

The Corporation of the City of Kawartha Lakes

By-Law 2025-

Being a by-law to protect and enhance the healthy tree canopy in private ownership in the context of development by way of site plan, plan of subdivision, consent to sever, or plan of condominium, under sections 41, 51, or 53 of the Planning Act, respectively, or pursuant to the Condominium Act

Recitals

1. Subsection 10(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the “Municipal Act, 2001”) permits a single-tier municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, including respecting climate change.
2. Subsection 135(1) of the Municipal Act, 2001 permits a local municipality to enact by-laws to prohibit or regulate the removal, destruction or injuring of healthy trees.
3. Subsection 135(7) of the Municipal Act, 2001 provides that the by-law may require that a permit be obtained to injure or destroy trees and may impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees.
4. Subsection 270(1) of the Municipal Act, 2001 requires a municipality to adopt and maintain policies with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.
5. Council deems it appropriate to establish a tree protection by-law to regulate the destruction of trees caused by development pursuant to the Planning Act and Condominium Act, including development by way of subdivision, condominium, site plan and consent to sever land.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2025- .

Section 1.00: Definitions and Interpretation

1.01 Definitions:

“Applicant” is a Person who makes an application for a permit pursuant to this by-law.

“City” means The Corporation of the City of Kawartha Lakes or the geographic area of the City of Kawartha Lakes, as the context requires.

“City Arborist” means the Supervisor, Parks and Recreation, or their designate, including agent.

“Development” means the application to the City under the Planning Act or Condominium Act for the creation of new lots, including by way of plan of subdivision, plan of condominium or consent to sever, as well as the application to the City for a site plan agreement (which applies to residential buildings greater than 10 units, as well as to commercial and industrial buildings, within and in proximity to built up areas, pursuant to the Site Plan By-law), and includes related preservicing agreements with the City.

“Drip Line” means the area located directly under the outer circumference of the tree branches for a particular tree.

“Environmental Officer” means the person holding the title of “Planning Officer – Environmental Policy” and in employ with the City.

“Injure” or “Destroy” means damage to a tree that, in the Environmental Officer’s or City Arborist’s determination, is a healthy tree and the damage could inhibit or terminate its growth. This does not include trimming or pruning up to 30% of the crown of a tree in accordance with good arborocultural practice. Some examples include: removal, cutting, girding of the tree or roots, interfering with the water supply, application of chemicals, compaction or regrading within the Drip Line of the tree.

“Invasive” includes European Buckthorn, Scots Pine, and any other tree species, in the opinion of a certified arborist is considered to be an invasive species.

“Lot” means a separately-conveyable piece of property.

“Mature Tree” means a tree 5 inches or greater in diameter, measured at 4.5 feet from the ground. If a tree has been cut down such that identification is impossible, “Mature Tree” means a tree 5 inches or greater in diameter measured at its base.

“Municipal Law Enforcement and Licensing” means that Division of the City of Kawartha Lakes tasked with enforcement of the by-laws of the City, and “Municipal Law Enforcement Officer” means those employees within that Division, appointed for the purpose of enforcing the by-laws of the City.

“Navigable Waterway” means a lake, pond, river, stream, or any other area which is permanently covered by water but does not include a human-made drainage or irrigation channel, lands that are seasonally covered by water or lands which may be subject to intermittent flooding. The bed of a Navigable Waterway is in most cases in the ownership of the Province of Ontario or the Federal Government (Parks Canada, and managed by the Trent Severn Waterway Commission). The waterway should be traversable by canoe.

“Normal Farming Practice” has the same meaning as set out in the Ontario *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1.*

“Person” includes reference to an individual or a corporation.

“Permittee” is a person issued a Permit under this By-law.

“Regular Business Day” Is any day between Monday and Friday, inclusive of those days, and between 8:30 am and 4:30 pm. This does not include Saturdays, Sundays, statutory holidays in the Province of Ontario, and City office closures during the last week of December and first week of January.

“Threatened or Endangered Trees” means those species of trees listed as threatened, endangered or special concern and listed in Ontario Regulation 230/08 to the Ontario Endangered Species Act, 2007, S.O. 2007, c.6, as amended and replaced, and includes but is not limited to the butternut tree.

“Tree Canopy Reserve” means that financial reserve established by the City for the protection and enhancement of tree and vegetative cover (i.e. hedgerows) within the geographic confines of the City of Kawartha Lakes.

“Tree Protection Plan” A plan detailing tree protection on the entirety of the property. Tree Protection Plans must be legible, prepared by a certified Arborist (in the context of a subdivision or plan of condominium only) at a usable metric scale and include all the following information:

- Show all existing and proposed buildings, structures, hard surfaces and all existing mature trees (crown, including the crowns of trees with trunks on adjacent property where the crown overhangs the property boundary line so as to be partially on the property in question).
- Show the area of protection as demonstrating a commitment to retaining the maximum number of healthy, non-Invasive Mature trees, and being protected by adequate tree protection barriers (silt fencing or snow fencing).
- Show the area for construction as including all proposed changes on the property, including all proposed structures, services, hard surfaces and grade changes

- Indicate vehicular access and construction staging areas. Areas proposed for temporary stockpiling of fill shall be fenced with sediment control
 - Indicate location of all Mature Trees
 - Indicate location of any unhealthy trees
 - Indicate trees to be removed / injured, including timing of removal/ injury
 - Indicate trees to be replaced, including species, size, location, and timing of the replacements
 - Indicate location of all Threatened or Endangered Trees
 - Indicate location of Environmental Protection Zone, per the applicable Zoning By-law, Official Plan, or environmental study (prepared by the applicant in support of the development) on the property
 - Indicate boundary of 30 metre setback from a Navigable Waterway, as defined in section 2.01, on the property
- Include a comprehensive legend

1.02 Interpretation Rules:

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) Where a person cuts down trees on property zoned for development (that is, property zoned commercial, industrial or residential) and an exemption to this by-law has not been demonstrated, tree removal will be deemed to be tree removal in the context of development, and this by-law will be deemed to apply.

Section 2.00: Application

2.01 Application: This By-law applies to land in private ownership within the geographical boundaries of the City of Kawartha Lakes.

This By-law applies to situations in which the injuring or destruction of trees is pursuant to contemplated development of land (site plan application, application to subdivide land by subdivision or a consent to sever pursuant to sections 41, 51 or 53, respectively, of the Planning Act), or plan of condominium pursuant to the Condominium Act. In cases of a concurrent or planned Planning Act application, the site plan agreement, subdivision agreement or conditions to severance entered into under those sections will be consistent with and subject to this by-law.

2.02 Non-Application: This By-law does not apply to:

- (a) activities undertaken on land owned by the City;
- (b) activities undertaken pursuant to the Drainage Act;
- (c) agricultural activities or activities undertaken as an incidental part of a Normal Farming Practice on lands zoned for agricultural use in the applicable zoning by-law, or on lands with an established legal non-conforming agricultural use, including hobby farms;
- (d) 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, snowfall, freezes or as a result of insects, disease or wildlife;
- (e) the removal of trees for commercial or non-commercial personal use or reasons (i.e. to create vistas) by a landowner, when not in the context of Development;
- (f) the removal of trees in the context of a concurrent building permit issued under the Building Code Act for a building that is exempt from site plan control, or accessory buildings thereto, when not in the context of concurrent or planned Development (i.e. a site plan is not required);
- (g) the removal of trees for septic installation or repair in a non-Development context;
- (h) the removal of trees that, due to their proximity to an existing building or structure, will pose a hazard to that building or structure;
- (i) activities of utility companies and telecommunication companies, when not in the context of Development;
- (j) activities undertaken by a Conservation Authority;
- (k) activities undertaken by the Province of Ontario;
- (l) forestry activities;
- (m) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (n) cemetery operations;
- (o) the operations of a golf club or tree orchard, Christmas tree farm or nursery business;

(p) affordable housing developments initiated by the Kawartha Lakes Haliburton Housing Corporation or Habitat for Humanity

Section 3.00: Destroying and Injuring Healthy Trees Restricted

3.01 No Person shall, in the context of concurrent or planned Development, Destroy or Injure a healthy, non-ilvasive Mature Tree in the context of concurrent or planned Development except pursuant to a Permit, and consistent with the terms of said Permit.

3.02 Development Application; Form and Content – Development Fees:
Any Person who wishes to Injure, Destroy or remove a Mature Tree that is located on their property shall submit as part of their concurrent or planned development application (Planning Act Application: site plan application, a plan of subdivision or a consent to sever property pursuant to section 41, 51 or 53, respectively, of the Planning Act, or plan of condominium pursuant to the Condominium Act) to the Environmental Officer on the form set out on the City's webpage and shall provide the following to the satisfaction of the Environmental Officer:

1.1. A payment of \$1,500 per healthy Mature Tree to be removed to the satisfaction of the City in the case of tree removal from a Lot in the context of a concurrent or planned application for development pursuant to site plan application, plan of subdivision or plan of condominium, to an upset limit of \$250,000.00 per plan of subdivision or plan of condominium, as the case may be, or

1.1.1. \$375 per healthy Mature Tree to be removed to the satisfaction of the City in the context of a consent to sever or site plan application, to an upset limit of \$5,000.00.

Both fees are to be included into the Fees and Charges By-law 2018-234 and amended per that by-law. Fees are payable at time of execution of the related agreement. Where a series of agreements will be entered into for the same project, such as a preservicing agreement and a subdivision agreement, fees are payable at the time of execution of the first agreement, and no later than before any trees are removed.

1.2. A Tree Protection Plan satisfactory to the City.

3.03 The Environmental Officer may refuse to accept an Application or may deny an Application unless the Environmental Officer is satisfied that:

- (a) the Application is complete and legible;
- (b) an individual Applicant is not a minor;
- (c) the Application is by or on behalf of all Owners;
- (d) a corporate Applicant is incorporated pursuant to the laws of Ontario and is in good standing;
- (e) the Application is accompanied by payment in full of any fee established by Council;
- (g) the approval is not contrary to the Migratory Birds Act;
- (h) the approval is not contrary to the Endangered Species Act;
- (i) the approval is not contrary to the Conservation Authorities Act;
- (k) the approval does not permit cutting of trees on land designated for Environmental Protection, including but not limited to lands within a woodlot, a provincially significant wetland or the Oak Ridges Moraine Conservation Plan area.

3.04 In addition to conditions otherwise imposed pursuant to this By-law, the Environmental Officer or City Arborist may, at any time and from time to time, impose conditions to a Permit as the Environmental Officer or City Arborist determines are necessary to maintain the general intent and purpose of this By-law.

3.05 The Environmental Officer may issue a Permit (as part of the concurrent development agreement) to an Applicant if the Environmental Officer is satisfied that the Application complies with sections 3.02 & 3.03. The Environmental Officer may otherwise refuse to issue a Permit.

3.06 If the Environmental Officer issues a Permit with conditions pursuant to section 3.07 or refuses to issue a Permit pursuant to section 3.03 - 3.05, the Environmental Officer will give the Applicant a Permit Decision Notice that includes the following information:

- (a) where a Permit is issued with conditions pursuant to section 3.07, particulars of the conditions;
- (b) where a Permit is refused, particulars of the reasons for refusing to issue the Permit.

3.07 Conditions Applicable to all Permits: Each of the following is a condition of obtaining and continuing to hold a Permit:

- (a) Compliance with good arboricultural practices (timing of cutting will be in accordance with the Migratory Birds Conservation Act);
- (b) No cutting, digging or heavy machinery will be permitted within the Drip Line of trees to be protected;
- (c) Tree protection barriers must remain in place and in good condition during demolition, construction and/or site disturbance, including landscaping;
- (d) the Permittee is not to cut – or allow anyone to cut – any tree that is Threatened or Endangered pursuant to the Species At Risk in Ontario List, Ontario Regulation 230/08, as amended and replaced, without first getting the necessary permits and approvals from the Ministry of Natural Resources pursuant to the Endangered Species Act, 2007, c.6, as amended and replaced;
- (e) the Permittee is not to cut – or allow anyone to cut – any Mature Tree located within the Environmental Protection zone of the applicable City Zoning By-law, which includes but is not limited to lands within the Oak Ridges Moraine Conservation Plan area (this provision does not apply to utility or telecommunication providers, nor does it apply to the destruction of a tree that constitutes a hazard in the opinion of the City Arborist);
- (f) the Permittee shall ensure that the Permit is posted on the Lot on which the Mature Trees are to be Injured or Destroyed. The Permit shall be posted on a location that is visible from the adjacent street edge for the entire period of time during which the Trees are being Injured or Destroyed, and for one week thereafter.
- (g) the Permittee provides to the Environmental Officer and/or City Arborist such information as the City Arborist and/or Environmental Officer may from time to time require in relation to this By-law;
- (h) the Permittee complies with all applicable law respecting the subject matter of the Permit including this By-law; and
- (i) the Permittee notifies the Environmental Officer in writing of any change to the information provided in an Application within three days of the change.

3.08 Permit Revocation: Where the Environmental Officer has reason to believe that a Permittee has not complied with this By-law, the Environmental Officer may give to the Permittee a Permit Revocation Notice that includes the following information:

- (a) a statement that the Permit is revoked; and

(b) particulars of the reasons for which the Permit is revoked.

3.09 Notice to Comply: A Municipal Law Enforcement Officer may give to the Permittee a **Notice to Comply** that provides a period in which the Permittee is to come into compliance with this By-law and the particulars of how the Permittee will come into compliance.

3.10 Offences and Fines: Each Person that contravenes section 3.01, 3.02, or 5.03 of this By-law, or fails to comply with the terms of a Notice to Comply issued pursuant to section 3.09, is guilty of an offence and, upon conviction, is liable to a fine of:

- (a) not less than double the costs that would have been payable pursuant to a Permit, being no less than \$750 per Mature Tree damaged, injured or removed/cut down without a Permit or not in accordance with the terms of a Permit for tree removal in support of a consent to sever land or \$3,000 otherwise (note costs are 2025 costs and subject to inflation and increase pursuant to the Fees and Charges By-law 2018-234). This fine is a special fine per section 429 of the Municipal Act, 2001, in that it is designed to prevent economic incentive to contravene the By-law.
- (b) Or, in the case that paragraph 3.10(a) is inapplicable in the circumstances, such as in the case of a contravention of section 5.03 or otherwise: The minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000.

3.12 Offences and Fines – Corporation: Each officer and director of a corporation that knowingly concurs in the contravention of sections 3.01, 3.02, 3.09 or 5.03 of this by-law, or fails to comply with the terms of a Notice to Comply issued pursuant to section 3.09 of this by-law, is guilty of an offence and liable upon conviction to the minimum fines set out in section 3.10 of this by-law.

3.13 Multiple Offences: The conviction of a person for the contravention or breach of any provision of this by-law shall not operate as a bar to the prosecution against the same person for any subsequent or continued breach or contravention of any provision of this by-law. Each day that the offence continues shall be deemed a separate and distinct offence. The offence is designated as a multiple offence per section 429 of the Municipal Act, 2001.

Section 4.00: Notice or Order

4.01 Any notice or order to be given to a Person other than the City is sufficiently given:

- (a) when given verbally to the Person:
- (b) when hand delivered in writing to the Person;
- (c) on the fifth day after it is sent by regular lettermail to the Person's last known address; or
- (d) when sent to the Person by e-mail to the Person's last known address (except in the case of notice of entry, in which case electronic mail does not constitute sufficient notice).

A Person's last known lettermail or e-mail address are those provided by the Applicant to the City pursuant to this By-law.

4.02 Any notice to be given to the City is sufficiently given:

- (a) on the fifth Regular Business Day after it is sent by regular lettermail to "Environmental Officer, Planning and Development, 180 Kent Street West, Lindsay ON K9V 2Y6 ; or
- (b) when sent by e-mail on a Regular Business Day to "treebylaw@kawarthalakes.ca".

Section 5.00: Enforcement Powers

5.01 A Municipal Law Enforcement Officer may enter on privately-owned lands at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) a provision of this By-law;
- (b) the terms and conditions of a Permit; and
- (c) a direction or an Order under this By-law.

5.02 A Municipal Law Enforcement Officer may, for the purpose of an inspection:

- (a) require the production for inspection of documents or things relevant to the inspection, including but not limited to government-issued photo identification or a Permit;
- (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 purposes of the inspection;

(e) order the Permittee to take and supply at the Permittee's expense such tests and samples as are specified; and

(f) enter upon any property for the purposes of conducting an inspection to ensure compliance.

5.03 No person shall hinder or obstruct an Environmental Officer, City Arborist or Municipal Law Enforcement Officer from performing any of their duties as provided for in this By-law.

Section 6.00: Administration and Effective Date

6.01 Administration of the By-law: The Environmental Officer and the Director of Development Services are responsible for administration of this by-law for the purposes of issuing, revoking or denying Permits, and the Municipal Law Enforcement and Licensing Office is responsible for enforcement of the offence sections of this by-law.

6.02 Financial Administration of the By-law: The Environmental Officer is responsible for intaking payments per section 3.02. The Environmental Officer will notify the Finance Division of the payment per section 3.02. The Finance Division will place these proceeds into the Tree Canopy Reserve and earmark the funds for tree canopy or creation in shoreline areas or environmentally-protected areas.

(a) **Upon conviction of an offence pursuant to this by-law, and payment of a fine per sections 3.10 or 3.11,** the Provincial Offences Office will notify the Finance Division of fine recovery net of provincial payment, and the Finance Division will place this amount into the Tree Canopy Reserve and earmark the funds for tree canopy or creation in shoreline areas or environmentally-protected areas.

6.03 Effective Date: This By-law shall come into force on July 1, 2025.

By-law read a first, second and third time, and finally passed, this [redacted] day of [redacted], 2025.

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