

THE CORPORATION OF THE TOWNSHIP OF WAINFLEET
BY-LAW NO. 021-2022
AS AMENDED BY BY-LAW 036-2022

Being a By-law to protect, prohibit, regulate and control municipally-owned properties providing lakeshore access in the Township of Wainfleet.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*” or “the statute”) provides that the powers of a municipality under the statute 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*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;

AND WHEREAS section 11 of the *Municipal Act, 2001*, authorizes 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 section 115 of the *Municipal Act, 2001*, authorizes a municipality to pass by-laws prohibiting the smoking of tobacco or cannabis in public places;

AND WHEREAS section 425 of the *Municipal Act, 2001*, authorizes a municipality to create offences for the contravention of its by-laws;

AND WHEREAS section 429 of the *Municipal Act, 2001*, authorizes a municipality to establish a system of fines for offences under its by-laws;

AND WHEREAS the Council of the Corporation of the Township of Wainfleet has deemed it to be in the public interest to enact this by-law to regulate, control and prohibit certain activities on municipally-owned properties providing lakeshore access to protect such properties and the enjoyment of their use by the public;

NOW THEREFORE the Council of the Corporation of the Township of Wainfleet enacts as follows:

1. SHORT TITLE

- 1.1. This By-law shall be known as the “Lakeshore Access Property By-law”.
- 1.2. This By-law applies to the lands described in Schedule “A”, which is attached hereto and forms part of this By-law.

2. DEFINITIONS

- 2.1. For the purposes of this By-law:

“**Animal**” means any member of the animal kingdom, other than a human and includes both domesticated and non-domesticated animals, including but not limited to dogs, cats, birds, horses, cattle and other animals.

“Authorized Sign” means any sign, notice, placard or other informational device that is posted, placed or erected by the Township in, upon or in relation to any Lakeshore Access Property.

“Council” means the Council of the Corporation of the Township of Wainfleet.

“Deposit” means to throw, leave, place or dispose of Litter in any location other than in a designated Litter receptacle.

“Emergency Personnel” means any Officer and any other enforcement, rescue, medical response or emergency services personnel;

“Lakeshore Access Property” means all lands described in Schedule “A” that are owned by the Township including waterfront beach lands, beach lands that are not immediately adjacent to the water, designated beach parking areas, whether or not said parking areas are located adjacent to any beach lands owned by the Township, and Township road allowances, including but not limited to road allowances adjacent to beach access points where roadside parking is permitted.

“Litter” includes any and all kinds of trash, garbage, rubbish, waste and refuse.

“Motor Vehicle” includes automobiles, motorcycles, motor assisted bicycles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), dune buggies, golf carts, tractors and any other vehicles that are propelled or driven by any means other than muscular power.

Lakeshore Access Property “Officer” means any by-law enforcement officer appointed by Council for the purpose of enforcing by-laws of the Township or any provincial offences officer, member of the Niagara Regional Police Service, Ontario Provincial Police, Royal Canadian Mounted Police and/or Canadian Coast Guard.

“Person” means an individual, firm, corporation, association or partnership.

“Permissible Tent” means any portable shelter or temporary structure including a camping tent, gazebo, sun shelter, canopy or windbreak that is less than or equal to twenty-eight (28) square feet in size.

“Prohibited Tent” means any portable shelter or temporary structure including a camping tent, gazebo, sun shelter, canopy or windbreak that is more than twenty-eight (28) square feet in size.

“Service Animal” has the same meaning as in the *Provincial Animal Welfare Services Act, 2019*, S.O. 2019, c. 13.

“Smoke” means to hold, inhale and/or exhale any lighted tobacco or cannabis product including but not limited to pipe tobacco, cigarettes, cigars and cigarillos.

“Township” means the Corporation of the Township of Wainfleet.

“Vape” means to inhale and/or exhale the vapour produced by a lighted electronic cigarette or other similar device regardless of the product or substance being vapourized and includes holding an electronic cigarette or other similar device, whether or not the device is lighted.

3. PROHIBITED CONDUCT

- 3.1. No Person shall start or tend to a fire on any Lakeshore Access Property.
- 3.2. No Person shall defecate, urinate or otherwise leave human waste on any Lakeshore Access Property.
- 3.3. Subject to section 4, no Person shall bring, permit or allow an Animal on any Lakeshore Access Property.
- 3.4. Subject to section 4, no Person shall erect or use a Prohibited Tent on any Lakeshore Access Property.
- 3.5. No Person shall erect or use a Permissible Tent within six (6) feet of any other Permissible Tent on any Lakeshore Access Property.
- 3.6. No Person shall erect or use a Permissible Tent on any Lakeshore Access Property between the hours of 9:00 p.m. and 8:00 a.m.
- 3.7. Subject to section 4, no Person shall use or possess a glass container on any Lakeshore Access Property.
- 3.8. No Person shall use a barbeque, hibachi, or other cooking or heating appliance, regardless of whether it is fueled by coal, propane, alcohol, benzene, methane, gasoline, wood or any other fuel, on any Lakeshore Access Property.
- 3.9. No Person shall use a generator or other similar device, regardless of whether it is fueled by gas, diesel, propane or any other fuel, on any Lakeshore Access Property.
- 3.10. No Person shall possess or consume any beverage containing alcohol on any Lakeshore Access Property.
- 3.11. No Person shall Smoke or Vape on any Lakeshore Access Property other than a part of a Lakeshore Access Property that is situated on, and wholly contained within, a Township road allowance.
- 3.12. No Person shall Deposit or cause the Deposit of any Litter on any Lakeshore Access Property.
- 3.13. No Person shall remove, damage, deface or alter any part of any Lakeshore Access Property including but not limited to beach lands and/or any landscaping features, natural vegetation, fencing or Authorized Signs situated thereon.
- 3.14. No Person shall disobey an Authorized Sign on any Lakeshore Access Property.
- 3.15. No Person shall hit, strike or otherwise propel with an implement or instrument any golf ball, baseball or similar projectile or sporting equipment on any Lakeshore Access Property. For greater certainty, this provision does not prohibit Persons from propelling sporting equipment such as footballs, flying discs and other similar equipment through muscular power without the use of an implement or instrument.
- 3.16. No Person shall engage in riotous, boisterous, threatening, or indecent conduct and/or use abusive, threatening or profane language at any Lakeshore Access Property.

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- 3.17. No Person at a Lakeshore Access Property shall cause or permit to be caused any noise that is likely to disturb other users of the Lakeshore Access Property whether such noise is created by a radio, sound equipment, loudspeaker or other similar devices unless such noise is caused in relation to, and only for the duration of, any activity, function, event or gathering that is authorized by the Township or by Council.
- 3.18. Subject to section 4, no person shall operate a Motor Vehicle on any Lakeshore Access Property.
- 3.19. No Person shall display, sell or rent or offer for sale or rent any merchandise of any nature or kind, for immediate or future delivery, or offer any art, skill or service to be exercised or performed immediately or in the future, or solicit any trade, occupation or business of any kind at any Lakeshore Access Property, without the prior written permission of the Township or Council.

4. EXEMPTIONS

- 4.1. This By-law does not apply to Emergency Personnel while performing or training for their duties.
- 4.2. Section 3.3 of this By-law does not apply where the Animal is:
- (a) a Service Animal in the course of performing or training for its duties; or
 - (b) an Animal used by Emergency Personnel in the course of performing or training for the Animal's duties.
- 4.3. Sections 3.4, 3.5 and 3.6 of this By-law do not apply to any Permissible Tent or any portable shelter or temporary structure that would otherwise be a Prohibited Tent that are erected or used in relation to, and for the duration of, any activity, function, event or gathering that is authorized by the Township or by Council.
- 4.4. Notwithstanding section 3.4 of this By-law, the Township and/or an Officer may permit a Prohibited Tent to be erected or used on a Lakeshore Access Property where, in the assessment of the Township or the Officer, the use of a Prohibited Tent is reasonably required due to the age, medical needs, special needs or caregiving duties of the Person or Persons that erected and/or used the Prohibited Tent.
- 4.5. Notwithstanding section 3.7 of this By-law, the Township and/or an Officer may permit a Person to use or possess a glass container on a Lakeshore Access Property where, in the assessment of the Township or the Officer, the glass container is purposefully designed for medical or caregiving purposes and is reasonably required due to the age, medical needs, special needs or caregiving duties of the Person or Persons in use or possession of the glass container.

5. ENFORCEMENT

- 5.1. This By-law shall be enforced by an Officer.
- 5.2. For the purposes of enforcing this By-law, an Officer may exercise any power, authority or remedy granted to the Township pursuant to the *Municipal Act, 2001* and the *Provincial Offences Act, R.S.O. 1990, c. P. 33* ("*Provincial Offences Act*")

- 5.3. No Person shall hinder or obstruct an Officer from exercising a power or performing a duty under this By-law.
- 5.4. 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 that includes the name, date of birth and address of the Person. Failure to provide sufficient or any identification shall constitute an offence pursuant to section 6 of this By-law.

6. PENALTY

- 6.1. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to such penalties as provided for in the Municipal Act, 2001 and the Provincial Offences Act.
- 6.2. The fines approved under the Provincial Offences Act are set out in "Schedule B", which is attached hereto and forms part of this by-law.

7. GENERAL

- 7.1. If any or part of a provision 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 balance of the By-law, or its application in other circumstances, shall not be affected and shall remain in full force and effect.
- 7.2. If there is a conflict between a provision of this By-law and a provision of any other by-law of the Township, the provision that establishes the higher standard shall prevail.
- 7.3. Any reference to legislation in this By-law includes the legislation referred to and any amendments, replacement, subsequent enactment or consolidation of such legislation.
- 7.4. This By-law shall come into full force and effect on the date on which it is passed.

BY-LAW READ AND PASSED THIS 12TH DAY OF JULY, 2022

Kevin Gibson, MAYOR

M. Ciuffetelli, DEPUTY CLERK

SCHEDULE "A" - BY-LAW NO. 021-2022

This By-law applies to all municipally-owned Lakeshore Access Properties within the geographic boundaries of the Township of Wainfleet.

PART I PROVINCIAL OFFENCES ACT

Township of Wainfleet

Schedule "B" to By-law No 021-2022 Lakeshore Access Property By-law

Set Fine Schedule

| <u>Item</u> | <u>Column 1</u> Short Form Wording | <u>Column 2</u> Offence Creating Provision or defining Offence | <u>Column 3</u> Set Fine |
|--------------------|---|---|-------------------------------------|
| 1. | Start or tend to a fire on any Lakeshore Access Property | Section 3.1 | \$300.00 |
| 2. | Defecate, urinate or otherwise leave human waste on any Lakeshore Access Property | Section 3.2 | \$300.00 |
| 3. | Allow an animal on any Lakeshore Access Property | Section 3.3 | \$300.00 |
| 4. | Erection of a tent on any Lakeshore Access Property | Section 3.4 | \$300.00 |
| 5. | Erection of a tent on any Lakeshore Access Property within 6 feet of another tent | Section 3.5 | \$300.00 |
| 6. | Erection of tent on a Lakeshore Access Property between the hours of 9:00pm- 8:00am | Section 3.6 | \$300.00 |
| 7. | Use or possess a glass bottle on any Lakeshore Access Property | Section 3.7 | \$300.00 |
| 8. | Use any type of barbeque on a Lakeshore Access Property | Section 3.8 | \$300.00 |
| 9. | Use any type of generator on any Lakeshore Access Property | Section 3.9 | \$300.00 |
| 10. | Deposit or cause to be deposited any type of litter on any Lakeshore Access Property | Section 3.12 | \$300.00 |
| 11. | Remove or damage or deface any item or part of any Lakeshore Access Property | Section 3.13 | \$300.00 |
| 12. | Disobey an Authorized Sign on any Lakeshore Access Property | Section 3.14 | \$300.00 |
| 13. | Hit, strike or otherwise propel any sporting equipment on any Lakeshore Access Property | Section 3.15 | \$300.00 |
| 14. | Engage in any type of boisterous or indecent Activity on any Lakeshore Access Property | Section 3.16 | \$300.00 |
| 15. | Cause noise likely to disturb others on a Lakeshore Access Property | Section 3.17 | \$300.00 |
| 16. | Operate any motor vehicle on any Lakeshore Access Property | Section 3.18 | \$300.00 |

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| 17. | Display, sell or rent, or offer to display, sell or rent any merchandise of any kind on a Lakeshore Access Property | Section 3.19 | \$300.00 |
| 18. | Hinder or obstruct an officer exercising or performing their duties under this By-law | Section 5.3 | \$500.00 |
| 19. | Fail or refuse to provide Identification to an Officer upon contravention of a provision of this By-law | Section 5.4 | \$300.00 |

Note: The general penalty provision for the offences listed above is section 2, section 4 and section 5 of By-law No.021-2022, a certified copy of which has been filed.

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 021-2022, for the Township of Wainfleet, attached hereto is the set fine for that offence. This Order is to take effect July 11, 2022.

Dated at Hamilton, this 11th day of July, 2022.



Paul R. Currie
Regional Senior Justice
Central West Region

PART I PROVINCIAL OFFENCES ACT

Township of Wainfleet

Schedule "B" to By-law No 021-2022 Lakeshore Access Property By-law

Set Fine Schedule

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| 2. | Defecate, urinate or otherwise leave human waste on any Lakeshore Access Property | Section 3.2 | \$300.00 |
| 3. | Allow an animal on any Lakeshore Access Property | Section 3.3 | \$300.00 |
| 4. | Erection of a tent on any Lakeshore Access Property | Section 3.4 | \$300.00 |
| 5. | Erection of a tent on any Lakeshore Access Property within 6 feet of another tent | Section 3.5 | \$300.00 |
| 6. | Erection of tent on a Lakeshore Access Property between the hours of 9:00pm- 8:00am | Section 3.6 | \$300.00 |
| 7. | Use or possess a glass bottle on any Lakeshore Access Property | Section 3.7 | \$300.00 |
| 8. | Use any type of barbeque on a Lakeshore Access Property | Section 3.8 | \$300.00 |
| 9. | Use any type of generator on any Lakeshore Access Property | Section 3.9 | \$300.00 |
| 10. | Deposit or cause to be deposited any type of litter on any Lakeshore Access Property | Section 3.12 | \$300.00 |
| 11. | Remove or damage or deface any item or part of any Lakeshore Access Property | Section 3.13 | \$300.00 |
| 12. | Disobey an Authorized Sign on any Lakeshore Access Property | Section 3.14 | \$300.00 |
| 13. | Hit, strike or otherwise propel any sporting equipment on any Lakeshore Access Property | Section 3.15 | \$300.00 |
| 14. | Engage in any type of boisterous or indecent Activity on any Lakeshore Access Property | Section 3.16 | \$300.00 |
| 15. | Cause noise likely to disturb others on a Lakeshore Access Property | Section 3.17 | \$300.00 |
| 16. | Operate any motor vehicle on any Lakeshore Access Property | Section 3.18 | \$300.00 |

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|-----|---|--------------|------------------------------|
| 17. | Display, sell or rent, or offer to display, sell or rent any merchandise of any kind on a Lakeshore Access Property | Section 3.19 | \$300.00 |
| 18. | Hinder or obstruct an officer exercising or performing their duties under this By-law | Section 5.3 | \$500.00 \$300.00 |
| 19. | Fail or refuse to provide Identification to an Officer upon contravention of a provision of this By-law | Section 5.4 | \$300.00 |

Note: The general penalty provision for the offences listed above is section 6.1 of By-law No.021-2022, a certified copy of which has been filed.

