

**MUSKOKA LAKES ASSOCIATION AND FRIENDS OF
MUSKOKA COMMENTS DATED MARCH 14, 2022**

Key:

1. **Red** reflects our proposed additions and deletions
2. **Green** reflects our comments

**THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES
BY-LAW NUMBER 2022-XX 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 Preservation 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~~ 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; and
- (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:

1.0 DEFINITIONS

In this By-law:

“Applicant” means the person who submits an application for a ~~Permit~~ permit under this Bylaw;

“Arborist” means a person who has graduated from an accredited college or university with a diploma or degree in Urban Forestry, Arboriculture or equivalent and satisfies at least one of the following requirements:

- (i) is certified by the Ministry of Labour, Training and Skills Development or the International Society of Arboriculture as an arborist;
- (ii) is currently accepted as a consulting arborist with the American Society of Consulting Arborists; or
- (iii) is a Registered Professional Forester (RPF) as defined in the Professional Foresters Act, 2000, S.O. 2000, c. 18;

“Arborist’s 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 **from** 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” or **“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 Planning** for the Township or his or her designate provided such designate is an **Officer officer**-appointed under this By-law;

“DBH” is also known as “diameter at breast height” and refers to the **Diameter 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 crown**;

“Driveway” means the ingress and egress lane or lanes that are connected to a highway that lead to a residential dwelling unit but does not include a parking area;

“Financial Assurance” means a commitment of funds **by an Owner or Applicant** submitted to the Township that are **a** sufficient **to cover** amount to equal the cost **of** completing any requirements of the Township **under this By-law**; **[Conformed to wording in the Site Alteration By-law.]**

“Injure” or “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;

“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 ~~4(m)~~(i) or ~~4(m)~~(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, or
- (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 permits~~ and impose conditions and to enforce the ~~Permits permits~~, and such Officers are so designated pursuant to Schedule **“D”** ~~“E”~~ of this By-law;

“Owner” means the registered ~~owner(s)~~ ~~Owner(s)~~ of the property;

“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;

“Tree Alteration Permit” or “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;

“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.

“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; ~~;-A Temporary Access Road shall be re-vegetated or re-naturalized upon the completion of the building permit or septic permit for which it was established;~~ [Section 4.7 covers this last sentence and is probably the best place for it.]

“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; **and :**

“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** ~~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;
- (j) The removal of diseased trees or stumps, in accordance with good forestry practice and where accompanied by a **Professional Arborist's Report** ~~professional arborist report~~ satisfactorily confirming the tree is diseased and providing rationale for why it should be removed;
- (k) The removal of dead, dangerous or severely injured trees or stumps, in accordance with good forestry practice;
- (l) 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 tree's natural shape;
- (m)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 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, **and further provided that no tree is removed in anticipation of receiving a building or septic permit**;
[This additional wording will help prevent pre-clearing in anticipation of a building or septic permit being received.]
- (n) 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 Bylaw 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;

- (o) 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;
- (p) 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;
- (q) 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 distributor** system, as those terms are defined in that section;
- (r) 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;
- (s) 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; -
- (t) The injuring or destruction of trees necessary for one driveway no wider than 6.1m (20 ft.) to access a property in an area zoned as a Scenic Corridor or Scenic Area in the Township's Comprehensive By-law; -
- (u) The injuring or destruction of trees for the purpose of one **Temporary Access Road temporary access road** no wider than 4.5m (15 ft.) on properties only accessible by water; -
- (v) 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 does not extend closer to a navigable waterway than the rear of a dwelling, sleeping cabin or garage to which it is serving and is no closer than 20.1m (66 ft.) from the high water mark; and,
- (ii) Is not located on lands zoned Environmental Protection (EP1) under the Zoning By-law; and -

Patios, Walkways and Stairways

(w) The injuring or removal of trees necessary for the installation of a patio, walkway and/or stairway, subject to the following conditions:

- (i) For patios located within the permitted front yard setback of the Zoning By-law for a sundeck, the maximum area permitted is 200 square feet and only one (1) patio area is permitted;
- (ii) For patios located within the permitted front yard setback of the Zoning By-law for a sundeck, no more than one of a gazebo, sauna or pumphouse is located within the front yard of the property;
- (iii) That the patio is setback at least 4.5m (15ft.) from the high water mark;
- (iv) That the walkway or stairway not exceed a width of 1.8m (6 ft.) in any location; and
- (v) That the installation of the patio, walkway or stairway does not result in the removal, injury or destruction of any tree as per this By-law, unless otherwise granted permission through a Site Plan Agreement.

4.0 PROHIBITIONS

- 4.1 No person shall permit or cause the injury or destruction of a tree within 15 m (50 ft) of a navigable waterway for those lands designated as Waterfront, Urban Centre or Community designations in the Township Official Plan.
- 4.2 No person shall permit or cause the injury or destruction of a tree within an area zoned Environmental Protection (EP1 and EP1-PSW) in the Township's Comprehensive Zoning By-law, except in conjunction with the permitted uses of and in compliance with the Zoning By-law. †

- 4.3 No person shall permit or cause the injury or destruction of a tree in an area zoned as a Scenic Corridor or Scenic Area in the Township's Comprehensive Zoning By-law within a distance of ~~30.4 m (100 feet)~~ ~~100 feet~~ from the lot line abutting the Scenic Corridor. ;
- 4.4 No person shall cause or permit the injury or destruction of a tree without an ~~Owner owner~~ or person first obtaining a ~~Permit permit~~ under this By-law in any area between 15m (50ft.) and 91.4m (300ft.) of a navigable waterway in the Waterfront designation as defined in the Township's Official Plan. ; ~~No person shall cause or permit the injury or destruction of a tree without an Owner or person first obtaining a Permit under this By-law in any area beyond 15 m (50ft.) of a navigable waterway on an island as defined in Section 2.1(e). [Unfortunately, this provision regarding islands, which corresponds to the same provision in the Site Alteration By-law (Section 4.5), was omitted, presumably in error.]~~
- 4.5 No person shall cause or permit the injury or destruction of a tree without an ~~Owner owner~~ or person first obtaining a ~~Permit permit~~ under this By-law in any area between 15 m (50 ft.) and 60.9m (200ft.) of a navigable waterway in an Urban Centre or Community designation as defined in the Township's Official Plan. ;
- 4.6 Despite Sections 3.1 (m) and (n) 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 Bylaw. ;
- 4.7 No person shall fail to re-vegetate or re-naturalize a ~~Temporary Access Road temporary access road~~ upon completion of a building permit or septic permit. ;
- 4.8 No person shall fail to comply with an Order issued under this By-law. ;
- 4.9 No person shall pull down or deface an Order posted under this By-law. ;
- 4.10 No person shall fail to produce or post a ~~Permit permit~~ as required under this by-law.
- 4.11 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, and shall be maintained in good working order until the Site has been stabilized and operations completed. †

4.12 No person shall fail to erect an adequately installed sedimentation fence before the commencement of any injury or destruction of trees or construction of a building, structure, septic area or patio. †

4.13 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. †

4.14 No person shall allow or permit to allow ~~and~~ injury or destruction of any tree contrary to the provisions of a site plan agreement registered against the property on which such injury or destruction of trees take place.

4.15 No person shall carry out, allow or permit to allow excessive trimming, de-limbing or pruning of trees in order to enhance the view of the waterfront. [No more Muskoka palms, please.]

5.0 APPLICATION FOR PERMIT TO INJURE OR DESTROY TREES

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

- (a) Every person who intends to injure or destroy a tree where a ~~Permit permit~~ to do so is required 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 and such other information as the Director may require, in such form as may be approved by the Director;
- (b) An application for a ~~Permit~~ must be ~~to~~ 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 permit~~, the ~~Owner 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 ~~Director's~~ ~~Directors~~ discretion, all applications to injure or destroy a tree may be required to include a Tree Protection Plan in accordance with the ~~requirements~~ ~~Requirements~~ in Section 11 of this By-law, ~~and Financial Assurance in an amount and form acceptable to the Director~~; [See Section 7.4 which refers to Financial Assurance being provided by a Permit holder]
- (e) Applications to injure or destroy a tree shall include any report required by the Township or external agency (e.g. ~~Tree Protection Plan Sedimentation Control Plan~~, vegetation analysis, environmental impact assessment, geotechnical report, ~~Arborist's Report~~ ~~arborists-report~~, or hydrogeological report.)
- (f) An application for a ~~Permit~~ ~~permit~~ shall be deemed incomplete, and no ~~Permit~~ ~~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~~; or
 - (vii) ~~Financial Assurance, if required by the Director, has not been provided~~. [See Section 7.4 which refers to Financial Assurance being provided by a Permit holder]

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 and reports and Financial Assurance (if required) [See Section 7.4 which refers to Financial Assurance being provided by the Permit holder.] 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 Financial Assurance as a condition of issuing a Permit, and the Financial Assurance will be dealt with according to the following terms:

- (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 must 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.

[We suggest it is appropriate to include a mechanism regarding Financial Assurance.]

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 after 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~~ ~~Bylaw~~ 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 Tree Preservation 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 permit~~ holder requests it be revoked in writing;
 - (d) Work authorized under the ~~Permit permit~~ has not commenced prior to its expiry date;
 - (e) The Owner has breached any of the prohibitions of Section 4 of this Bylaw;
 - (f) ~~The Township has drawn on the Financial Assurance provided by the Owner in accordance with Section 6.2 of this By-law; and or~~
 - (g) The land has been transferred and the new Owner has not complied with the requirements under ~~this section~~ ~~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 Townships~~ satisfaction. If the Owner has

registered a site plan agreement, a subdivision agreement, or a developmental agreement that includes the revegetation of the **Site 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 after a **Permit permit** has expired or **been** revoked.

8.0 CONDITIONS TO PERMIT

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

(a) Marking of Trees

At least seven days prior to injuring or destroying any tree, but not prior to the issuance of the **Permit permit**, the **Owner 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 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 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 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 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 permit**.

[This would seem to permit damage to a large portion of the trees on a property, which we do not believe is intended. In the alternative, perhaps a statement should be added that residual damage to other trees will be minimized.]

(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 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 Bylaw, 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 Bylaw~~.

9.0 DURATION OF PERMIT

9.1 Every ~~Permit permit~~ shall be issued to the ~~Applicant 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)~~9.2, the expiry date in the ~~Permit 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 permit~~ to an ~~Owner owner~~ for a full twelve month period clear and not including the restricted period.

- 9.2 All ~~Permits~~ ~~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~~ ~~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~~ ~~permit~~, within thirty (30) days after the issuance of the ~~Permit~~ ~~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;
- 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 **or work relating to a building or septic permit or site plan agreement;**
- (b) Submit a ~~satisfactory~~ revegetation plan or renaturalization plan **satisfactory to the Township** which is to be completed by a qualified professional in that field;
- (c) Submit a ~~satisfactory~~ Tree Protection Plan **satisfactory to the Township** which is to be 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 renaturalize the property.
- (e) Submit **Financial Assurance** ~~a 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 ~~Officer’s officers-~~ discretion shall be done in accordance with a ~~Professional’s 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 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.~~ [Language added to conform to Section 10.3(a) of the Site Alteration By-law.]
- 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; ~~or~~
- (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, ~~whichever is earlier.~~
- 12.8 Where service cannot be made under Section 12.5, it is deemed sufficient if the Director, their designate or ~~Officer 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 Municipality~~, 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 Municipality~~ in so doing shall be paid by the Owner of the land and may be recovered by the ~~Township Municipality~~ in the same manner as property taxes or by drawing on the ~~Financial Assurance financial assurance~~ provided.

- 12.10 Any costs incurred by ~~the Township on behalf of the Owner a property 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 Municipality~~ 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 will~~ 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 Municipality~~ 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 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”.

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 officer~~ may, at any reasonable time, enter and inspect any land to determine whether

provisions of this By-law, a condition of a ~~Permit 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 Bylaw, 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; ~~and~~
- (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 permit~~, the ~~Owner owner~~ and/or ~~Permit permit~~ holder shall contact the ~~Township municipality~~ for an inspection. †

13.5 This By-law shall be administered and enforced by the Director, their designate or an ~~Officer 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 set out in Schedule "C".~~

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 permit~~ under this By-law does not excuse the ~~Owner owner~~ from complying with other applicable federal, provincial and municipal ~~laws 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-DE” shall form part of this By-law.

19.2 The short title of this By-law is the “Tree Preservation 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 day of , 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. A Tree Protection Plan (where required) with requirements as set out in Schedule "B".
7. A general description of the history of use of the property.
- 8.. A key map of the property showing the location of the property within the Township of Muskoka Lakes.
9. Details of the number and species of trees to which the Permit applies, together with an inventory map showing where such trees are located on the property (in relation to other features, such as buildings).
10. A description of the activity to be performed (tree removal, trimming, pruning, de-limbing, etc.) and the purpose (eg. remove dead or diseased tree, etc.).

[We appreciate that where you are only proposing to cut down and remove two or three trees, a Tree Preservation Plan is probably not warranted. However, we suggest that some minimum amount of information is required with an application, over and above providing name and address.]

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. [This valuation requirement may be onerous in some circumstances, and perhaps should only be required at the request of the Director.]
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-XX: Tree Preservation By-law SCHEDULE “C”: SET FINES

	Column 1 Short form wording	Column 2 Provision creating defining offence	Column 3 Set fine
	Injure or destroy a tree	4.1	\$1000.00
	Injure or destroy a tree within an area zoned Environmental Protection	4.2	\$1000.00
	Injure or destroy a tree in an area zoned Scenic Corridor or Scenic Area	4.3	\$1000.00
	Injure or destroy a tree without a Permit permit within Waterfront designation	4.4	\$1000.00
	Injure or destroy a tree without a Permit permit within Urban Centre or Community designation	4.5	\$1000.00
	Injure or destroy a tree for occasional or special event	4.6	\$1000.00
	Fail to re-vegetate or re-naturalize temporary access road	4.7	\$1000.00
	Fail to comply with an Order	4.8	\$1000.00
	Pull down or deface an Order	4.9	\$500.00
	Fail to produce or post Permit permit	4.10	\$500.00

	Fail to erect sedimentation fence	4.12	\$1000.00
	Fail to maintain sedimentation fence	4.13	\$1000.00
	Allow or permit to allow injury or destruction of tree contrary to Site Plan Agreement	4.14	\$1000.00
	Injure or destroy a tree while Permit permit is expired or revoked	7.10	\$1000.00
	Obstruct or interfere with an Officer	13.1	\$500.00

NOTE: The penalty provision for the offences indicated above is Section 14 of this Bylaw, a certified copy of which has been filed.

SCHEDULE "D"

Appointment of Officers

(a) Council may appoint from time to time by resolution, persons it deems qualified and necessary to act as officers to administer and enforce the provisions of this By-law, to issue Permits under this By-law and to impose conditions to such Permits.

(b) Designated Officers for the purpose of this By-law are:

- (i) Director of Development Services and Environmental Sustainability;
- (ii) Senior Planner;
- (iii) By-law Officer.

[This Schedule "D" is identical to Schedule "C" of the current Tree Preservation By-law 2008-55, other than the updated title of the Director in (b)(i).]