law, no person shall deposit or permit the deposit of any shoreline materials into any watercourse or watercourse system that exits or flows within the municipality boundaries of the Town of Wasaga Beach.
- 321 Section 3.2 above does not apply where the shoreline materials are fixed in-place and function for origin of purpose, without eroding, corroding or deteriorating into watercourse or creating a nuisance or potential hazard to watercourse users.
- 322 Section 3.2 above does not apply where approved construction or maintenance works are being undertaken and are being carried out in accordance with the conditions of that approval.
- 323 Section 3.2 above does not apply to the Province of Ontario Conservation Authority or any other Government Organization that has authority to work or alter the Shorelines or Shoreline Systems or any watercourse. or to maintenance or other works conducted by, or on behalf of, the Town of Wasaga Beach.
- 3.3** Except where otherwise explicitly authorized by law, no person shall store, hold or maintain accumulations of foreign materials in such a location or under such circumstances that would likely result in the eventual deposit of such materials into the watercourse or watercourse system, either

through natural environmental factors (wind, rain, erosion, gravity, animals, etc.) or other human activities.

3.4 Except where otherwise explicitly authorized by law, no person shall store, hold or maintain accumulations of shoreline materials in such a location or under such circumstances that would likely result in the eventual deposit of such materials into the watercourse or watercourse system, either through natural environmental factors (wind, rain, erosion, gravity, animals, etc.) or other human activities.

3.5 For the purpose of interpretation of 3.1, 3.2, 3.3 or 3.4 above, it need not be proven that any “deposit” had occurred; only that on a reasonable balance of probability, that a deposit of some such materials has already occurred or would eventually occur.

4. Exceptions

Notwithstanding the sections above, nothing in this by-law is intended to prevent the lawful seasonal or temporary, uses of the watercourses by the operation of recreational watercraft or associated navigational aids, or the lawful placement and use of docks that does so without offending section 3.1 above.

5. Entry and Inspection

Officers shall have the right to enter and inspect property pursuant to the *Municipal Act, 2001*, sections 444 and 445, and set out in the Municipal By-law.

6. Obstruction

No person shall obstruct or attempt to obstruct any Officer or other person, who is exercising a power or performing a duty under this By-law or any other Town of Wasaga Beach By-law or the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or its predecessor.

7. Orders and Remedial Action

7.1 If an Officer is satisfied that a contravention of any By-law has occurred, the Officer may make an order requiring the person who contravened the By-law to discontinue the contravening activity, known as an Order to Discontinue Activity, requiring the person who contravened the By-law, or who caused or permitted the contravention, or the owner or occupier of the Land on which the contravention occurred, to discontinue the contravention.

7.1.1 An order under subsection 7.1 shall set out,

- a) reasonable particulars of the contravention adequate to identify the contravention and the municipal address on which the contravention occurred;
- b) the date by which there must be compliance with the order; and
- c) the date on which the order expires.

7.2 If an Officer is satisfied that a contravention of any By-law has occurred, the Officer may make an order requiring the person who contravened the By-law to do work to correct the contravention, known as a Work Order.

7.2.1 An order under subsection 7.2 shall set out,

- a) reasonable particulars of the contravention adequate to identify the contravention and the municipal address of the property on which the contravention occurred;
- b) the work to be done and the date by which the work must be done; and
- c) the date on which the order expires.

8. Offence

8.1 Any person who contravenes any of the provisions of this By-law including failure to comply with an Order, is guilty of an offence and upon conviction is liable to a maximum fine of \$100,000.00.

8.2 Upon conviction, in addition to any other remedy and to any penalty imposed by this By-law, 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.

9. Municipality Power to Remedy

Where a person fails to do a matter or thing as directed or required by an Officer or other person pursuant to this By-law or other Town of Wasaga Beach By-law or the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, the matter or thing may be done by the municipality at that person's expense which associated costs may be added to the tax roll of the person to be collected in the same manner as property taxes.

10. Validity and Severability

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.

11. Conflicts

11.1 This By-law shall apply in addition to the provisions of any other Town By-law and the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, provided that in the event of conflict, the provisions of any other Town By-law or the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, shall be paramount over this By-law, provided such provisions are not contrary to law.

11.2 Nothing in this By-law shall limit any other statutory or common law rights or powers of the municipality or any Officer to enter on Land.

12. Effective date

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 27TH DAY OF OCTOBER, 2015.

Brian Smith, Mayor

Pam Archdekin, Deputy Clerk