

# THE CORPORATION OF THE TOWN OF WASAGA BEACH

## BY-LAW NO. 2024-46

A By-law to prohibit and regulate nuisances in the Town of Wasaga Beach

**WHEREAS** Section 128.1 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, 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 or cause public nuisances;

**AND WHEREAS** Sections 425 and 429 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, authorizes a Municipality to create offences and establish fines for offences under by- laws;

**AND WHEREAS** Section 434.1(1) of the *Municipal Act, 2001*, S.O. 2001 c. 25, enables a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act;

**AND WHEREAS** Council has deemed that certain routine administrative and legislative powers are minor in nature, and the delegation of these powers would contribute to the efficient management of the Town while still adhering to the principles of accountability and transparency;

**AND WHEREAS** the Town has passed an Administrative Monetary Penalties System By-law;

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

### **1.0 SHORT TITLE**

This By-law may be cited as the "Nuisance By-law"

### **2.0 DEFINITIONS**

**"AMPS By-law"** means the Town's Administrative Monetary Penalties By-law, as may be amended from time to time;

**"Council"** means the Council of the Town of Wasaga Beach;

**"Director"** means the General Manager – Development Services, or his/her designate or successor;

**"Disorderly Conduct"** is as attached as Schedule "B" to this By-law.

**"Graffiti"** means images or lettering scratched, scrawled, painted or any form of marking on property that does not belong to the artist;

**"Loiter"** means lingering on the way, to travel indolently with frequent pauses without any apparent destination;

**"Motorized Conveyance"** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

**"Negligent Behaviour"** is as attached as Schedule "A" to this By-law

**"Nuisance"** shall mean an activity that causes an unsafe environment, affects the well-being of persons or the enjoyment of a place, and as set out in Schedules "A" and "B" of this by-law.

**"Occupier"** includes:

- a) a person who is in physical possession of premises; or
- b) 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;

**"Officer"** means a Municipal Law Enforcement Officer appointed by the Town as a Municipal Law Enforcement Officer pursuant to the *Community Safety and Policing Act*, 2019, S.O. 2019, c. 1, as amended or an Ontario Provincial Police Officer;

**"Public Place"** means land owned or operated by the Town, and without limiting the generality of the foregoing, includes a highway, sidewalk, trail, pedestrian-way, park, boulevard and public square owned or operated by the Town, and includes any buildings, structures and equipment located thereon, intended for or used by the general public;

**"Town"** means the Corporation of the Town of Wasaga Beach and/or the geographical limits of the Town of Wasaga Beach, depending on the context of the provision in which the term appears.

### **3.0 GENERAL**

- 3.1 No person shall engage in a manner that would constitute Negligent Behaviour as outlined in Schedule A, which is attached to and forms part of this by-law.
- 3.2 No person shall engage in a manner that would constitute Disorderly Conduct as outlined in Schedule B, which is attached to and forms part of this by-law.

### **4.0 ENFORCEMENT**

- 4.1 The provisions of this By-law shall be enforced by a Municipal Law Enforcement Officer or anyone else appointed to do so.
- 4.2 An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide identification of themselves; and
- 4.3 Every person who is required by an Officer to provide identification under Section 5.2 shall identify themselves to the Officer. Giving their correct name, date of birth and address shall constitute as being sufficient identification. Failure to do so shall constitute obstruction of the Officer as per Section 3.14 of this by-law.
- 4.4 Every person who contravenes any provision of this by-law, including the Schedules may be subject to the Town's AMPS By-law.

### **5.0 PENALTY**

- 5.1 Every person who contravenes any of the provisions of this by-law shall be subject to the Town's AMPS By-law.

### **6.0 VALIDITY, SEVERABILITY AND INTERPRETATION**

- 6.1 Where a provision of this By-law conflicts with a provision of any other By-law of the Town, the provision that establishes the higher standard to protect the health, safety and welfare of the general public prevails.

6.2 If a section of this By-law is rendered null and void, it does not affect the active By- law.

6.3 The invalidity of any section, paragraph, portion of a paragraph, clause or portion of a clause of this By- law is not intended to and shall not affect the validity of any other provision of this By-law.

**7.0 DELEGATION**

7.1 The Director is authorized to make minor housekeeping amendments to this by-law that that do not alter the meaning or intent in any way.

**8.0 EXISTING BY-LAW REPEAL**

8.1 By-Law #2016-97 is hereby repealed.

**9.0 ENACTMENT**

9.1 This by-law shall come into full force and effect upon passing.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS DAY OF 13<sup>th</sup> DAY OF JUNE, 2024.**

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

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Brian Smith, Mayor

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Nicole Rubli, Director, Legislative Services & Clerk

### **Schedule A**

In this By-law Neglectful Behaviour shall include but is not limited to the following:

- engaging in any type of conduct or activity in any public place when the activity is prohibited or restricted by a sign.
- loitering in any public place.
- emitting an excessive amount of smoke, dust or airborne particulate matter in a public place;
- The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation;
- The operation of any motorized conveyance other than on a highway or other place intended for its operation.

### Schedule 'B'

In this By-law Disorderly Conduct shall include but is not limited to the following:

- soliciting or selling or attempting to solicit or sell any items, including but not limited to funds, in any public place unless authorized to do so by the Town.
- knocking over or attempting to knock over a Canada Post mailbox, newspaper box, bench, fence, blue box or garbage container, portable toilet, or any other structure or object, located on any public place.
- spitting, urinating or defecating in a public place.
- marking or applying graffiti on any public place or private property without authorization from the owner of the property to which the graffiti is being applied.
- Actions to impede pedestrian traffic, vehicular traffic or, illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- continuing to engage in any type activity prohibited by this by-law when requested to stop by an Officer or the Occupier of the property.
- Actions that damage or destroy or attempt to damage or destroy any public property.
- being 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.
- Racing of any motorized conveyance other than in a racing event regulated by law;
- The operation of a motor vehicle in such a way that tires squeal;
- The operation of any horn or other warning device in or on a motorized conveyance except where required by law or in accordance with good safety practices;
- failing to leave the premises immediately after he or she is directed to do so by the Occupier of the premises or a person authorized by the occupier.
- obstructing, hindering or otherwise interfering with an Officer while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law.
- yelling, screaming, shouting, singing, swearing and interfering with the reasonable enjoyment of someone else at a public place;