

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2024-50

A By-law regulating the retrieval, storage and disposition of abandoned shopping carts.

WHEREAS Section 9 and 11. (2) (5) of the *Municipal Act, 2001*, S.O. 2001, chapter 32 provides that if a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act that an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting economic, social and environmental well-being of the municipality;

AND WHEREAS Section 63. (1) of the *Municipal Act, 2001*, S.O. 2001, chapter 32, states that if a municipality passes a by-law for prohibiting or regulating the placing, stopping, standing or parking of an object it may provide for the removal and impounding or restraining and immobilizing of any object or vehicle placed, stopped, standing or parked on or near a highway in contravention of the by-law and subsection 170 (15) of the *Highway Traffic Act* applies with necessary modifications to the by-law;

AND WHEREAS Section 127. (c) of the *Municipal Act, 2001*, S.O. 2001, chapter 32, authorizes municipalities to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 128. (1) of the *Municipal Act, 2001*, states that without limiting sections 9, 10 and 11, 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 Section 391. (1)(a) of the *Municipal Act, 2001*, S.O. 2001, Without limiting sections 9, 10 and 11, those sections authorize a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it;

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

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;

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

1. SHORT TITLE

1.1 This By-Law shall be referred to as the "Shopping Cart By-law"

2. POLICY

- 2.1 This By-Law sets out the standards for the management and disposal of Shopping Carts.

3. DEFINITIONS

- 3.1 In this By-Law, all words used shall be interpreted as defined in this By-Law. Where definitions are not provided herein, the words shall be defined as provided firstly in the most current editions of the Municipal Act. Any remaining words shall be defined in the Dictionary in the context of the by-law application.
- 3.2 **'Abandon'** means to place, leave, park, stand or deposit a shopping cart, unattended, or fail to manage a shopping cart through the imposition of measures to ensure its control, on any private or public property outside of the premises of the business that owns or uses the shopping cart;
- 3.3 **'Act'** means the Municipal Act, 2001, S.O. 2001, c25, as amended;
- 3.4 **'Administrative Penalties'** means fines or sanctions imposed as a consequence for violating by-laws and regulations for the purpose of enforcing compliance with the by-laws and regulations of the Town of Wasaga Beach;
- 3.5 **'AMPS By-law'** means the Town's Administrative Monetary Penalties By-law, as may be amended from time to time;
- 3.6 **'Associated Parking Area'** means a parking facility or facilities owned, operated, and/or used in conjunction with an indirect source;
- 3.7 **'Collected' or 'Collecting'** means the action of or process of collecting shopping carts;
- 3.8 **'Council'** means the council of the Corporation of the Town of Wasaga Beach;
- 3.9 **'Director'** means the General Manager – Development Services, or his/her designate or successor;
- 3.10 **'Disposition date'** means the date on which the stored Shopping Carts will be disposed of;
- 3.11 **'Disposal area'** means an area to safely dispose of shopping carts which can be a garbage dump, or any other approved area by the municipality.

- 3.12 **'Municipality'** shall mean the Corporation of the Town of Wasaga Beach and includes, where the context permits, its duly authorized officers, contractors, employees and agents and "Town" shall have the same meaning;
- 3.13 **'Owner'** means that person, firm or corporation that is in the lawful possession of the Shopping Carts.
- 3.14 **'Person'** means the singular or plural of an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, or other entity of any kind;
- 3.15 **'Premises'** means the entire area owned or otherwise utilized by a business, including any parking area. For a business that is part of a shopping center or shopping complex, "premises" shall include all business establishments in the shopping center or complex and all areas used by the customers of those businesses in common including all parking areas designated for use by the customers of the shopping center or complex;
- 3.16 **'Private Property'** shall be property other than the lands owned or under control of the City but shall exclude provincially or federally owned lands;
- 3.17 **'Public Place'** means any property location, lot, beach, facility, park, cemetery, parkette, parking lot, building (inside and outside), highway, sidewalk, recreational amenity, tennis court, ball diamond, campground, etc. owned by, occupied by or under the custody and control of the Town;
- 3.18 **'Retrieve' or 'Retrieved'** means to locate and bring in to a Town storage facility.
- 3.19 **'Shopping Cart'** means a non-motorized basket which is mounted on wheels, or a similar device, which includes anything that is attached thereon, generally used by a customer of a business for the purpose of transportation goods on the business premises;
- 3.20 **'Shopping Cart Retrieval Fee'** means the fee that must be paid to the Town by an owner of an impounded shopping cart prior to the release of the shopping cart in accordance with the AMPS By-law.
- 3.21 **'Town'** means the Corporation of the Town of Wasaga Beach;

4.0 PREVENTION

- 4.1 Each Owner shall ensure reasonable and effective measures are taken to prevent Shopping Carts from leaving the premises of the business or associated parking area.
- 4.2 Each Owner shall take reasonable and effective measures to ensure Shopping Carts are located, collected and returned to the Premises in a timely manner.
- 4.3 New businesses will be required to install technology (i.e. wheel locking) to prevent Shopping Carts from being removed off the premises of the business.

5.0 REMOVAL OR ABANDONMENT

5.1 Notice of Retrieval:

5.1.1 If the Municipality locates an abandoned Shopping Cart, a notice shall be issued to the Owner.

5.1.2 The notice shall include; the storage location of the abandoned Shopping Carts, the time period within which the Owner must retrieve the Shopping Cart, and the applicable fee pursuant to the AMPS By-law.

5.2 Disposition Notice Period:

The notice sent out by the Municipality shall be issued 90 days before the disposition date.

5.3 Owner's Responsibility:

The Owner of the Shopping Cart shall be responsible for the payment of any fees associated with the collection and storage of the Shopping Cart.

6.0 STORAGE OF ABANDONED SHOPPING CARTS

- 6.1 Shopping Carts collected by the Municipality will be relocated to Town's designated storage facility at the expense of the Owner.
- 6.2 The collected Shopping Carts will be kept at the Town's designated storage facility for 90 days after the notice has been sent to the Owner.

- 6.3 Any Shopping Carts that have not be claimed by the disposition date specified in the notice to the Owner shall be deemed unclaimed.
- 6.4 The Owner of the Shopping Cart shall be responsible for the payment of any fees associated with the collection and storage of the Shopping Cart.

7.0 RETRIEVAL OF SHOPPING CARTS

- 7.1 Abandoned Shopping Carts shall be released to the Owner upon received payment of the Shopping Cart Retrieval fee as specified in the AMPS By-law.

8.0 DISPOSAL OF UNCLAIMED SHOPPING CARTS

- 8.1 Any Shopping Cart that has not been claimed by the disposition date specified in the notice to the Owner shall be deemed unclaimed.
- 8.2 Unclaimed Shopping Carts will be disposed of by the Town.
- 8.3 The Municipality shall maintain records of all disposed Shopping Carts.
- 8.4 Any costs associated with the disposal of unclaimed Shopping Carts, not covered by the disposal method (e.g., recycling fees), shall be billed to the Owner as per the fees specified in the AMPS By-law.

9.0 ENFORCEMENT

- 9.1 Town Council of the Town of Wasaga Beach may appoint officers and such other staff to carry out the administration and enforcement of this by-law.

10.0 PENALTIES

- 10.1 Every Owner who fails to pay a fee within the designated time frame shall be subject to the Administrative Monetary Penalties System By-law and is liable to a fine.

11.0 VALIDITY

- 11.1 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.
- 11.2 If a section of this By-law is rendered null and void, it does not affect the active By-law.

11.3 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.

PART 12 - DELEGATION

12.1 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.

PART 13 - EFFECTIVE DATE

13.1 This By-law shall be come in force and effect on the date that it is passed.

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

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Brian Smith, Mayor

Nicole Rubli, Director, Legislative Services & Clerk

