

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW NUMBER 2024-019

BEING A TREE CONSERVATION BY-LAW TO RESTRICT AND REGULATE THE INJURING, REMOVAL, AND DESTRUCTION OF TREES ON PRIVATE PROPERTY IN THE TOWNSHIP OF SEGUIN AND TO REPEAL BY-LAW 2008-103 AND ALL OF ITS AMENDING BY-LAWS IN THEIR ENTIRETY

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 Seguin to prohibit and regulate the destruction or injuring of Trees;

AND WHEREAS, pursuant to Section 135(7) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, 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 pursuant to Section 425 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, authorizes the Township of Seguin to pass by-laws providing that a Person who contravenes a Township of Seguin by-law passed under that Act is guilty of an offence;

AND WHEREAS pursuant to Section 436 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that the municipality has the power to pass by-laws authorizing the power of entry for the purpose of inspecting land to determine compliance with a by-law, direction, Order, or condition of licence;

AND WHEREAS pursuant to Section 444 of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that the municipality may make an Order requiring the Person who contravened the by-law or who caused or permitted the contravention or the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any Person who contravenes such an Order is guilty of an offence;

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

- a) maintaining shoreline vegetation to protect water quality, maintaining and enhancing the natural aesthetic character of the Township and minimizing erosion potential;

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

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 Director;

"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 American National Standards Institute (ANSI) 300 part 9, standard practices, International Society of Arboriculture (ISA), as may be amended or replaced;

"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 the Township of Seguin;

"Council" means the Council of the Township of Seguin;

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

"Destroy" "Destroys" or "Destruction" 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 Planning for the Township or their designate provided such designate is an Officer as defined in 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 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 leads to a residential dwelling unit but does not include a Parking Area;

"Dry-Laid" means a method of construction or installation where individual stones, blocks or pavers are laid on a bed of sand or gravel or other similar material and the stones, blocks or pavers are held in place by tightly compacted material and does not include the use of concrete or mortar asphalt, pavement or other poured materials;

"Financial Assurance" means security in the form of cash, certified cheque, bank draft or letter of credit that is lodged by an Owner or Applicant with the Township to secure the performance of any obligation imposed under this By-law and/or a Permit issue hereunder, upon an Owner or Applicant;

"Injure" or "Injuring" means to harm, damage or impair a Tree and includes, but is not limited to, harm, damage, Major 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 of dead or dying branches, Removal or Destruction of Trees on a property where the foregoing is intended to improve the overall health of Vegetation on the property but does not include any work related to property development or work completed to erect a building, a septic area, or waterfront Accessory Structures;

"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 centimetres is Major Damage to a Tree with a DBH of 10 cm),
- (ii) any wound greater than 1000 square centimetres,
- (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) over-pruning of branches at the base of a Tree more than 10% of the total height of the Tree,
- (vi) the exposure, severing or compaction of more than 25% of the root area,
- (vii) the breaking off of any Tree,
- (viii) the noticeable tipping of any Trees,
- (ix) a cut greater than 1/3rd of the DBH or a cut with a depth of 1/10th of the DBH;

“Natural Drainage Course” means a valley or elongated depression created by year-round, naturally flowing water that varies in size, including a lake, river, stream, creek, spring, ravine, swamp and gulch with well-defined banks and a bed that gives direction to a water source, but excludes roadside ditches, drainage ditches and irrigation works;

“Officer” means a Municipal Law Enforcement Officer that has been appointed through a By-law in the Township of Seguin to administer and enforce by-laws in the Township;

“Order” means a mandatory requirement for action within a specified time period specifically issued by an Officer or other authorized personnel to address issues of non-compliance with any section of this by-law or the conditions of a Permit which includes a Stop Work Order or an Order to Remedy;

“OPFA Member” means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association (OPFA) as defined in the Professional Foresters Act, 2000, S.O. 2000, c. 18, as amended;

“Owner” means the registered 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;

“Patio” means a platform without a roof with direct access to the ground, which is designed and intended for use as an amenity space which is accessory to the principal use on the lot;

“Permit” means the authorization in writing from the Director or their 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;**

“Re-Naturalization Plan” means a plan prepared and signed by an Arborist or Professional in accordance with the Guidelines for Waterfront Design in Seguin Township to the satisfaction of the Township;

“Re-Vegetation Plan” means a plan prepared and signed by an Arborist or Professional in accordance with the Guidelines for Waterfront Design in Seguin Township to the satisfaction of the Township;

“Riparian Zone” is a 5-metre buffer adjacent to the Shoreline that contains a combination of Trees shrubs and/or other perennial plants and is managed differently from the surrounding landscape;

“Shoreline” means the line at which a Natural Drainage Course meets the land;

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

“Structure” means anything constructed, the use of which requires location on or in the ground or attached to something having a location on or in the ground. This definition shall include swimming pools and sports courts, hot tubs, and Jacuzzis over 15 square metres;

“Temporary Access Road” means a temporary road that has been constructed for the purpose of gaining temporary access to a water access-only property to allow for construction vehicles or other machinery to safely manoeuvre a property. A water access-only property is a property which does not have access or frontage to a public street, right-of-way or Driveway, and can only be developed by barge, boat or similar access from a Shoreline;

“Township” and “Township of Seguin” means The Corporation of the Township of Seguin;

“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 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;

“Vegetation” means any woody plant, or contiguous cluster of plants including Trees, shrubs, and hedgerows;

“Walkway” means an access pathway between the shoreline and shoreline Structures to other areas on the lot. A Walkway shall be made of permeable, natural materials or Dry-Laid construction, and shall have a maximum width of 2.0 metres;

“Water Permeable” or “Pervious” means any material used or a style of construction or installation that allows water or other liquids to pass through the feature or Structure, this definition can also be used for “permeable materials”;

“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 20 metres of a Shoreline; and
- (b) All lands zoned Environmental Protection (EP and EP1) in the Township Comprehensive Zoning By-law.

3.0 EXEMPTIONS

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

- (a) Activities or matters undertaken by a municipality or a local board of the Township;
- (b) Lots owned by the Township of Seguin;
- (c) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*;

- (d) The injuring or destruction of Trees 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 their employ while making a survey;
- (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) Activities or matters undertaken by the provincial government or federal government or their authorized agents;
- (g) Trees that are part of plantations for the purposes of an orchard, nursery, or Christmas Tree farm;
- (h) Trees measuring less than 8 cm (3.15 inches) DBH;
- (i) 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 Arborist Report satisfactorily confirming the Tree is diseased and providing the 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;
- (j) The Removal of dead, dangerous or severely Injured Trees or stumps, in accordance with good forestry practice;
- (k) The pruning of Tree branches in accordance with good arboriculture practice to maintain, improve, or protect Tree health;
- (l) The injuring or destruction of Trees to facilitate development permitted by the approval of a Site plan, a plan of subdivision, or other development Agreement under Sections 41, 45, or 51 of the *Planning Act*;

- (m) The injuring or destruction of Trees to facilitate development permitted by a development Permit authorized by regulation made under Section 70.2 of the *Planning Act*;
- (n) 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;
- (o) 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*;
- (p) The injuring or destruction of Trees undertaken in accordance with an *Aggregate Resources Act* License;

Development Exemptions

Structures and Septic Systems

- (q) The Injuring or Removal of Trees that is required to erect any building, Structure, or septic system in respect of which a Building Permit or septic Permit is issued, or which complies with the Zoning By-law provided that:
 - (i) No Tree shall be Removed or Injured that is located more than 3 metres from the outer edge of the building, Structure or septic system, and
 - (ii) No Tree shall be Removed or Injured within the 5 metre Riparian Zone along the shoreline other than to install a permitted waterfront accessory structure in accordance with Seguin Township's Zoning By-law;

Access/Driveways

- (r) The Injuring or destruction of Trees for the purpose of one (1) Temporary Access Road no wider than 4.5 metres on properties only accessible by water. At the discretion of the Director, a Temporary Access Road may be subject to a Re-Vegetation Plan or Re-Naturalization Plan that is satisfactory to the Township and which is completed by a Professional in that field;

Patios and Walkways

- (s) The injuring or Removal of Trees within 20 metres of the Shoreline necessary for the installation of a Patio provided that:
 - (i) In accordance with Seguin's Site Alteration By-law, Trees are only to be Removed for a Patio made of Dry-Laid, or other natural permeable materials;
 - (ii) The cumulative area of all Patio clearings does not exceed 28 square metres for lots with a frontage of 90 metres or less;
 - (iii) The cumulative area of all Patio clearings does not exceed 40 square metres for lots with a frontage of more than 90 metres;
 - (iv) The Removal of Trees does not occur within the 5 metre Riparian Zone along the Shoreline to facilitate the installation of a Patio; and
 - (v) No additional Tree Removal or injury occurs beyond the outer edge of the Patio;

- (t) The injuring or Removal of Trees within 20 metres of a Shoreline necessary for the installation of a Walkway provided that:
 - (i) In accordance with Seguin's Site Alteration By-law, Trees are only to be Removed for a Walkway made of Dry-Laid, or other natural permeable materials;
 - (ii) The area of Tree Removal to accommodate the Walkway is a maximum width of 2 metres;
 - (iii) No additional Tree Removal or injury occurs beyond the outer edge of the Walkway; and
 - (iv) It does not occur within the 5 metre Riparian Zone along the Shoreline.

Maintenance of Beaches and Existing Features

- (u) The maintenance of existing, or naturally occurring beaches. Existing for the purpose of this provision shall allow for the maintenance of beaches above the Shoreline in the same state as occurring prior to and since August 5, 2008;

- (v) The maintenance of an existing Walkway, Patio or retaining walls. Existing for the purpose of this provision includes a Walkway, Patio or retaining walls that legally existed before August 5, 2008;

Exempt Land Uses

- (w) Marinas; and
- (x) Commercial uses in the Settlement Area Designation of the Official Plan.

4.0 GENERAL PROVISIONS AND REGULATIONS

- 4.1 No Person shall permit or cause the Injury to a Tree, Tree Destruction or Tree Removal within 20 metres of a Shoreline unless the Injury to a Tree, Tree Destruction or Tree Removal that occurs:
 - a) is subject to and conducted in accordance with an exemption or exemptions as set out in Section 3.0; or
 - b) is under authorization of a Permit issued under this By-law.
- 4.2 No Person shall permit or cause an Injury to a Tree, Tree Destruction or Tree Removal within an area zoned Environmental Protection (EP and EP1) in the Township's Comprehensive Zoning By-law, except in conjunction with the permitted uses of the zone and in compliance with the Zoning By-law.
- 4.3 No Person shall permit or cause the Injury to a Tree, Tree Destruction or Tree Removal without an Owner or Person first obtaining a Permit under this By-law unless such Injury to a Tree, Tree Destruction or Tree Removal occurs in accordance with an applicable exemption as set out in Section 3.0 of this By-law.
- 4.4 No Person shall fail to re-vegetate or re-naturalize a Temporary Access Road that is permitted in Section 3.1 (r) upon completion of work permitted under a Building Permit or septic Permit; in accordance with the requirements for a Re-Vegetation Plan or Re-Naturalization Plan as required by this By-law.
- 4.6 No Person shall fail to comply with an Order issued under this By-law.
- 4.7 No Person shall pull down, Remove or deface an Order posted under this By-law.
- 4.8 No Person shall fail to produce or post a Permit as required under this By-law.
- 4.9 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 shoreline accessory Structure.
- 4.11 No Person shall fail to adequately maintain a sedimentation fence during any Injury to a Tree, Tree Destruction or Tree Removal or construction of a building, Structure, septic area, Patio or Walkway.
- 4.12 No Person shall permit or cause any Injury to a Tree, Tree Destruction or Tree Removal 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 takes place.
- 4.13 No Person shall permit or cause any Injury to a Tree, Tree Destruction or Tree Removal before the appropriate approvals have been issued whether through a Site Plan Agreement, Subdivision Agreement, Development Agreement, Development Permit, 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.

APPLICATION REQUIREMENTS

- 5.1 A Permit is required under this By-law as follows:
 - (a) Every Person who intends to cause Injury to a Tree, Tree Destruction or Tree Removal 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 Seguin 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 their 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 cause Injury to a Tree, Tree Destruction or Tree Removal 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 cause Injury to a Tree, Tree Destruction or Tree Removal 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 only be deemed complete if;
 - (i) The application has been completed in full;
 - (ii) The Owner/Applicant has signed the application;
 - (iii) The party who will be undertaking or responsible for the injuring or destruction of Trees has signed the application;
 - (iv) The application fee has been paid;
 - (v) Any required inspections have been undertaken;
 - (vi) Any required reports have been submitted; and
 - (vii) Financial Assurance, if required by the Director, has been provided.

6.0 ISSUANCE OF PERMIT

6.1 The Director shall issue a Permit to cause Injury to a Tree, Tree Destruction or Tree Removal where the Director is satisfied that:

- (a) The application is complete, in accordance with this By-law and the Schedules;
- (b) The injury, destruction or Removal 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);

- (c) All other Permits, application material, background studies, Agreements, documents, reports, development approvals under the *Planning Act* and Financial Assurances, if required, have been received, reviewed and approved to the satisfaction of the Director;
- (d) 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 shall be in a sufficient amount to equal the cost of re-vegetation or re-naturalization of a property and any subsequent studies or inspections required by the Township, as determined by a Professional;
- (b) 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;
- (c) The Financial Assurance shall remain in effect for the full duration of the Permit;
- (d) Any Financial Assurance in the form of a letter of credit shall contain a clause stating that thirty (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;
- (e) The Financial Assurance shall be released by the Township following the completion of a final inspection, or confirmation by the applicant's Professional that prepared the plans, 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 (3) 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 a written commitment to comply with all conditions under which the Permit was issued, prior to the 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 of Ownership of the Site.
- 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 Injury, Destruction or Removal 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 Re-Vegetation of the Site as a condition or requirement, Re-Vegetation shall take place in accordance with that Agreement.

7.10 No Person shall Injure, Remove 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 Injured, Removed, or Destroyed to be marked with clearly visible marks of yellow or orange paint from Breast Height to the base of the Tree so that when cut, the paint mark is split between the butt of the log and stump 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 10 cm 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 the 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, Remove 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. The expiry date in the Permit shall be deemed to have been extended to a date in the next month 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 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 ten (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 six (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 sixty (60) 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, RE-VEGETATION PLANS OR RE-NATURALIZATION PLANS

- 11.1 Every Tree Protection Plan, Re-Vegetation Plan or Re-Naturalization 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 Every Re-Vegetation Plan or Re-Naturalization Plan shall be signed by an Arborist or Professional as defined in this By-law.
- 11.3 The Township may request additional information on any Tree Protection Plan Re-Vegetation Plan or Re-Naturalization 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 of the land, this may also include the legal description of the land and/or 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 will 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 Re-Vegetation Plan or Re-Naturalization Plan that is satisfactory to the Township and which is completed by a 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 Tree Protection Plans, Re-Vegetation Plan or Re-Naturalization Plan 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 Every Person to whom a "Stop Work Order" or an "Order to Remedy" is given shall comply with it.

12.4 Any remedial work that is Ordered through a "Stop Work Order" or an "Order to Remedy", at the Officer's 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 on the Order.

- 12.5 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.
- 12.6 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) to which the Order is addressed.
- 12.7 Where service of an Order is made by registered mail, the Order shall be deemed to have been served on the fifth (5th) day after the Order is mailed.
- 12.8 Where service of an Order is made by email, the Order shall be deemed to have been served on the fifth (5th) day after the Order was emailed or upon a response from the recipient of the Order.
- 12.9 Where service cannot be made under Section 12.6, 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.
- 12.10 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.
- 12.11 Any costs incurred by the Township on behalf of an Owner as a result of remedial action as outlined in Section 12.10 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.
- 12.12 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 12.11 of this By-law to the date full payment is made.

- 12.13 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.
- 12.14 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 thirty (30) days of receiving the Order upon paying the prescribed fees as set out in the Township of Seguin Fees and Charges By-law.
- 12.15 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.

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 Sections 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 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 and provincial legislation 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 therefrom 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 the imperial equivalent is in brackets following. The metric measurement shall prevail and the imperial equivalent is for reference only.
- 18.2 "m" in this By-law refers to metres.
- 18.3 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.

19.0 ADMINISTRATION

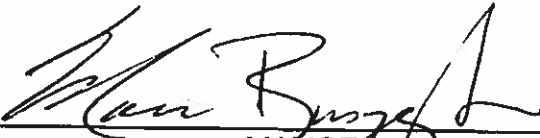
- 19.1 Schedules "A" and "B" shall form part of this By-law.
- 19.2 This By-law may be referred to as the "Tree Conservation By-law".

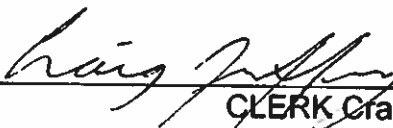
20.0 EFFECTIVE DATE

- 20.1 By-law No. 2008-103 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 4th day of March, 2024.




Acting MAYOR ~~And MacDiamid~~
mario Buscynski


CLERK Craig Jeffery

SCHEDULE "A" TO BY-LAW 2024-019 – REQUIREMENTS

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"
8. A Re-Naturalization Plan (where required)
9. A Re-Vegetation Plan (where required)

SCHEDULE "B" TO BY-LAW 2024-019 - TREE PROTECTION PLAN REQUIREMENTS

Such plans will include (subject to the Director's discretion) 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 the 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 the collaboration of the Applicant's engineering and arboriculture consultants;
10. Approved servicing plan indicating water, sewer/storm, hydro, gas, bell, cable and any other impacted utility. This requires the collaboration of the Applicant's engineering and arboriculture 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;
14. Hand-drawn sketches will not be accepted.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

March 18, 2024

Mr. Rory Payton, C.P.S.O, M.L.E.O.
Supervisor, By-law Services
Seguin Township
5 Humphrey Drive
Seguin, Ontario, P2A 2W8

Dear Mr. Payton;

Re: Set Fines – Provincial Offences Act
Part I – Seguin Township, Parry Sound District

Thank you for your letter dated March 6th, 2024, directed to The Ministry of the Attorney General, Crown Law Office-Criminal, regarding set fines for By-Law 2024-019.

I have had an opportunity to consider your request. For the reasons that follow, I have set appropriate amounts for the fines, which do not necessarily accord with the amounts you requested.

A set fine is a sentencing process and must consider the circumstances of the offence, the need for deterrence and must also consider proportionality (minor versus serious offences). Early guilty pleas are also an important consideration.

The set fine regime is meant to encourage out of court settlements, while also considering the above principles and must also consider similar sentences for similar offences in the region.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

I have forwarded the copy of the Orders and the schedules of these set fines to the Ontario Court of Justice in Parry Sound together with a certified copy of the By-Law.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

c.c.: His Worship Gary McMahon, Regional Senior Justice of the Peace
Her Worship Ruby Beck, Local Administrative Justice of the Peace

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

March 18, 2024

Ms. Melissa Adams, Crown Counsel
Crown Law Office, Criminal
720 Bay Street, 10th floor
Toronto, Ontario
M5G 2S9

Dear Ms. Adams:

RE: Set Fines - Provincial Offences Act
Part I, Seguin Township, Parry Sound District

Please find enclosed a copy of an Order dated March 18, 2024, and a copy of a letter to Mr. Rory Payton, C.P.S.O, M.L.E.O., Supervisor, By-law Services.

Should you have any questions, please do not hesitate to contact me at (705) 564-7624.

Yours truly,

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

KLL/hrd

Encl.

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
NORTHEAST REGION

159 CEDAR STREET
3rd FLOOR, SUITE 303
SUDBURY, ONTARIO P3E 6A5



CABINET DU JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DU NORD-EST

159, RUE CEDAR
3^e ÉTAGE, BUREAU 303
SUDBURY (ONTARIO) P3E 6A5

TELEPHONE/TÉLÉPHONE (705) 564-7624
FAX/TÉLÉCOPIEUR (705) 564-7620

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the *Provincial Offences Act* and the rules for the Ontario Court of Justice, that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-Law No. 2024-019, of Seguin Township, Parry Sound District, attached hereto is the set fine for that offence. This Order is to take effect March 18, 2024.

Dated at the City of Greater Sudbury, this 18th day of March, 2024.

A handwritten signature in blue ink that reads "Karen Lische".

KAREN LISCHE
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

PART I Provincial Offences Act

By-law 2024-019: Tree Conservation By-law

Item	Column 1 Short form wording	Column 2 Provision creating or defining the offence	Column 3 Set fine
1	Injure/destroy/remove a tree within 20 metres of a Shoreline	4.1	\$1000.00 \$750. ⁰⁰
2	Injure/destroy/remove a tree within an area zoned Environmental Protection	4.2	\$1000.00 \$750. ⁰⁰
3	Injure/destroy/remove a tree without a permit	4.3	\$1000.00 \$750. ⁰⁰
4	Fail to re-vegetate or re-naturalize a Temporary Access Road	4.4	\$1000.00 \$750. ⁰⁰
5	Fail to comply with Order	4.6	\$1000.00 \$750. ⁰⁰
6	Pull down or deface Order	4.7	\$300.00
7	Fail to produce or post Permit	4.8	\$300.00
8	Fail to erect sedimentation fence	4.10	\$1000.00 \$750. ⁰⁰
9	Fail to maintain sedimentation fence	4.11	\$1000.00 \$750. ⁰⁰
10	Injure/destroy/remove a tree contrary to Agreement	4.12	\$1000.00 \$750. ⁰⁰
11	Injure/destroy/remove a tree before approval has been issued	4.13	\$1000.00 \$750. ⁰⁰
12	Fail to produce Arborist Report	4.14	\$1000.00 \$750. ⁰⁰
13	Injure/destroy/remove a tree while Permit is expired or revoked	7.10	\$1000.00 \$750. ⁰⁰

Krische

14	Hinder or Obstruct Officer	13.1	\$500.00
----	----------------------------	------	----------

NOTE: The penalty provision for the offences indicated above is Section 14 of By-law No. 2024-019, a certified copy of which has been filed.

K. Kricho