

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2020-75

A By-law to protect, prohibit, regulate and control the Beach Drive Promenade and Municipal Picnic Area in the Town of Wasaga Beach

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on 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*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

WHEREAS Section 11(2) of the *Municipal Act* permits a municipality to pass by-laws respecting the public assets of the municipality, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS the Council of the Corporation of the Town of Wasaga Beach has deemed it appropriate to enact a by-law to prohibit and regulate activities at the Beach Drive Promenade and Municipal Picnic Area and to protect these lands on behalf of the public interest;

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

TITLE

This By-law shall be known as the “Beach Drive Promenade and Municipal Picnic Area By-law.”

1.0 DEFINITIONS

- 1.1 “**Animal**” means any member of the animal kingdom, other than a human, without limiting the generality of the foregoing, includes dogs, cats, birds, cows, horses, pony, mule, donkey, goat, sheep on any land described in Schedule A, but shall not include a Service Animal.
- 1.2 “**Authorized Sign**” means any sign, notice, or other device placed or erected in or upon the property of the municipality.

- 1.3 **“Beach Promenade”** means any part of the sand covered municipally assumed road allowance formerly known as Beach Drive, including the area between the lateral property lines thereof, identified in Schedule A.
- 1.4 **“C.A.O.”** means the Chief Administrative Officer for the Town of Wasaga Beach.
- 1.5 **“Council”** means the Council of the Corporation of the Town of Wasaga Beach.
- 1.6 **“Litter”** means the placing or disposing of any debris, refuse, waste or any other items or materials, in any place other than designated garbage receptacles.
- 1.7 **“Motor Vehicle”** includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, farm tractors, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act.
- 1.8 **“Municipality”** means The Corporation of the Town of Wasaga Beach.
- 1.9 **“Officer”** means a Municipal Law Enforcement Officer or Police Officer.
- 1.10 **“Person”** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a person to whom the context can apply, according to law.
- 1.11 **“Property”** for the purpose of this by-law means all lands or municipal road allowances identified in Schedule A, forming part of this by-law.
- 1.12 **“Service Animal”** As defined in the Accessibility for Ontarians With Disabilities Act, 2005 as may be amended from time to time, a service animal is an animal for a person with a disability if it is readily apparent that the animal is used by the person for reasons relating to his or her disability or if the person provides a letter from a physician or nurse confirming that the persons requires the animal for reasons relating to the disability.
- 1.13 **“Special Event”** means an exhibition, event or function held within the Town of Wasaga Beach where a person has applied to the Town of Wasaga Beach to conduct a Special Event and Council has approved the event, with or without conditions.
- 1.14 **“Tent”** means any portable shelter, or temporary structure, including but not limited to a camping tent, gazebo, shelter, canopy or windbreaker, but does not include a tent that does not contain sides and is under 100 sq. feet (10ft x 10ft).

2.0 GENERAL CONDUCT

- 2.1 No Person shall start or tend to a fire on a Property.
- 2.2 No Person shall defecate, urinate or otherwise leave human waste on a Property.
- 2.3 No Person shall permit an Animal on the Beach Promenade, between 9am to 7pm during the period from Victoria Day to Labour Day, with the exception of Service Animals and law enforcement Animals.
 - 2.3.1 Section 2.3 does not apply to a Person walking an Animal on the Beach Promenade sidewalk.
- 2.4 No Person shall erect or use any Tent that occupies or covers a space greater than 100 square feet (example 10' x 10') on a Property.
- 2.5 No Person shall erect a Tent on a Property that contains more than one opaque wall.
 - 2.5.1 Section 2.5 does not preclude an Officer from applying the provision with discretion based on factors including but not limited to: age and medical needs; and
 - 2.5.2 does not apply do a Person caring for an infant, toddler, or Person with special needs.
- 2.6 No Person shall erect or use any Tent on the Property between the hours of 9:00pm-8:00am.
- 2.7 No Person shall maintain or store potential wildlife attractants, including food or beverages, food preparation or storage equipment, cooking devices or utensils, garbage or recycling products, scented products or any other item in a manner that is likely to attract wildlife on a Property.
- 2.8 No Person shall possess a glass bottle on a Property.
- 2.9 No Person shall be permitted to use a barbeque, hibachi, or other cooking or heating appliance on the Beach Promenade, regardless of whether it is fueled by coal, propane, alcohol, benzene, methane, gasoline, wood or other such fuel.
- 2.10 No Person shall deposit or cause to be deposited any Litter on a Property.
- 2.11 No Person shall remove or damage or deface any part of a Property.
- 2.12 No Person shall disobey an Authorized Sign on a Property.

- 2.13 No Person shall hit, strike or otherwise propel a golf ball on a Property.
- 2.14 No Person shall engage in riotous, boisterous, threatening, or indecent conduct or abusive, threatening or profane language within a Property.
- 2.15 No person shall operate a Motor Vehicle on the Beach Promenade unless authorized by the Municipality.

3.0 EXEMPTIONS

- 3.1 Notwithstanding anything contained in this By-law, any person may make application a minimum of 15 days prior to the date(s) requiring an exemption, to the C.A.O. to be granted an exemption from any of the provisions of this By-law with respect to General Conduct provisions. The C.A.O., may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period of a duration during which it is effective, and may contain such items and conditions as the C.A.O. sees fit.
- 3.2 The provisions of this by-law do not apply to an Officer or other emergency or enforcement personnel while performing their duties.
- 3.3 Sections 2.6, 2.7 and 2.8 do not apply to Tents used in relation to a Council approved Special Event, where the continued use of Tents are required for the duration of the Special Event.

4.0 ENFORCEMENT

- 4.1 The provisions of this By-law may be enforced by an Officer.
- 4.2 Where any person contravenes any provision of this By-law, an Officer may direct such person to comply with this By-law. Every person so directed shall comply with such direction without undue delay.
- 4.3 Where an Officer has reasonable grounds to believe that a person has contravened any provision of this By-law, the Officer may require the name, address and proof of identity of that person, and the person shall supply that information. Failure to provide sufficient or any identification shall constitute obstruction of the Officer as set out in section 5.0 of this By-law.

5.0 OBSTRUCTION

- 5.1 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.

6.0 PENALTY

- 6.1 Any Person, who contravenes or fails to comply with any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
- 6.2 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*, R.S.O 1990, c. P.33, as amended.
- 6.3 Every person who is convicted of an offence, is liable to a maximum fine of \$25,000 for a first offence and a maximum fine of \$50,000 for a subsequent offence.
- 6.4 Upon conviction, in addition to any other remedy and to any penalty imposed by this Chapter, 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.

7.0 SEVERABILITY

- 7.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the validity of this By-law as a whole or any part thereof, other than that part which is declared invalid, shall not be affected and it shall continue to apply in full force and effect to all other circumstances.

8.0 CONFLICTS

- 8.1 If any provision of this By-law conflicts with an Act or a regulation or another by-law, the provision that is the most restrictive shall prevail.

9.0 EFFECTIVE DATE

- 9.1 This By-law shall come into force and effect on the final passage thereof.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 30TH DAY OF JUNE, 2020.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Nina Bifulchi, Mayor

Dina Lundy
Director, Legislative Services and Clerk

SCHEDULE "A" to By-Law #2020-75

1. Municipal Picnic Area:

PLAN 525 LOT 33 LOT 69 TO 76, Town of Wasaga Beach, County of Simcoe

PLAN 525 LOTS 61 TO 68, Town of Wasaga Beach, County of Simcoe

PLAN 525 LOTS 50 TO 58 LOT;41 PT LOT 42 PT LOT 44, Town of Wasaga Beach,
County of Simcoe

2. Beach Drive, Town of Wasaga Beach, County of Simcoe. PIN58328-0206,
PIN58328-0035