

THE CORPORATION OF  
THE TOWNSHIP OF GEORGIAN BAY  
BY-LAW NO. 2014-73

A By-law to regulate the protection,  
preservation and removal of Trees on  
private property within the Township of  
Georgian Bay

*This By-law applies only to shoreline areas and to lands zoned Environmental Protection (EP) and Open Space (OS).*

*The primary intent of this By-law is to protect and preserve water quality and the visual environment by prohibiting the clear cutting of Trees in shoreline areas and lands zoned Environmental Protection (EP) and Open Space (OS). Trees control sediment and absorb nutrients such as phosphorous and nitrogen which otherwise could have entered and possibly harmed the water system.*

*This By-law recognizes that property owners have the right to reasonable access to the waterbody that abuts their property and have the right to be afforded a reasonable water view. Accordingly, this By-law permits the following:*

- *In accordance with good forestry practice, Trees may be trimmed and pruned to provide "Viewing Windows";*
- *Dead, diseased or hazardous trees may be removed at any time.*

*There are no licenses, permits or fees required with this By-law. Council may grant exceptions from this By-law.*

WHEREAS Section 135 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, authorizes a local municipality to prohibit or regulate the destruction or injuring of Trees;

AND WHEREAS an Order to discontinue activity and work orders are authorized under Section 444 and 445 of the *Municipal Act* S.O. 2001, c.25 where a contravention of this bylaw has occurred;

AND WHEREAS the Council of the Corporation of the Township of Georgian Bay deems it appropriate and desirable in the public interest to enact a By-law to regulate the protection, preservation and removal of Trees within the Township for the purpose of:

- Protecting vegetation in the Shoreline Vegetative Buffer for the purposes of habitat protection, water quality protection, aesthetics and implementing the District Municipality of Muskoka Lake System Health Program;
- Protecting and conserving vegetation in Open Space and Environmental Protection Zones;
- Sustaining a healthy natural environment; and
- Protecting significant and sensitive natural areas to ensure maximum environmental benefits of Trees.

NOW THEREFORE BE IT ENACTED by the Council of the Corporation of the Township of Georgian Bay as follows:

1. DEFINITIONS

In this By-law:

- (a) "Breast Height" refers to a point of measurement 1.37 metres above the highest point on the Tree where the ground meets the trunk;
- (b) "Building Permit" means a Building Permit issued under the Building Code Act, 1992, S.O. 1992, c. 23, as amended;
- (c) "Clerk" means the Clerk or designate for the Corporation of the Township of Georgian Bay;
- (d) "Council" means the Council of the Corporation of the Township of Georgian Bay;
- (e) "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;
- (f) "Diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement.
- (g) "Diameter at Breast Height" (DBH) means the outside bark Diameter of a Tree at Breast Height and refers to the Diameter of the stem of a tree measured at a point 1.37 metres above the highest point on the Tree where the ground meets the trunk;
- (h) "Director" means the Director of Development Services, Manager of Planning or the Senior Planner for the Township or his or her designate provided such designate is an Inspector appointed under this By-law;
- (i) "Good Forestry Practice" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments of forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;

- (j) "Ground Cover" means low herbaceous plants and shrubs including mosses, ferns, grasses, and shrubs that grow over the surface of the ground which prevent soil erosion.
- (k) "Hazardous Tree" means a dead or severely damaged Tree that may pose a danger to Persons or property;
- (l) "Injure" means to do harm, damage, or impair and the term "Injury" shall have corresponding meaning;
- (m) "Inspector" means the following persons who are authorized to carry out any of the powers or duties pursuant to this By-law, for the period of their employment with the Township;
  - Municipal Law Enforcement Officers
- (n) "Owner" means the registered Owner(s) of the property;
- (o) "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, and the singular shall include the plural;
- (p) "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; or
  - (v) To eliminate
- (q) "Shoreline Vegetative Buffer" means the natural area maintained in its predevelopment state within the front yard setback as defined in the Township's Zoning By-law for lands abutting a waterbody and includes the area of land extending to the existing level of the abutting waterbody;
- (r) "Site" means the area of land containing any Tree(s) proposed to be Injured;
- (s) "Township" and "Township of Georgian Bay" means the Corporation of the Township of Georgian Bay;
- (t) "Tree" means any species of woody perennial plant, including its root system, which has reached or can reach an average height of at least 5 metres at the physiological maturity and is larger than 50mm diameter outside the bark of the tree at the Diameter at Breast Height (DBH);
- (u) "Viewing Window" means the provision of sight lines from the property to the abutting waterbody by means of trimming

and/or pruning Trees and/or the Removal of dead, diseased or Hazardous Trees;

- (v) "Zoning By-law" means the By-law regulating land use within the Township as required under the *Planning Act*.

## 2. AREA OF APPLICATION OF THE BY-LAW

2.1 This By-law shall only apply to the following areas in the Township;

- (a) Lands within the Environmental Protection (EP) Zone in the Zoning By-law;
- (b) Lands within the Open Space (OS) Zone in Zoning By-law 91-19 or lands within the Natural State Island (NSI) zone, Open Space (OS1) zone, or Natural State Conservation (NSC) zone in a subsequent Comprehensive Zoning Bylaw;
- (c) Lands within the Shoreline Vegetative Buffer.

## 3. PROHIBITION

3.1 No Person shall Injure or Destroy or permit or cause to be destroyed any Tree on any private lands within the area defined in this By-law as the Shoreline Vegetative Buffer area, except as noted in Section 4 Exemptions From Application of By-law.

3.2 No Person shall Injure or Destroy or permit or cause to be destroyed any Tree on lands zoned Environmental Protection (EP) under the Zoning By-law, except as noted in Section 4 Exemptions From Application of By-law.

3.3 No Person shall Injure or Destroy or permit or cause to be destroyed any Tree on lands zoned Open Space (OS) under Zoning By-law 91-19 or lands within the Natural State Island (NSI) zone, Open Space (OS1) zone, or Natural State Conservation (NSC) zone in a subsequent Comprehensive Zoning By-law, except as noted in Section 4 Exemptions From Application of By-law.

## 4. EXEMPTIONS FROM APPLICATION OF BY-LAW

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

- (a) The injuring or destruction of trees in the Shoreline Vegetative Buffer for a maximum width of 25% of the lot frontage of a lot or to a maximum width specified in the

Comprehensive Zoning By-law. Lot frontage is defined in the Comprehensive Zoning Bylaw.

- (b) Notwithstanding Section 4 (a) of this By-law, for properties which are subject to greater restrictions as it relates to the preservation of vegetation in a Subdivision Agreement under Section 51(26) of the Planning Act R.S.O. 1990 (or its predecessor) or a Site Plan Agreement under Section 41 of the Planning Act R.S.O. 1990 (or its predecessor), the greater restriction shall apply. The more restrictive terms and provisions of any of the aforementioned Agreements are deemed to be included in this bylaw.
- (c) Notwithstanding Section 4 (a) of this By-law, a maximum of 25% of the trees distributed throughout the Shoreline Vegetative Buffer may be removed.
- (d) Notwithstanding Section 4 (a) of this By-law, the injuring or destruction of trees within the Shoreline Vegetative Buffer shall not include the removal or covering up Ground Cover within the tree removal area.
- (e) 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;
- (f) The Removal of a dead, diseased or Hazardous Tree or stumps;
- (g) Activities or matters undertaken by the, District Municipality of Muskoka;
- (h) Activities or matters undertaken by the Provincial or Federal governments or their authorized agents;
- (i) 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;
- (j) Activities or matters authorized under the *Crown Forest Sustainability Act, 1994*;
- (k) Trees cut by a Person licensed under the *Surveyor's Act* to engage in the practice of cadastral surveying, or his or her agent, while making a survey;
- (l) Trees that are part of plantations for the purposes of an orchard, nursery or Christmas Tree farm;

- (m) The trimming and/or pruning of Tree branches in accordance with Good Forestry Practice to maintain, improve or protect tree health while providing viewing windows;
- (n) The Injuring or Removal of Trees that are required in order to erect any building, structure or septic system in respect of which a Building Permit is issued 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 5 metres from the outer edge of the building, structure or septic system.
- (o) The Injuring or Removal of Trees that are required in order to ensure an existing approved septic system and associated tile field and/or mantle are being properly maintained in accordance with the Ontario Building Code.
- (p) The Injuring or Removal of Trees that are required to erect any building, structure or other land use permitted as an exemption to the front yard setback in the Township's Zoning By-law provided that no Tree is Removed or Injured that is located no more than 3 metres from the outer edge of the building, structure or other land use;
- (q) The Injuring or Destruction as a condition of approval of a site plan, a plan of subdivision or condominium or a consent under Section 41, 51 or 53 of the *Planning Act* or as a requirement of an agreement entered into under the those sections;
- (r) 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 construction and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (s) The Injuring or Destruction of Trees undertaken on land described as a license for pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (t) The Injuring or Destruction of Trees for the purpose of one temporary access road no wider than 4.5 metres on properties only accessible by water;
- (u) A Tree Injured or Destroyed in compliance with an approved Tree preservation plan, landscape plan or site plan.

## 5. CONSIDERATION BY COUNCIL

5.1 If any Owner or Person wishes to apply for relief from this By-law, they may do so by submitting a written request identifying the nature and extent of relief requested and accompanied by a site plan/diagram and a description of the proposed Tree Removal/cutting to the Clerk. Council, in deciding whether to grant relief, shall consider the environmental impact of the proposed activity and may require the applicant to provide such additional information as it deems necessary and, Council may impose such conditions as it deems appropriate.

## 6. INSPECTION BY AN INSPECTOR

6.1 Notwithstanding Section 435 of the *Municipal Act, 2001*, as amended, the Inspector for the Township, having probable cause to believe that a violation of this By-law is occurring or has occurred may enter the lands at any reasonable time for the purpose of inspecting the Site to determine whether there is a violation of any or all portions of Section 3 of this By-law.

6.2 Any Person who obstructs an Inspector in carrying out an inspection under this By-law is guilty of an offence.

## 7. ORDERS

7.1 Where an Inspector is satisfied that a Person has contravened any provision of this By-law, the Inspector may make an Order requiring the Person to stop the Injuring or Destruction of Trees and shall set out the particulars of the contravention. The Order shall set out the information contained in Schedule 'A'.

7.2 Where the Director is satisfied that a Person has contravened any provisions of this By-law, the Director may make a Repair Order requiring the Person to rehabilitate the land or to plant or replant Trees in such a manner and within such a period as the Director considers appropriate.

7.3 An Order issued under this section may be served personally or served by sending it by registered mail to the last known address of:

(i) The Owner of the property at the address shown on the municipal tax rolls; and,

(ii) The Person identified as Injuring, Destroying or harvesting a Tree or Trees.

7.4 Where service of an Order is made by mail, the Order shall be deemed to have been served on the fifth business day after the order is mailed.

7.5 Where services cannot be made under the preceding sections of this By-law, it is deemed sufficient if the Inspector places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placement of the placard shall be deemed to be sufficient service of the Order on the Person to whom the Order is directed.

7.6 A Person to whom an Order under this section has been directed may request a review by Council by filing a written request with the Clerk within 30 days after the date of the Order. Council may confirm, alter or revoke the Order.

7.7 If a Person fails to comply to an Order, the Township may carry out the work, enter the property for that purpose and recover the cost with interest all in accordance with Section 446 of the *Municipal Act, 2001*, as amended.

## 8. PENALTY

8.1 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for the following fines:

- (a) On a first conviction, to a minimum fine of \$500 and a maximum fine of not more than \$10,000; and
- (b) On any subsequent conviction, to a minimum fine of \$1,000 and a maximum fine of not more than \$25,000

8.2 Where a Corporation is convicted of an offence under this By-law, the Corporation is liable for the following fines:

- (a) On a first conviction, to a minimum fine of \$2,500 and a maximum fine of not more than \$50,000
- (b) On any subsequent conviction, to a minimum fine of \$4,000 and a maximum fine of not more than \$100,000

8.3 If a Person is convicted of an offence for contravening this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may issue an order to the Person to rehabilitate the land or to plant or replant Trees in such a manner any within such a period as the court considers appropriate.

## 9. ADMINISTRATION

9.1 Schedule 'A' shall form part of this By-law.

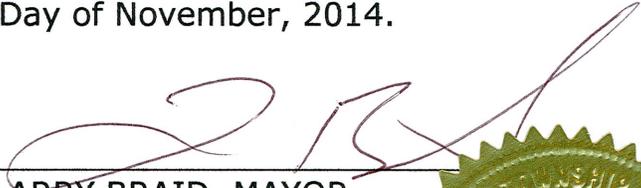
9.2 If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of

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

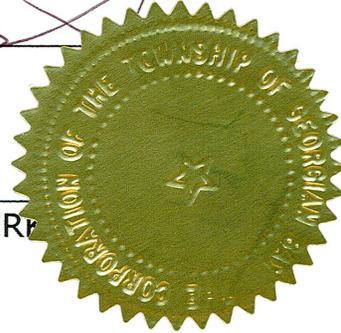
10. EFFECTIVE DATE

10.1 This By-law shall come into force and take effect on the day of passing thereof.

Read and finally passed this 10<sup>th</sup> Day of November, 2014.

  
LARRY BRAID, MAYOR

  
SUSAN BOONSTRA, CLERK



SCHEDULE 'A'  
STOP WORK ORDER  
TOWNSHIP OF GEORGIAN BAY

Under the authority of Section 7 of By-law 2014-73 YOU ARE HEREBY DIRECTED AND ORDERED TO forthwith stop, halt, cease, and desist from any and all works associated with the destruction of trees or removal thereof of from those lands comprising of:

MUNICIPAL ADDRESS / LEGAL DESCRIPTION OF THE PROPERTY:

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OWNER / INDIVIDUAL RESPONSIBLE FOR DESTRUCTION OR INJURY OF TREES:

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DESCRIPTION OF INFRACTION:

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DATE OF INSPECTION: \_\_\_\_\_

EFFECTIVE      ORDER      DATE: \_\_\_\_\_ TO  
\_\_\_\_\_

SIGNATURE OF  
OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

Pursuant to Section 7.6 of By-law 2014-73, where the person to whom the Order is directed has been served in accordance with this By-law is not satisfied with the terms of the Order, the person may request a review by Council by filing a written request by personal service or certified mail to the Clerk within 30 days after the date of the Order.

Township of Georgian Bay  
99 Lone Pine Road  
Port Severn, Ontario  
L0K 1S0

Attn: Susan Boonstra

Copy To: By-law Enforcement, Director of Planning, Clerk