

# THE CORPORATION OF THE TOWN OF MINTO

## BY-LAW NUMBER 04 - 72

**Being a by-law to implement certain provisions of the Trespass to Property Act and prohibit commercial bait-fishing on Town of Minto property and entry for that purpose.**

### WHEREAS:

1. Section 2 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended (hereinafter called "the Act") provides that municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and that each municipality is given powers and duties under the Act and many other Acts for purposes which include, among other things, managing the public assets of the municipality.
2. Under Section 8 of the Act a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act or under any other Act, and Section 9 of the Act provides that Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues.
3. Under Section 24 of the Act "bridge" means a public bridge forming part of a highway or on, over, or across which a highway passes, and Section 28 of the Act provides that a municipality has jurisdiction or joint jurisdiction as the case may be, over all highways over which it had jurisdiction or joint jurisdiction on December 31, 2002, all highways established by by-law of the municipality on or after January 1, 2003 and all highways transferred to the municipality under the Act, the Public Transportation and Highway Improvement Act or any other Act, and provides further that except as otherwise provided in the Act or under Section 8 of the Public Transportation and Highway Improvement Act, a local municipality has jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors and all road allowances, highways, streets and lanes shown on a registered plan of subdivision.
4. Under Section 11 of the Act The Corporation of the Town of Minto may pass by-laws within the "culture, parks, recreation and heritage" sphere of jurisdiction and subsection 9 (3) of the Act provides that a by-law under Section 11 respecting a matter may regulate or prohibit respecting the matter.
5. Section 10 of the Fish and Wildlife Conservation Act, S.O. 1997, c. 41, provides that a person shall not enter premises in contravention of the Trespass to Property Act for the purpose of fishing or enter premises in contravention of the Trespass to Property Act in possession of a fishing rod or other fishing device, or engage in fishing in contravention of the Trespass to Property Act.
6. Ontario Regulation 664/98 made pursuant to the Fish and Wildlife Conservation Act, 1997 provides that "bait-fish" has the same meaning as in the Ontario Fishery Regulations and that (subsection 31.3 (1)) except under the authority of a commercial bait license that authorizes the holder to take, buy or sell bait-fish a person shall not take bait-fish for commercial purposes; but a commercial bait license does not provide the holder with authority to trespass on property contrary to the provisions of the Trespass to Property Act.
7. Subsection 2 (1) of the Trespass to Property Act, R.S.O. 1990, c.T.21 provides that every person who is not acting under a right or authority conferred by law and who without the express permission of the occupier, the proof of which rests upon the defendant, enters on premises when entry is prohibited under that Act or engages in an activity on premises when the activity is prohibited under that Act or does not 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, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.00.

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8. Under subsection 3 (1) of the Trespass to Property Act entry on premises may be prohibited by notice to that effect and subsection 4 (2) provides that where notice is given that a particular activity is prohibited, that activity and entry for the purpose of that activity are prohibited.
9. Under Section 5 of the Trespass to Property Act a notice under that Act may be given, orally or in writing, or by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the premises to which it applies, or by means of a marking system.

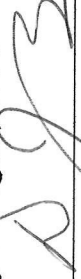
NOW THEREFORE the Council of The Corporation of the Town of Minto enacts as follows:

10. In this by-law "bait-fish" and "for the purpose of taking bait-fish for commercial purposes" have the same meaning as in the said Regulation 664/98.
11. This by-law applies to and covers all lands owned by The Corporation of the Town of Minto and without limiting the generality of this provision, including the full width of all highways owned by the Corporation, and the word "lands" herein includes any stream, river, lake or other body of water thereon.
12. The Corporation of the Town of Minto may give notice pursuant to the Trespass to Property Act that the activity of taking bait-fish for commercial purposes on lands covered by this by-law is prohibited.
13. The Corporation of the Town of Minto may give notice pursuant to the Trespass to Property Act that the activity on the lands covered by this by-law of preparing for or facilitating the activity of taking bait-fish for commercial purposes on the lands covered by this by-law or on any other lands is prohibited.
14. Upon the giving of notice as provided for in paragraphs 3 and 4 above or either of them, entry on the lands covered by this by-law for the activities described in paragraphs 3 and 4 above, or either of them, is prohibited.

READ a first and second time this 18<sup>th</sup> day of August, 2004.

  
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Mayor - David Burns  
  
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Clerk - Barbara L. Wilson

READ a third time and finally passed this 18<sup>th</sup> day of August, 2004.

  
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Mayor - David Burns  
  
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Clerk - Barbara L. Wilson