

THE CORPORATION OF THE TOWNSHIP OF SEGUIN

BY-LAW No.2008-103

“Being a By-law to regulate the protection, preservation and removal of Trees within the Township of Seguin”

This By-law applies only to shoreline areas (20 metres inland from the high water mark) and to land zoned Environmental Protection (EP)

The primary intent of this By-law is to protect and preserve water quality and the visual environment by prohibiting the clear cutting of Trees and vegetation on shoreline areas and on EP lands. Trees and vegetation are significant positive contributors to water quality. They absorb nutrients such as phosphorus and nitrogen which otherwise would have entered and harmed the water system.

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

- A maximum of 10% of Trees may be removed and the cleared area may be maintained open and free of Trees;*
- The permitted removal of 10% of Trees must be distributed throughout the shoreline area and can not be concentrated in one physical area;*
- In accordance with good forestry practice, Trees may be trimmed and pruned to provide “viewing windows”;*
- Dead, diseased, or hazardous Trees may be removed at any time.*

There are no licences, permits or fees required with this By-law.

This By-law is flexible. Council may grant exceptions.

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

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

- Protecting the Trees in shoreline areas for the purpose of habitat protection, water quality protection, aesthetics and implementing the Township of Seguin Official Plan;

- Protecting and conserving the Trees in Environmental Protection zones;
- Sustaining a healthy natural environment;
- Protecting significant and sensitive natural areas by maintaining the maximum benefits of Trees in shoreline areas;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of The Township of Seguin as follows:

1.0 DEFINITIONS

In this By-law:

- (a) “Clerk” means the Clerk for The Corporation of The Township of Seguin;
- (b) “Council” means the Council of The Corporation of The Township of Seguin;
- (c) “Destroy” means the injuring or removal of Healthy Trees by cutting, burning, uprooting, chemical application or other means;
- (d) “Diameter at Breast Height” (d.b.h.) means the outside bark diameter of a Tree at breast height. Breast height is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line.
- (e) “Good forestry practice” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments of forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;
- (f) “Hazardous Tree” means a dead or severely damaged Tree that may pose a danger to persons or property;
- (g) “Injure” means to do harm, damage, or impair;
- (h) “Inspector” means the following persons who are authorized to carry out any of the powers or duties pursuant to this By-law, for the period of their employment with the Township;
 - By-law Enforcement Officers as appointed by Council

- (i) “Owner” means any person, firm or corporation controlling, maintaining or occupying the land upon which Tree cutting is, or is to be, undertaken;
- (j) “Person” includes a company, a corporation, a partnership or an individual person, and the singular shall include the plural;
- (k) “Shoreline” means the line at which the normal or controlled high water mark of a lake or river meets the land”;
- (l) “Shoreline Area” means the area of land abutting a water body that lies inland from the water’s edge to a line which is 20 metres inland, measured horizontally, from the high water mark (which is not necessarily the water’s edge);
- (m) “Tree or Healthy Tree” means any living species of a stemmed perennial woody plant, with a Diameter at Breast Height (d.b.h.) of 6 inches (15.24 cm) or greater.
- (n) “Township” means The Corporation of The Township of Seguin; and,
- (o) “Zoning By-law” means the Township of Seguin Zoning By-law No. 2006-125, as amended.

2.0 AREA OF APPLICATION OF THE BY-LAW

2.1 This By-law shall only apply to the following areas of the Township:

- (a) lands within the Environmental Protection Zone (EP) in the Zoning By-law; and,
- (b) Shoreline areas.

3.0 PROHIBITION

3.1 No person shall destroy or permit or cause to be destroyed any Healthy Tree located within lands zoned Environmental Protection “EP” by the Zoning By-law, except as noted in paragraph 4.0 Exemptions of this By-law.

3.2 No person shall destroy or permit or cause to be destroyed any Healthy Tree located within the Shoreline Area, except as noted in Paragraph 4.0 Exemptions of this By-law.

4.0 EXEMPTIONS

4.1 Section 3 of this By-law does not apply to:

- (a) a maximum of 10% of the Trees distributed throughout the Shoreline Area may be removed and the area where the Trees have been removed may be maintained open and free of Trees;
- (b) activities or matters undertaken under a licence under the *Crown Forest Sustainability Act, 1994*;
- (c) the injuring or destruction of Trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (d) the injuring or destruction of Trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively of *The Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (e) the injuring or destruction of Trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- (f) 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;
- (g) the injuring or destruction of Trees undertaken on land described in a license for pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- (h) the injuring or destruction of Trees within 3 metres of any building or structure where a building permit has been issued.
- (i) the maintenance of a Tree in accordance with good forestry practice including the trimming and pruning of Trees;
- (j) the removal of a dead, diseased or hazardous Tree;
- (k) the removal of a damaged or destroyed Tree where the removal is in the interest of public safety, health or general welfare

following any man-made or natural disasters, storms, high winds, floods, fires, snowfall or freezes; and,

- (l) a Tree injured or destroyed in compliance with a Tree preservation plan or site plan approved by Council, or designated authority;

5.0 CONSIDERATION BY COUNCIL

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

6.0 ENFORCEMENT

Enforcement of this By-law shall occur in accordance with the *Municipal Act, 2001* as set out in the following sections:

- 6.1 Notwithstanding Section 435 of the Municipal Act, 2001 S.O. 2001, c. 25, the Inspector for the Township, having probable cause to believe that a violation of this By-law is occurring or has occurred may enter the lands at any reasonable time for the purpose of inspecting the site to determine whether there is a violation of any or all portions of Section 3 of this By-law and to prevent further destruction.
- 6.2 Where a person is convicted of an offence under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to prepare a Tree restoration plan and replant or have replanted such Trees in such manner and within such a period of time as the court considers appropriate, including any treatment necessary to reestablish the Trees or have the Trees re-established.
- 6.3 Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable for the following fines:
 - (a) On a first conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$10,000.00; and
 - (b) On any subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$25,000.00.

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

- (a) On a first conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$50,000.00; and
- (b) On any subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of not more than \$100,000.00.

6.5 Where a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted or any other person.

7.0 SEVERABILITY

7.1 Where a court of competent jurisdiction declares any section or part of a section of this By-law to be invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

8.0 REVOCATION OF WRITTEN AUTHORIZATION

8.1 Council and/or the Inspector may revoke written authorization that has been previously granted where:

- (a) the terms and conditions of the written authorization are not complied with; or,
- (b) any instructions or directions of the Council and/or Inspector are not complied with.

9.0 AMENDMENTS TO THIS BY-LAW

9.1 Where Council deems it desirable to make amendments to this By-law, Notice shall be provided of the intent to consider said amendments and that Notice shall be as prescribed in the Township's By-law to prescribe the form and manner and times for the provision of Notice under the Municipal Act.

9.2 Where Council deems it desirable to make amendments to this By-law, at least one Public Meeting shall be held to hear public comments on the proposed amendments.

10.0 EFFECTIVE DATE OF BY-LAW

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

By-law Read a **FIRST, SECOND** and **THIRD** time and **FINALLY PASSED** this day
of , 2008.

Mayor - David Conn

Clerk - Craig Jeffery