

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

BY-LAW NUMBER 2022-107

A By-law of The Corporation of the Township of Muskoka Lakes to conserve, prohibit, protect, restrict, and regulate the possible harvesting, removal, injuring, damaging and destruction of trees on (private) property in the Township of Muskoka Lakes.

WHEREAS, Section 135 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits the enactment of a By-law by the Council of The Corporation of the Township of Muskoka Lakes to prohibit and regulate the destruction or injuring of trees by cutting, burning or other means;

AND WHEREAS, pursuant to Section 135(7) of the Municipal Act, a municipality may require that a permit be obtained for the injuring or destruction of trees or any class of trees specified in the By-law and impose conditions including those relating to the manner in which destruction occurs and the qualification of persons authorized to destroy or injure trees;

AND WHEREAS, the Council of The Corporation of the Township of Muskoka Lakes deems it desirable in the public interest to enact a Tree Conservation By-law for the purposes of:

- (i) Protecting vegetation in Shoreline Vegetative Buffers for the purpose of habitat protection, water quality, ensuring natural form dominates the shoreline, aesthetics, and implementing the District of Muskoka Lake System Health Program;
- (ii) Protecting and conserving vegetation in Environmental Protection Areas;
- (iii) Retention of tree cover in Scenic Areas and Scenic Corridors;
- (iv) Minimizing the destruction or injuring of trees;
- (v) Regulating and controlling the removal, maintenance and protection of trees;
- (vi) Protecting, promoting and enhancing the aesthetic values of land;
- (vii) Sustaining a healthy natural environment;
- (viii) Protecting significant and sensitive natural areas to ensure maximum environmental benefits of trees in both urban and rural settings;
- (ix) Contributing to human health and quality of life through the maintenance of tree cover.

NOW THEREFORE, the Council of The Corporation of the Township of Muskoka Lakes enacts as follows:

In this By-law words used in the present tense include the future, words in the masculine gender include the feminine and neutral; the singular number includes the plural, and the plural includes the singular.

1.0 DEFINITIONS

For the purpose of this By-law, the following definitions shall apply:

“Agreement” means any **Agreement** made between the **Township** and a property **Owner** such as but not limited to a Consent **Agreement**, Site Plan **Agreement** or License **Agreement**;

"Applicant" means the **Person** who submits an application for a **Permit** under this By-law;

"Arborist" means an individual who is certified with the Ministry of Labour, Training and Skills Development and is at least one of the following:

- (a) certified or qualified by the International Society of Arboriculture;
- (b) a consulting **Arborist** registered with the American Society of Consulting Arborists;
- (c) registered professional forester;
- (d) a **Person** with other similar qualifications and/or sufficient relevant experience as accepted by the **Township**;

"Arborists Report" means a report prepared and signed by an **Arborist**, which includes details on the species, size, health, and location of a **Tree** to be destroyed, **Injured** or **Removed**, and an assessment of the structural integrity of the subject **Tree** using the "Tree Risk Assessment, Best Management Practices", Companion publication to ANSI 300 part 9, standard practices, ISA, as may be amended or replaced;

"Breast Height" refers to a point of measurement 1.37 metres (4.5 feet) above the highest point on the **Tree** where the ground meets the trunk;

"Building Permit" means a **Building Permit** issued under the Building Code Act, 1992, S.O. 1992, c. 23, as amended;

"Clerk" means the **Clerk of Township**;

"Council" mean the **Council of The Township**;

"Crown" means the upper part of a **Tree**, which includes the branches and leaves;

"Destroy" means the **Removal** of a **Tree** or harm resulting in the death, ruin, or **Removal** of a **Tree** by cutting, burning, uprooting, chemical application or other means including irreversible injury that may result from neglect, accident or design and the term "destruction" shall have a corresponding meaning;

"Diameter" means the **Diameter** of the stem of a **Tree** measured outside the bark at a specified point of measurement;

"Director" means the **Director** of Development Services and Environmental Sustainability for the **Township** or his or her designate provided such designate is an **Officer** appointed under this By-law;

"DBH" is also known as "**Diameter at Breast Height**" and refers to the **Diameter** of the stem of a **Tree** measured at a point 1.37 m (4.5 ft) above the highest point on the **Tree** from where the ground meets the trunk;

"Drip Line" means the vertical projection of the outermost edge of a **Tree's Crown**;

"Driveway" means the ingress and egress lane or lanes that are connected to a highway that lead to a building with habitable floor area or a garage but does not include a **Parking Area**;

"Financial Assurance" means a commitment of funds submitted to the **Township** by an **Owner** or applicant that are sufficient to cover amount to equal the cost completing any requirements of the **Township**;

"Gazebo" means the current definition within the **Township** of Muskoka Lakes Comprehensive **Zoning By-law** or its successor;

"Injure" means to harm, damage or impair a **Tree** and includes, but is not limited to, harm, damage or impairment caused by changing grades around a **Tree**, compacting

soil over root areas, severing roots, improper application of chemicals, improper pruning or the **Removal** of branches and bark and the term "injury" shall have corresponding meaning;

"Minor Maintenance" means the pruning, **Removal** or destruction of **Trees** on a property of a minor nature that is intended to improve the health of vegetation on the property but does not include any work related to property development or work completed in order to erect a building, a septic area, patio or **Walkway**;

"Major Damage" to a **Tree** means any one of:

- (i) a wound greater than the square of the **DBH** of the **Tree** (for example, a wound with an area of 100 square centimeters is **Major Damage** to a **Tree** with a **DBH** of 10 cm),
- (ii) any wound greater than 1000 square centimeters,
- (iii) if the wound in paragraph (i) or (ii) contacts the ground then the wound shall be considered **Major Damage** if it is 60% of the size specified in paragraph (i) or (ii) respectively,
- (iv) broken branches destroying more than 30% of the **Crown**,
- (v) the exposure, severing or compaction of more than 25% of the root area,
- (vi) the breaking off of any **Tree**,
- (vii) the noticeable tipping of any **Trees**,
- (viii) a cut greater than 1/3rd of the **DBH** or a cut with a depth of 1/10th of the **DBH**;

"Officer" means any **Person** designated by this or any other By-law of the **Township** to issue **Permits** and impose conditions and to enforce the **Permits**;

"Owner" means the registered **Owner(s)** of the property;

"Patio" means a non-roofed outdoor area designed for lounging, sunbathing, eating, and similar uses;

"Parking Area" means the use of an area of land, building or structure associated with the principal use of the same lot for the parking of motor vehicles and does not include the ingress or egress lane(s) of a **Driveway**;

"Permit" means the authorization from the **Director** or his or her designate provided such designate is an **Officer**, to **Injure** or **Destroy Trees** pursuant to this By-law;

"Person" means any individual, corporation, partnership, association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;

"Professional" means a **Person**, who in the opinion of the **Township**, has experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or subject;

"Pumphouse" means the current definition within the **Township** of Muskoka Lakes Comprehensive **Zoning By-law** or its successor;

"Remove, Removes or Removal" means to move from a place or position occupied; or

- (i) To transfer or convey from one place to another; or
- (ii) To take off; or
- (iii) To take away; withdraw; or
- (iv) To do away with; eliminate.

"Sauna" means a small room or small building that is heated to a high temperature usually with steam in which people sit in order to clean or refresh their body;

"Scenic Corridor" or **"Scenic Area"** means lands so designated by the **Zoning By-Law** and having the suffix "-s";

"Shoreline Vegetative Buffer" means the natural area maintained in its predevelopment state:

- (i) 50 feet wide abutting and running parallel to the high water mark of a navigable waterway for those lands designated as Waterfront in the **Township Official Plan**,
- (ii) 25 feet wide abutting and running parallel to the high water mark of a navigable waterway for those lands designated as Urban Centres or Communities in the **Township Official Plan**.

"Site" means the area of land containing any **Tree(s)** proposed to be **Injured**;

"Temporary Access Road" means a temporary road that has been constructed for the purpose of gaining temporary access to a water access only property in order to allow for construction vehicles or other machinery to safely maneuver a property;

"Township" and **"Township of Muskoka Lakes"** means The Corporation of the **Township of Muskoka Lakes**;

"Tree" means a plant of any species of woody perennial plant including its root system which has reached or can reach a height of at least 4.5 m (15 ft) at physiological maturity;

"Tree Protection Plan" means a plan that includes the prescribed information as set out in Schedule "B" of this By-law and is completed by an **Arborist**;

"Tree Protection Zone" means the minimum required setback distance to protect a **Tree** from any activity during the construction process that may result in injury or harm, and is based on generally accepted arboriculture principles;

"Walkway" means a passage or pathway for walking along which connects different areas of a property;

"Zoning By-law" means the By-law regulating land use as provided for under the Planning Act within the **Township**;

2.0 LAND SUBJECT TO THIS BY-LAW

2.1 This By-law applies to the following lands within the **Township**:

- (a) All lands within 91.4m (300 ft.) of a navigable waterway in the Waterfront as designated in the Official Plan;
- (b) All lands within 60.9m (200 ft.) of a navigable waterway in the Urban Centre or Community designation in the Official Plan;
- (c) All lands zoned Environmental Protection (EP1 and EP1-PSW) in the **Township Comprehensive Zoning By-law**;
- (d) All lands zoned Scenic Corridor in the **Township Comprehensive Zoning By-law**; and
- (e) All lands on an island within the **Township of Muskoka Lakes** beyond those areas included within Section 2.1 (a) to (d), except in the case of Tobin Island, Acton Island, Tondern Island, Royal Muskoka Island, and Bala Park Island.

3.0 EXEMPTIONS

3.1 The provisions of this By-law do not apply to:

- (a) **Trees Injured** or removed by or with the permission of the **Township of Muskoka Lakes** that are situated on lands owned or controlled by it;
- (b) The **Removal** of damaged or destroyed **Trees** in the interests of public safety, health and general welfare following any man-made or natural disasters, storms, high winds, floods, fires, snowfalls, freezes, or as a result of insects, disease or wildlife;

- (c) Activities or matters undertaken by the **Township**, District of Muskoka or a local board of the **Township**;
 - (d) Activities or matters undertaken by the provincial government or federal government or their authorized agents;
 - (e) The destruction or injury of **Trees** required in the exercise of the rights or powers of a hydroelectric corporation or any public utility board or commission;
 - (f) Activities or matters authorized under the *Crown Forest Sustainability Act, S.O. 1994*;
 - (g) **Trees** cut by a **Person** licensed under the *Surveyor's Act, R.S.O 1990, c. S.29* to engage in the practice of cadastral surveying or any **Person** in his or her employ while making a survey;
 - (h) **Trees** that are part of plantations for the purposes of an orchard, nursery, or Christmas **Tree** farm;
 - (i) **Trees** measuring less than 25 mm (1 inch) **DBH**;
- 3.2 The following are exempt from the requirements of this By-law provided that all relevant conditions are met:
- (a) The **Removal** of diseased **Trees** or stumps, in accordance with good forestry practice where one of the following are provided and approved by the **Director** or their designate before the **Removal** of any **Tree** takes place:
 - (i) An **Arborists Report** satisfactorily confirming the **Tree** is diseased and providing rationale for why it should be removed. This report shall be available upon request of the **Director, Officer** or their designate; or
 - (ii) By providing clear, concise and satisfactory evidence of disease through photographic evidence, **Site** investigation or other sufficient means that is approved by an **Officer** or the **Director**.
 - (b) The **Removal** of dead, dangerous or severely **Injured Trees** or stumps, in accordance with good forestry practice;
 - (c) The pruning of **Tree** branches in accordance with good arboricultural practice to maintain, improve, or protect **Tree** health and surrounding forest health while maintaining the **Trees** natural shape;
 - (d) The injuring or **Removal** of **Trees** that is required in order to erect any building, structure, septic system or thing in respect of which a building or septic permit is issued or that complies with the Comprehensive **Zoning By-law** of the **Township of Muskoka Lakes** and has taken into consideration the protection of **Trees** surrounding the structure or work within the building envelope, provided that no **Tree** is removed or **Injured** that is located more than 4.5 m (15 ft.) from the outer edge of the building, structure, septic system, or thing;
 - (e) The injuring or **Removal** of **Trees** that is required to erect any building, structure, septic system or thing permitted as a variance or an exemption to the front yard setback or setback from the high water mark in the Comprehensive **Zoning By-law** provided that no **Tree** is removed or **Injured** that is located more than 3m (10 ft) from the outer edge of the building, structure, septic system or thing. The ability to **Injure** or remove **Trees** 3m (10 ft) from the outer edge of the envelope does not apply to the installation of **Patios, Walkways** and stairways;
 - (f) The injuring or destruction of **Trees** as a condition of the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53 of the *Planning Act* or as a requirement of a Site Plan **Agreement** or subdivision **Agreement** entered into under those sections;

- (g) The injuring or destruction of **Trees** imposed as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an **Agreement** entered into under the regulation;
- (h) The injuring or destruction of **Trees** by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (i) The injuring or destruction of **Trees** undertaken on land described in a license for a pit or quarry or a **Permit** for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (j) The injuring or destruction of **Trees** undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) That has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) On which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*.
- (k) The injuring or destruction of **Trees** for the purpose of one **Temporary Access Road** no wider than 4.5m (15 ft.) on properties only accessible by water.
- (l) The injuring or removing of **Trees** necessary for the installation of a **Driveway** upon obtaining any necessary entrance **Permit** from the **Township Of Muskoka Lakes**, District of Muskoka, Ministry of Transportation or other relevant authority, and subject to the following conditions:
 - (i) The **Driveway** is compliant with the current version of the **Comprehensive Zoning By-law of the Township of Muskoka Lakes**.
- (m) The injuring or **Removal** of **Trees** for the purpose of creating a **Patio** on a property that contains less than 91.4 m (300 feet) of assessed lot frontage abutting a navigable waterway and that does not contain a **Gazebo**, **Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such injuring or **Removal** of **Trees**:
 - (i) occurs in a contiguous area of not more than 18.5 sq. m. (200 sq. ft.); and
 - (ii) occurs within an area located between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark.
- (n) The injuring or **Removal** of **Trees** for the purpose of creating a **Patio** on a property that contains greater than 91.4 m (300 feet) of assessed lot frontage abutting a navigable waterway and that does not contain more than one building or structure that is a **Gazebo**, **Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such injuring or **Removal** of **Trees**:
 - (i) occurs in a contiguous area of not more than 18.5 sq. m. (200 sq. ft.); and
 - (ii) occurs within an area located between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark.
- (o) The injuring or **Removal** of **Trees** for the purpose of creating a **Patio** on a property that contains greater than 91.4 m (300 feet) of assessed lot frontage abutting a navigable waterway and that does not contain a **Gazebo**, **Sauna** or **Pumphouse** located within 20.1 m (66 ft.) of the high water mark, if such injuring or **Removal** of **Trees**:
 - (i) occurs in a contiguous area of not more than 27.8 sq. m. (300 sq. ft.); and
 - (ii) occurs within an area located between 4.5 m (15 ft.) and 15.2 m (50 ft.) of the high water mark.

4.0 GENERAL PROVISIONS AND REGULATIONS

4.1 No **Person** shall cause or permit the injury or destruction of a **Tree**:

- (a) within 15 m (50 ft) of a navigable waterway for those lands designated as Waterfront, Urban Centre or Community; or
- (b) within an area zoned Environmental Protection (EP1 and EP1-PSW), except in conjunction with the permitted uses of and in compliance with the **Zoning By-law**; or
- (c) in an area zoned Scenic Corridor or Scenic Area in the Township's Comprehensive **Zoning By-law** within a distance of 30.4m (100ft.) from the lot line abutting the scenic corridor;

Unless such injury or destruction of a **Tree** occurs in accordance with an applicable section as set out in Section 3.2.

4.2 No **Person** shall cause or permit the injury or destruction of a **Tree**:

- (a) in any area between 15m (50ft.) and 91.4m (300ft.) of a navigable waterway in the Waterfront designation; or
- (b) in any area between 15 m (50 ft.) and 60.9m (200ft.) of a navigable waterway in an Urban Centre or Community designation; or
- (c) in any area beyond 15m (50ft.) of a navigable waterway on lands defined in Section 2.1 (e);

Without first obtaining a **Permit** unless such injury or destruction of a tree occurs in accordance with an applicable exemption set out in Section 3.2.

- 4.3 Despite Sections 3.2 (d) and (e) of this By-law, no **Person** shall cause or permit the injury or destruction of a **Tree** in order to erect a building, structure or thing for an occasional or special event as permitted by the Comprehensive **Zoning By-law**;
- 4.4 No **Person** shall fail to re-vegetate or re-naturalize a **Temporary Access Road** upon completion of a **Building Permit** or septic **Permit**;
- 4.5 No **Person** shall fail to comply with an Order issued under this By-law;
- 4.6 No **Person** shall pull down, **Remove** or deface an Order posted under this By-law;
- 4.7 No **Person** shall fail to produce or post **Permit** as required under this by-law
- 4.8 Sufficient erosion and sedimentation control measures, such as a sedimentation fence, shall be provided around any area that may be disturbed in a manner satisfactory to the **Director** or an **Officer** prior to the commencement of any injury or destruction of **Trees** in relation to any property development but does not include **Minor Maintenance** of a property, and shall be maintained in good working order until the **Site** has been stabilized and operations completed;
- 4.10 No **Person** shall fail to erect an adequately installed sedimentation fence before the commencement of any injury or destruction of **Trees** in relation to property development or construction of a building, structure, septic area or **Patio**;
- 4.11 No **Person** shall fail to adequately maintain a sedimentation fence during any injury or destruction of **Trees** or construction of a building, structure, septic area or **Patio**;
- 4.12 No **Person** shall permit any injury or destruction of any **Tree** contrary to the provisions of any **Agreement** entered into with the **Township** that is registered or approved for the property on which such injury or destruction of **Trees** take place.

- 4.13 No **Person** shall permit any injury or destruction of any **Tree** before the appropriate approvals have been issued whether through a **Site Plan Agreement**, a **Building Permit** or a **septic Permit**.
- 4.14 No **Person** shall, after the destruction or injury of diseased **Tree(s)**, fail to produce an arborist report immediately upon the request of the **Director, Officer** or their designate.
- 4.15 No **Person** shall permit any injury or destruction of any **Tree** for the installation of a **Walkway**, stairway or pathway unless otherwise granted permission through a **Site Plan Agreement**.
- 4.16 The exemption under Section 3.2 (d) of this By-law does not allow an **Owner** to **Remove Trees** within 15 feet of the area in which the **Patio** will be located.

5.0 APPLICATION REQUIREMENTS

5.1 A **Permit** is required under this By-law as follows:

- (a) Every **Person** who intends to **Injure** or **Destroy** a **Tree** where a **Permit** is required to do so under this By-law shall first complete and submit an application to the **Township** containing the information set out in Schedule "A" to this By-law, in such form as may be approved by the **Director**;
- (b) Is accompanied by the prescribed fees payable to the **Township** in accordance with the existing **Township** of Muskoka Lakes Fees and Charges By-law;
- (c) As part of the application for a **Permit**, the **owner** shall permit an **Officer, Director** or anyone designated by an **Officer** or **Director** to enter upon his or her property and undertake such **site** inspections as may be required to consider the application. An **Officer, Director** or anyone designated by an **Officer** or **Director** may undertake a **Site** inspection prior to, during and after the proposed activity.
- (d) At the **Directors** discretion, all applications to **Injure** or **Destroy** a **Tree** may be required to include a **Tree Protection Plan** in accordance with the requirements in Section 11 of this By-law and/or **Financial Assurance** in an amount and form acceptable to the **Director**;
- (e) Applications to **Injure** or **Destroy** a **Tree** shall include any report required by the **Township** or external agency (e.g. **Tree Protection Plan**, vegetation analysis, environmental impact assessment, geotechnical report, **Arborists Report**, or hydrogeological report.)
- (f) An application for a **Permit** shall be deemed incomplete, and no **Permit** issued if;
- (i) The application has not been completed in full;
 - (ii) The **Owner**/applicant has not signed the application;
 - (iii) The party who will be undertaking or responsible for the injuring or destruction of **Trees** has not signed the application;
 - (iv) The application fee has not been paid; or
 - (v) Any required inspections have not been undertaken.
 - (vi) Any required reports have not been submitted; and
 - (vii) **Financial Assurance**, if required by the **Director**, has not been provided.

6.0 ISSUANCE OF PERMIT

6.1 The **Director** shall issue a **Permit** to **Injure** or **Destroy Tree(s)** where the **Director** is satisfied that:

- (a) That the application is complete, in accordance with this By-law and the Schedules;
- (b) The **Director** is satisfied that the **Site** is not within an area where **Tree Removal** or cutting is prohibited under Section 4 of this By-law;

- (c) The injury or destruction of **Tree(s)** is required to permit the establishment or extension of a use permitted by the **Zoning By-law** and there is no reasonable alternative to the injury or destruction of the **Tree(s)**.
 - (d) All other **Permits**, application material, background studies, **Agreements**, documents, reports and **Financial Assurances**, if required, have been received, reviewed and approved to the satisfaction of the **Director**;
 - (e) Any other matters that the **Director** considers relevant.
- 6.2 The **Director** has the discretion to require a **Financial Assurance** as a condition of issuing a **Permit**, and the **Financial Assurance** shall be dealt with the following conditions:
- (a) The **Financial Assurance** may be drawn upon by the **Township** to remedy any deficiency in work under a **Permit**, including but not limited to **Site** restoration.
 - (b) The **Financial Assurance** shall remain in effect for the full duration of the **Permit**.
 - (c) Any **Financial Assurance** in the form of a letter of credit shall contain a clause stating that 30 days' written notice shall be given to the **Township** prior to its expiry or cancellation. In the event that the **Township** receives this notice, and further securities are not provided by the **Owner**, the **Director** may draw on the letter of credit to render it as cash security.
 - (d) The **Financial Assurance** shall be released by the **Township** following the completion of a final inspection to the satisfaction of the **Director**.

7.0 RENEWAL, TRANSFER, EXPIRY AND REVOCATION OF PERMITS

Renewal

- 7.1 A **Permit** which has expired may be renewed by the **Director** as appropriate, within a period of three months before the date of expiry upon the submission of a written request to the **Director** accompanied by a payment of one-half of the original Application Fee, provided that the proposed work which was the subject of the **Permit** has not been revised;
- 7.2 A **Permit** which has been renewed in accordance with Section 7.1 shall thereafter be treated as a new **Permit** except that it shall not again be renewed.
- 7.3 A **Permit** which has been renewed in accordance with Section 7.1 shall rely on the **Tree Protection Plan** for the **site** that is referenced in the existing **Permit**.

Transfer

- 7.4 A **Permit** shall expire upon the transfer of ownership of the **Site** unless the new **Owner** provides written commitment to comply with all conditions under which the **Permit** was issued, prior to transfer of the **Site**, including compliance with this By-law and **Agreement** to provide **Financial Assurance** in a form and amount acceptable to the **Director**, at which time any **Financial Assurance** previously provided by the original **Permit** holder pursuant to this By-law shall be released.
- 7.5 Failing the written commitment from the new **Owner**, the **Permit** shall be deemed to be cancelled as of the date of transfer.
- 7.6 A **Permit** is not transferable to another **Site**.

Expiry and Revocation

- 7.7 A **Permit** expires on the date set out in the **Permit**.
- 7.8 The **Township** may revoke any **Permit** if:

- (a) It was obtained on mistaken, false or misleading information;
- (b) It was issued in error;
- (c) The **Owner** or **Permit** holder requests it be revoked in writing;
- (d) Work authorized under the **Permit** has not commenced prior to its expiry date;
- (e) The **Owner** has breached any of the prohibitions of Section 4 of this By-law;
- (f) The **Township** has drawn on the **Financial Assurance** provided by the **Owner** or applicant in accordance with Section 6.2 of this By-law; and
- (g) The land has been transferred and the new **Owner** has not complied with the requirements under section 7.4 of the By-law.

7.9 When a **Permit** expires or is revoked, the **Owner** shall immediately cease all **Tree** cutting, and shall immediately rehabilitate and revegetate the **site** to the **Township's** satisfaction. If the **Owner** has registered a site plan **Agreement**, a subdivision **Agreement**, or a developmental **Agreement** that includes the revegetation of the **Site** as a condition or requirement, revegetation shall take place in accordance with that **Agreement**.

7.10 No **Person** shall **Injure** or **Destroy** a **Tree** while a **Permit** is expired or revoked.

8.0 CONDITIONS TO PERMIT

8.1 The following shall be deemed to be conditions to the issuance of every **Permit** under this By-law:

(a) Marking of **Trees**

Prior to the issuance of the **Permit**, the **Owner** shall cause all **Trees** which are to be **Removed** or destroyed to be marked with clearly visible marks of yellow or orange paint at **Breast Height** and upon the stump to remain after cutting.

(b) Limitation of Damage to Residual **Trees**

During the course of injuring or destroying **Trees** pursuant to a **Permit** issued in accordance with this By-law, no **Person** shall:

- (i) Cause **Major Damage** to **Trees** forming more than 10% of the total residual basal area of the portion of the property which is the subject of the **Permit**;
- (ii) Cause **Major Damage** to **Trees** forming more than 15% of the residual basal in the size class of 10 cm **DBH** or more in the portion of the property which is the subject of the **Permit**;
- (iii) Cause **Major Damage** to **Trees** forming more than 15% of the residual basal area in the size class of 10cm **DBH** or less in the portion of the property which is the subject of the **Permit**;
- (iv) Create or permit skid trails covering more than 20% of the ground area in the portion of the property that is the subject of the **Permit**.

(c) Prior to commencement of any work that would result in injury to or destruction of **Trees** authorized pursuant to this By-law, the **Person** causing such work to be carried out shall ensure that the **Permit** is posted in a conspicuous place within the property.

(d) Conditions Required by the **Director**

- (i) In addition to the above conditions, the **Director** may attach conditions to the **Permit** which in the opinion of the **Director** are reasonable and related to the purposes of this By-law or the safety and convenience of the public that may include but are not limited to the following:
 1. the manner and timing in which the injuring and destruction of **Trees** is to be carried out;
 2. the qualifications of **Persons** authorized to **Injure** or **Destroy Trees**;
 3. the species, size, number, and location of replacement **Trees** to be planted; and

4. measures to be implemented to mitigate the direct and indirect effects of the injuring or destruction of **Trees** on the natural environment including protected **Trees** adjacent to or on the land where the **Tree** destruction or injury is to take place.
and

5. Financial Assurance

- (e) An **Officer**, a **Director** or any **Person** authorized by an **Officer** or **Director**, may at all times enter upon and inspect any land for the purposes of enforcing this By-law, determining compliance with this By-law, determining compliance with terms and conditions of a **Permit** issued under this By-law, determining compliance with an Order issued under Section 12 of this By-law or laying charges under this By-law.

9.0 DURATION OF PERMIT

- 9.1 Every **Permit** shall be issued to the **Applicant** and shall expire twelve (12) months after issuance. For greater certainty, to the extent that the expiry date would occur during the restricted period between March 15 to April 30 in any year as provided in Section 9(b), the expiry date in the **Permit** shall be deemed to have been extended to a date in the month next following the restricted period that would have the effect of granting the **Permit** to an **Owner** for a full twelve month period clear and not including the restricted period.
- 9.2 All **Permits** for the injury or destruction of **Trees** will be deemed not to be in effect during the period of March 15 to April 30. The **Director** may grant exemptions to this requirement in writing having regard to the potential for rutting soil and subsequent damage to the ecology.
- 9.3 The **Director** may extend the expiration date of a **Permit** if a written request for an extension is received by the **Director** a minimum of 10 working days before the date the **Permit** expires. Any request that is received after this time may require the submission of a new application. In no case shall the **Director** extend a **Permit** for a period of greater than 6 months.

10.0 REVIEW OF DECISIONS OF DIRECTOR

- 10.1 An **Applicant** for a **Permit** under this By-law may request a review by **Council**:
 - (a) where the **Director** refuses to issue a **Permit**, within ten (10) days after the refusal; or
 - (b) if the **Director** fails to make a decision on a complete Application, within thirty (30) days after an application is received by the **Director**, or
 - (c) if the **Applicant** objects to a condition in the **Permit**, within thirty (30) days after the issuance of the **Permit**.

11.0 REQUIREMENTS FOR TREE PROTECTION PLANS

- 11.1 Every **Tree Protection Plan** shall be signed by a Registered Professional Forester as defined in the Ontario Professional Foresters Act or an **Arborist** as defined in this By-law;
- 11.2 A **Tree Protection Plan** shall identify and include all requirements as set out in Schedule "B" of this By-law;
- 11.3 The **Township** may request additional information on any **Tree Protection Plan** that is submitted with an application.

12.0 ORDERS

- 12.1 Where the **Director**, their designate or an **Officer** is satisfied that a **Person** has contravened any provision of this By-law, the **Officer** may issue a "Stop Work Order", an "Order to Remedy" or both and such Orders shall contain:
- (a) The municipal address and legal description of the land, this may also include the roll number associated with the land;
 - (b) Reasonable particulars of the contravention(s); and
 - (c) The period in which there must be compliance.
- 12.2 The Orders issued pursuant to Section 12.1 of this By-law may require a **Person** or corporation who has contravened any section of this By-law to:
- (a) Cease all work in relation to **Tree** cutting, limbing or pruning;
 - (b) Submit a revegetation plan or re-naturalization plan that is satisfactory to the **Township** and which is completed by a qualified **Professional** in that field;
 - (c) Submit a **Tree Protection Plan** satisfactory to the **Township** and which is completed by a registered **Professional** forester;
 - (d) Submit a satisfactory sketch of the property outlining all remedial work that will be completed in order to revegetate or re-naturalize the property.
 - (e) Submit **Financial Assurance** sufficient to cover the costs of completing any requirement of the **Township** in fulfilling the Order;
 - (f) Complete the works required in the revegetation, renaturalization or **Tree Protection Plans** in the timeframe provided within the Order;
 - (g) Eliminate any hazard or potential hazard from the **Removal**, limbing or pruning of **Trees** and to restore the **Site** to a condition of safety and/or its original environmental condition to the satisfaction of the **Township**.
 - (h) Undertake such further investigations as required by the **Township** to identify the extent of any breach of this By-law and do work to correct the contravention, as deemed appropriate by the **Township**.
 - (i) Any other requirement as deemed necessary by the **Director** or **Officer**.
- 12.3 Any remedial work that is ordered through a "Stop Work Order" or an "Order to Remedy", at the **Officers** discretion shall be done in accordance with a **Professional's** plan or a sketch of the property that identifies what remedial work will be completed to satisfy the Order and shall be submitted to the **Township** within the period of compliance provided for listed on the Order.
- 12.4 An Order is not deemed to be complied with until the **Professional's** plan or sketch of remedial work has been approved by the **Township** and the remedial work has been completed to the satisfaction of the **Township**.
- 12.5 Any Order issued under this section may be served personally and/or served by sending it by registered mail, and/or email to the last known address of;
- (a) The **Owner** of the property at the address shown on the municipal tax rolls;
 - (b) The **Person** identified as contravening this by-law;
 - (c) If sent via email, the Order shall be sent to the last known email address of the **Person(s)** or corporation(s) in which the Order is addressed to.
- 12.6 Where service of an Order is made by registered mail, the Order shall be deemed to have been served on the fifth day after the Order is mailed.

- 12.7 Where service of an Order is made by email, the Order shall be deemed to have been served on the fifth day after the Order was emailed or upon a response from the recipient of the Order.
- 12.8 Where service cannot be made under Section 12.5, it is deemed sufficient if the **Director**, their designate or **Officer** places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placing of the placard shall be deemed to be sufficient service of the Order on the **Person** to whom the Order is addressed to;
- 12.9 If the **Owner** or **Permit** holder fails to do the work required by an "Order to Remedy" or "Stop Work Order" issued pursuant to Sections 12.1-12.2 inclusive of this By-law within the period specified, the **Township**, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees and agents. The costs incurred by the **Township** in so doing shall be paid by the **Owner** of the land and may be recovered by the **Township** in the same manner as property taxes or by drawing on the **Financial Assurance** provided.
- 12.10 Any costs incurred by the **Township** on behalf of an **Owner** as a result of remedial action as outlined in Section 12.9 of this By-law will also include interest calculated at a rate of 15% per annum which is calculated for the period commencing on the day the **Township** incurs the cost and ending on the day the cost, including the interest, is paid in full;
- 12.11 The amount of the cost incurred could constitute a lien on the land upon which the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established in Section 12.10 to the date full payment is made;
- 12.12 Upon the **Township** receiving payment of all costs payable plus interest accrued to the date of payment, the **Township** shall register a discharge of the lien in the proper land registry office at the expense of the **Owner**;
- 12.13 If a **Person** or corporation is not satisfied with the terms of an "Order to Remedy" or a "Stop Work Order" they may request an appeal to be heard by **Council** or any appointed appeal body/committee by submitting an appeal form within 30 days of receiving the Order upon paying the prescribed fees as set out in the **Township of Muskoka Lakes Fees and Charges By-law**;
- 12.14 When an appeal is heard by **Council**, **Council** has the power to confirm, modify or rescind an "Order to Remedy" or "Stop Work Order". The decision of **Council** is final and no further appeals are permitted.

13.0 INSPECTION AND ENFORCEMENT

- 13.1 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. Any **Person** who is alleged to have contravened any of the provisions of this By-law shall identify themselves to the **Officer** upon request, failure to do so shall be deemed to have obstructed or hindered the **Officer** in the execution of his duties.
- 13.2 The **Director**, their designate or an **Officer** may, at any reasonable time, enter and inspect any land to determine whether provisions of this By-law, a condition of a **Permit** issued under this By-law has been complied with, or to ensure that an order issued under this By-law or Section 431 of the Municipal Act, 2001, has been complied with;
- 13.3 For the purposes of conducting an inspection pursuant to Section 13.2 of this By-law, the **Township** may, in accordance with Section 436(2) of the Municipal Act, 2001;

- (a) Require the production of documents or things relevant to the inspection;

- (b) Inspect and **Remove** documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) Require information from any **Person** concerning a matter related to the inspection;
 - (d) Alone or in conjunction with a **Person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 13.4 Upon completion of the work pursuant to the **Permit**, the **Owner** and/or **Permit** holder shall contact the municipality for an inspection;
- 13.5 This By-law shall be administered and enforced by the **Director**, their designate or an **Officer**;

14.0 OFFENCES AND PENALTIES

- 14.1 Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c. P.33. The applicable fines are as set out in Schedule "C" of this By-law.
- 14.2 Every person who contravenes the provisions of any section of this By-law, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 14.3 Every director or officer of a corporation who contravenes any provisions of the By-law is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 14.4 Every person who contravenes the provisions of any section of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of the By-law by the corporation is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended and is also liable for a special fine in circumstances where there is an economic advantage or gain from the contravention of this By-law and the maximum amount of the special fine may exceed \$100,000.
- 14.5 If there is a contravention of any provision within this By-law, and the contravention has not been complied with or corrected, the contravention of the provisions shall be designated as a continuous offence for each day or part of a day that the contravention remains uncorrected;
- 14.6 For the purposes of this By-law, if there is an offence respecting two or more acts or omissions, each of which separately constitutes an offence and is a contravention of the same provision of this By-law, then the offence is deemed a multiple offence.
- 14.7 For the purpose of continuous offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per day or part thereof, exclusive of costs, under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 14.8 For the purpose of multiple offences, every person who contravenes any provision of this By-law, and every director or officer of a corporation who

knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence and is liable on conviction to a penalty not exceeding \$10,000 per offence, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

14.9 Notwithstanding Section 14.7 and 14.8, and in accordance with the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended, the total of all fines for the continuous offences or multiple offences is not limited to \$100,000.

14.10 If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be designated as a continuous offence for each day or part of a day that the Order is not complied with.

15.0 OTHER APPROVALS

15.1 The issuance of a **Permit** under this By-law does not excuse the **Owner** from complying with other applicable federal, provincial and municipal By-laws.

16.0 CONFLICT WITH OTHER BY-LAWS

16.1 Nothing in this By-law shall exempt any **Person** from complying with the requirement of any By-law in force or from obtaining any license, permission, **Permit**, authority or approval required under any By-law or legislation.

17.0 SEVERABILITY

17.1 If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of the **Council** to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of this By-law shall be deemed to be separate and independent there from and continue in full force and effect unless and until similarly found illegal.

18.0 INTERPRETATIONS

18.1 For the purposes of this By-law, all measurements are shown in metric and imperial equivalent is in brackets following. The metric measurement shall prevail and the imperial equivalent is for reference only.

18.2 "Ft." within this By-law refers to "feet" and "m" in this By-law refers to metres.

19.0 ADMINISTRATION

19.1 Schedules "A" to "C" shall form part of this By-law.

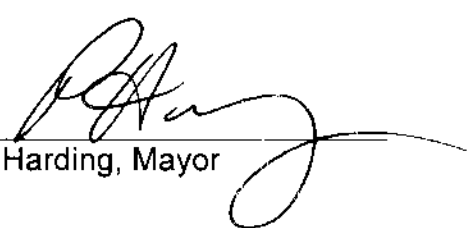
19.2 The short title of this By-law is the "Tree Conservation By-law".

20.0 REPEAL AND EFFECTIVE DATE

20.1 By-law 2008-55 is hereby repealed.

20.2 This By-law will come into force and effect on the date of passage.

READ a First, Second and Third time, and finally passed this 14th day of September, 2022.


Phil Harding, Mayor


Lauren Tarasuk, Clerk

SCHEDULE "A"

Information Required for Application

1. Name, address and telephone number of all owners.
2. Signature or authorization of all owners.
3. Name, address, and telephone number of person retained to perform work on trees under permit, and contact name if corporation or company.
4. Municipal Address of property (if assigned)
5. Legal description of property
6. Number of trees affected and the general location of said trees in relation to buildings or other features
7. A Tree Protection Plan (where required) with requirements as set out in Schedule "B"

SCHEDULE "B"- TREE PROTECTION PLAN REQUIREMENTS

Such plans will include the following but are not limited to:

1. Accurate plotting and identification of all trees on the plan;
2. Species referenced to municipal address, ownership and location through an accurate plotting and identification of all trees;
3. Diameter at breast height (DBH), measured in centimetres at 1.37 m above ground level;
4. Tree health/disease
5. Crown spread, measured in metres on a drawing indicating the appropriate scale, showing extent of tree foliage covering the lot;
6. Soil compaction inside the Tree Protection Zone using methods approved by the Township;
7. Tree risk assessment for trees deemed hazardous as assessed by the Registered Professional Forester, must be provided in accordance with " Best management Practices, Tree Risk Assessment, International Society of Arboriculture" as revised from time to time, including a photographic record of each tree as required by the Township; and
8. For each tree identified as being preserved and each tree recommended for removal, the valuation as determined by the most recent International Society of Arboriculture's Guide for Plant Appraisal.
9. Approved Grading plan. This requires collaboration of the applicant's engineering and arboricultural consultants;
10. Approved servicing plan indicating water, sewer/storm, hydro, gas, bell, cable and any other impacted utility. This requires collaboration of the applicant's engineering and arboricultural consultants;
11. Tree protection zone (TPZ) limits;
12. Appropriate signatures in accordance with the Tree Protection Plan and;
13. The name and contact information for the arborist responsible for monitoring the implementation of the plan.

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
PART I Provincial Offences Act
By-law 2022-107: Tree Conservation By-law
SCHEDULE "C": SET FINES

Item	Column 1 Short form wording	Column 2 Provision creating or defining offence	Column 3 Set fine
1	Injure or destroy a tree	4.1 (a)	\$600.00
2	Injure or destroy a tree within an area zoned Environmental Protection	4.1 (b)	\$600.00
3	Injure or destroy a tree in an area zoned Scenic Corridor or Scenic Area	4.1 (c)	\$600.00
4	Injure or destroy a tree without a permit within Waterfront designation	4.2 (a)	\$600.00
5	Injure or destroy a tree without a permit within Urban Centre or Community designation	4.2 (b)	\$600.00
6	Injure or destroy tree without a permit on an island	4.2 (c)	\$600.00
7	Injure or destroy a tree for occasional or special event	4.3	\$600.00
8	Fail to re-vegetate or re-naturalize temporary access road	4.4	\$600.00
9	Fail to comply with an Order	4.5	\$600.00
10	Pull down or deface an Order	4.6	\$500.00
11	Fail to produce or post permit	4.7	\$500.00
12	Fail to erect sedimentation fence	4.10	\$600.00
13	Fail to maintain sedimentation fence	4.11	\$600.00
14	Permit injury or destruction of tree contrary to agreement	4.12	\$600.00
15	Permit injury or destruction of tree before approval has been issued	4.13	\$600.00
16	Fail to produce arborist report	4.14	\$600.00
17	Permit injury or destruction of tree for installation of walkway, stairway or pathway	4.15	\$600.00
17	Injure or destroy a tree while permit is expired or revoked	7.10	\$600.00
18	Obstruct or interfere with an Officer	13.1	\$500.00

NOTE: The penalty provision for the offences indicated above is Section 14 of By-law 2022-107, a certified copy of which has been filed.