

THE CORPORATION OF
THE COUNTY OF HALIBURTON
BY-LAW DRAFT 2020

“Shoreline Preservation By-law”

BEING A BY-LAW TO PRESCRIBE STANDARDS FOR THE MAINTENANCE AND OCCUPANCY OF SHORELINE PROPERTIES WITHIN THE COUNTY OF HALIBURTON;

AND TO PROHIBIT AND REGULATE THE REMOVAL OR DESTRUCTION OF NATURAL VEGETATION WITHIN SHORELINE AREAS TO PROTECT THE ENVIRONMENTAL WELL BEING OF THE COUNTY OF HALIBURTON;

AND TO PROHIBIT AND REGULATE THE PLACING OR DUMPING OR REMOVAL OF FILL, THE REMOVAL OF TOPSOIL AND THE ALTERATION OF THE GRADE OF LAND ON SHORELINE PROPERTIES WITHIN THE COUNTY OF HALIBURTON;

AND TO CONSERVE, PROHIBIT, PROTECT, RESTRICT, AND REGULATE THE PROTECTION, PRESERVATION AND REMOVAL OF TREES ON SHORELINE PROPERTIES IN THE COUNTY OF HALIBURTON.

WHEREAS, Section 11 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes an upper-tier municipality to pass by-law respecting the environmental well-being of the municipality;

AND WHEREAS, Section 128 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes a local Municipality to prohibit and regulate with respect to public nuisances, including matters that are or could become or cause public nuisances;

AND WHEREAS, Section 129 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes a local Municipality to prohibit the matters described unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS, Section 135 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes a local Municipality to prohibit and regulate the destruction or injuring of trees;

AND WHEREAS, Section 135(7) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, authorizes 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, Section 142 of the Municipal Act 2001, S.O. 2001, c.25, as amended, permits the enactment of a by-law to prohibit or regulate the placing or dumping of fill, the removal of topsoil, alteration of the grade of the land and require that a permit be obtained for the above and impose conditions to a permit, including the preparation of plans acceptable to the municipality related to the above;

AND WHEREAS Section 398 of the Municipal Act, authorizes a municipality to add fees and charges to the tax roll for a property and collect them in the same manner as municipal taxes;

AND WHEREAS, Section 425 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes a municipality to pass by-laws providing that a person who contravene a by-law of the municipality passed under Municipal Act is guilty of an offence;

AND WHEREAS, Section 429 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes a municipality to establish a system of fines for offences under a by-law of the municipality passed under the Municipal Act;

AND WHEREAS, Section 431 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes that where any by-law of a municipality under the Municipal Act is contravened and a conviction entered, in addition to any other remedy and to 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 and requiring the person convicted to correct the contravention;

AND WHEREAS, Sections 435 and 436 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes a municipality to permit the power of entry to be exercised by an employee, officer or agent of the municipality and that entry on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the by-law of the municipality passed under the Municipal Act is being complied with;

AND WHEREAS, Section 444 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes that where a municipality is satisfied that a contravention of a by-law of the municipality passed under the Municipal Act has occurred, 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 WHEREAS, Section 445 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes that where a municipality is satisfied that a contravention of a by-law of the municipality passed under the Municipal Act has occurred, 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 do work to correct the contravention;

AND WHEREAS, Section 446 of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes that where a municipality has passed a by-law under the Municipal Act the municipality has the authority under the Municipal Act or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS, pursuant to Sections 135(10) and 142(3) of the Municipal Act, a lower-tier municipality may delegate all or part of its power to pass a by-law to its upper-tier municipality with the agreement of the upper-tier municipality;

AND WHEREAS, pursuant to Sections 145 and 146 of the Municipal Act an agreement may be entered into between the Upper-Tier and Lower-Tier Municipality as it would relate to the designation of Officers to enforce this by-law;

AND WHEREAS, the lower-tier municipalities, within the County of Haliburton, have indicated their intent to delegate to the County of Haliburton their power to pass a by-law respecting the above in areas adjacent to shorelines, all lands within 30 metres of the high water mark;

AND WHEREAS, the County of Haliburton has agreed to accept the delegation from the lower-tier municipalities to pass a by-law respecting the above in areas adjacent to shorelines, all lands within 30 metres of the high water mark;

AND WHEREAS, the Council for the County of Haliburton deems it desirable and in the public interest to enact a Shoreline Preservation By-law for protecting areas adjacent to the shorelines of lakes, rivers and navigable waterways for the purpose of achieving:

- The objectives of the Official Plan for the County of Haliburton;
- No further loss of natural shorelines within the County of Haliburton;
- A greater proportion of natural/native vegetative contiguous cover;
- A minimum 75 percent natural/native vegetative cover overall;
- A minimum 50 percent high quality natural vegetative cover;
- A naturalized riparian areas on lakes and along rivers/streams;
- An increased ecological health based on the status of indicator species and maintenance of natural biodiversity;
- Decreased destruction or injuring of trees, natural vegetation, habitat and natural areas;
- Reduction of negative impacts on the environment;
- Contributing to human health and quality of life;
- Maintaining water quality;
- Maintaining and enhancing natural habitat;
- Preventing soil erosion and water run-off;
- Preventing topographical changes to the shoreline areas; and
- Protecting fish habitat as defined in the Fisheries Act, Revised Statute of Canada 1985

AND WHEREAS, the County of Haliburton as an upper-tier municipality is entitled to pass by-laws for such purposes above, and for regulating, prohibiting and requiring persons to do things respecting the subject matter of its by-laws pursuant to the Municipal Act 2001, S.O. 2001, c.25, as amended, sections 2, 8, 9 and 11, and in particular clauses 5, 6 and 8 of subsection 2;

AND WHEREAS it has become expedient for the general and long term welfare of the inhabitants of the County of Haliburton to maintain and improve all shoreline areas within the County of Haliburton by conserving in a natural vegetative state and/or improving the 30 metres inland from the high watermark of all waterbodies in the County;

NOW THEREFORE, the Council of the County of Haliburton enacts as follows:

1. INDEX

1. Index
2. Short Title
3. Interpretation
4. Scope
 - PART 1 – Areas of Application
 - PART II – Prohibitions
 - PART III – Exemptions
5. Relief
6. Service Fees
7. Inspection
8. Orders

9. Penalty
10. Cost Recovery
11. Severability and Conflict with Other By-laws
12. Schedules
13. Commencement

2. THE SHORT TITLE of this By-law is the 'Shoreline Preservation By-law'.

3. INTERPRETATION

1) This by-law includes the Schedules annexed hereto and the Schedules are hereby declared to form part of this by-law.

2) This by-law is gender-neutral and, accordingly, any reference to one gender includes the other.

3) References to items in the plural include the singular, as applicable, unless used with a number modifying the term.

4) Dimensions specified in metric units shall be the official dimensions. Imperial dimensions contained in parentheses are provided as a convenience only.

5) In this by-law, the word "metre" shall be represented by the abbreviation "m", the word "centimetre" shall be represented by the abbreviation "cm".

6) It is declared that if any section, subsection or part thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

7) Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

8) Unless specified otherwise below, this by-law applies to all lands within the geographical limits of the County of Haliburton other than those areas which are subject to regulations made under Section 28(1) of the Conservation Authorities Act, as amended.

9) In this By-law:

"adjacent" means abutting or contiguous;

"adverse effects" as defined in the *Environmental Protection Act*, means one or more of: a) impairment of the quality of the natural environment for any use that can be made of it; b) injury or damage to property or plant or animal life; c) harm or material discomfort to any person; d) an adverse effect on the health of any person; e) impairment of the safety of any person; f) rendering any property or plant or animal life unfit for human use; and g) loss of enjoyment of normal use of property;

"agricultural lands" includes all lands that are cultivated and/or used for the raising of livestock;

“alteration” or **“site alteration”** means a change in elevation from Existing Grade or Finished Grade resulting from:

- (i) The Placing or Dumping of fill;
- (ii) The Removal of topsoil;
- (iii) Placing, Dumping, Removal, or Blasting of Rock; or,
- (iv) Any other action that alters the Grade of land including the Altering in any way of a Natural Drainage Course on a Site

“Alter”, “Altered” and “Altering” shall have a corresponding meaning;

“applicant” means the owner of the site, where such owner is an individual or means any person, authorizes in writing by the owner, to apply for a permit on the owner’s behalf;

“authorized agent” means a person acting on behalf of the owner as designated on the application;

“body of water” 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;

“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 County of Haliburton;

“council” means County of Haliburton Council;

“county” means the Corporation of the County of Haliburton;

“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; and
means the removal of natural vegetation or harm resulting in the death, ruin or removal of natural vegetation by any means that may result from accident or design or site alteration;

“development” means the construction of buildings or structures and above or underground services such as roads, parking lots, paved storage areas, water mains, storm and sanitary sewers, general grading works and similar facilities on any site;

“diameter” means the width measured outside the bark at a specified point of a tree stem or trunk;

“director” means the Director of Planning for the County or their designate provided such designate is an officer appointed under this By-law;

“DBH” (refers to “diameter at breast height”) means the diameter of the stem of a tree measured at a point 1.37 metres from the ground;

“drainage” means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by artificial means;

“dumping” and **“dump”** means the depositing of Fill in a location other than where the Fill was obtained or the movement and depositing of Fill from one location on a property to another location;

“erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity;

“fill” means any type of material capable of being removed from or deposited on lands, including, but not limited to: soil, stone, sod, turf, concrete, wood, stumps, rock, asphalt, granular material, either singularly or in combination;

“fish habitat” means spawning grounds and any other areas including nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes;

“good arboriculture practice” means the proper implementation of, renewal and maintenance activities known to be appropriate for individual trees to minimize detrimental impacts and includes pruning of trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate removal of not more than one-third of the live branches or limbs of a tree;

“good forestry practices” 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 to forest values including significant eco-systems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics’ and recreational opportunities of the landscape;

“grade” means the elevation of the ground surface and shall be more particularly defined as follows:

“existing grade” means the elevation of the existing ground surface of the lands upon which Dumping and/or Placing of Fill, Altering of the Grade, Removing of topsoil, or Blasting of Rock is proposed. Existing Grade shall mean the ground surface of such lands as it existed prior to the said activity;

“finished grade” means the approved elevation of ground surface of lands upon which Fill has been Placed or Dumped, the Grade Altered or topsoil Removed, in accordance with this By-law;

“high water mark” means the usual or average level to which a body of water rises at its highest point and remains for a sufficient time so as to change the characteristics of the land. On a body of water where the water level is regulated by control structures, this means the regulated high water mark;

“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” and “injuring” shall have corresponding meaning;

“landscaping, minor” means yard maintenance activities, the construction of a walkway or pathways, native flowerbeds, and similar landscaping features where the landscaping does not significantly alter the topography of the lands and shall not increase the flow or the rate of flow of surface water to the adjacent lands or the adjacent lake or water body but does not include the planting or creation of lawns or installation of an in ground pool;

“lower-tier municipality” means the “Township of Algonquin Highlands”, “Municipality of Dysart et al”, “Municipality of Highlands East”, and/or “Township of Minden Hills”;

“licence”, in relation to a licence issued under this By-law, includes a permit, an approval, a registration and any other type of permission, and “licensing” has a corresponding meaning; (“permit”);

“municipality” means a geographic area whose inhabitants are incorporated;

“native vegetation” means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the County of Haliburton and which reasonably could have been expected to naturally occur on the site.

“natural drainage course” means a valley or elongated depression created by naturally flowing water that varies in size and may be dry or contain intermittent, ephemeral or perennial running water, including a lake, river, stream, creek, spring, ravine, wetland and gulch with well-defined banks and a bed that gives direction to a water course, but excludes roadside ditches, Drainage ditches and irrigation works;

“navigable waterway” means all bodies of water that are capable of being navigated by any type of floating vessel for transportation, recreation or commerce. Frequency of navigation may not be a factor in determining a navigable waterway;

“nuisance” includes;

- (i) obstructing an officer in the course of his or her duties; and
- (ii) any other activity or conduct that is disorderly or obnoxious.

“officer” means a person designated by By-law by Council as an Officer for the purposes of enforcing this By-law and for the purposes of exercising any power of entry under this By-law, includes a police officer;

“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;

“order” means a directive requiring a person to stop the injuring or destruction of trees, rehabilitate the land or plant or replant trees in such a manner and within such a period as the Officer considers appropriate, including any treatment necessary to re-establish the trees;

“owner” means a person having any right, title, interest or equity in land or any such person’s authorized representative;

“permit” means permission or authorization given in writing by the County of Haliburton to perform work regulated by this by-law or part thereof and shall include all information contained within the approved site alteration plan and any special conditions identified;

“person” means an individual, a corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

“placing” means the distribution of Fill on lands to establish a Finished Grade; “place” and “placed” shall have a corresponding meaning;

“proposed grade” means the proposed elevation of ground surface of land upon which fill is proposed to be placed or dumped, the grade altered, topsoil or rock removed;

“public land” includes horticultural landscapes and hard landscapes located on land which is owned or under the control of the Crown, County, or lower tier municipality, including a right of way or road allowance;

“qualified arborist” means an expert in the care and maintenance of trees and includes an arborist certified by the Ontario Ministry of Training, Colleges and Universities or the International Society of Arboriculture, or a consulting arborist registered with the American Society of Consulting Arborists;

“qualified person” means a person who holds a license, registration or associate membership qualifying them to complete specified technical work or an environmental consultant approved by the Director that possess expert knowledge in regard to matters contained within this by-law (engineer, planner, biologist, forester, tree marker);

“qualified tree marker” means:

- (i) an individual who is a Certified Tree Marker in good standing as designated by the Ontario Ministry of Natural Resources Certified Tree Marker Training Program; or
- (ii) a Registered Professional Forester qualified to do tree marking; or
- (iii) an Associate Member of the Ontario Professional Foresters Association qualified to do tree marking;

“rehabilitation” restoration of the ecosystem to a higher functioning condition;

“remove, removing, 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;

“removing” in reference to site alteration means any type of material extracted and taken away from lands and includes but is not limited to sand, soil, stone, granular material, concrete, asphalt, either singularly or in combination;

“rock blasting” means to break up or dislodge various rock material, in compliance with Ontario Provincial Standard Specification, to form or open up land through various means

including, but not limited to, explosives or hydraulics; “Blasting of Rock” shall have a corresponding meaning;

"sewage" includes any liquid waste containing human, vegetable or mineral matter, waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm run-off;

“silvicultural prescription” means a site-specific operational plan that describes the existing forest conditions and the forest management objectives for an area, and professional recommendations for harvesting and controlling the establishment, composition, constitution, and growth of forests from seedlings through to the desired endpoint of the forest stand in a manner that accommodates other resource values as identified;

“shoreline” means an area inland 30 metres, measured over a horizontal distance, from the high water mark of a body of water;

“site” means the area of land located within a shoreline:

- a) containing any tree(s) proposed to be injured;
- b) containing natural or native vegetation; and/or
- c) where alteration will occur;

“soil” means material commonly known as earth, topsoil, loam, clay, subsoil, sand or gravel;

“spawning ground” means a spawning ground as documented by the Ministry of Natural Resources, County or a Lower-tier Municipality;

“steep slope” means any area with a slope of 25% or more, measured over a horizontal distance inland of 45 metres from the high water mark, along a continuous shoreline frontage of 25 metres;

“tree” means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity;

“tree protection plan” means a plan prepared by a Qualified Arborist;

"waste" means material or effluent that:

- 1) appears to have been cast aside or discarded or abandoned, or
- 2) appears to be worthless or useless or of no practical value, or
- 3) appears to be used up, in whole or in part, or expended or worn out in whole or in part, notwithstanding that the owner of such material intends to repair it or render it fit for a useful purpose.

4. SCOPE

PART I – Areas of Application

1. This by-law shall apply to all lands within the County of Haliburton situated within 30 metres measured over a horizontal distance inland from the high water mark of a body of water. Part

II, subsections a) and c), does not apply to trees in woodlands greater than 4 hectares that are regulated by County Forestry By-law 3196, as amended, or any successor thereof.

PART II – Prohibitions

1. Environmental Well-Being

a. No person shall remove, destroy or injure any native vegetation or permit or cause any other person to destroy or injure any native vegetation located in an area described in Part 1 – Areas of Application, of this By-law unless:

- (i) exempted by Part III of this By-law; or
- (ii) the county grants relief to the owner pursuant to section 5 of this By-law.

2. Public Nuisances

a. No person shall continue to engage in any type activity prohibited by this by-law when requested to stop by an officer or the occupier of the property.

b. No person shall obstruct, hinder or otherwise interfere with an officer while carrying out an investigation, making inquiries, or performing an inspection for the purposes of enforcing this By-law.

3. Trees

a. No person shall destroy or injure any tree or permit or cause any other person to destroy or injure any tree located in an area described in Part 1 of this By-law unless:

- (i) exempted by Part III of this By-law; or
- (ii) Council grants relief to the owner pursuant to section 5 of this By-law.

b. No person shall destroy or injure any tree or permit or cause any other person to destroy or injure any tree located on municipally owned road allowance or shore road allowance.

4. Site alteration

a. No person shall place or remove fill, or cause or permit any site alteration on lands within the area defined in this By-law as the shoreline, except as noted in Part III Exemptions or Part 5 Relief.

b. Where a person has carried out a site alteration activity contrary to this by-law, that person, the owner and the permit holder shall each be jointly responsible for the restoration of the site to the pre-existing conditions or to the satisfaction of the director.

c. No site alteration shall be permitted within any areas designated as Provincially Significant Wetland, Areas of Natural or Scientific Interest, Environmental Protection or Hazard Land as identified in the County or local Official Plans.

d. No person shall permit or cause to be permitted any site alteration activities unless:

- i) It is done at the request of or with consent of the owner of the site where fill is to be placed, dumped or removed;
 - ii) All non native or imported fill to be placed is clean and free of trash, rubbish, glass, liquid or toxic chemicals and meets the standards set out in the Soil, Groundwater and Sediment Standards referenced in O. Reg 153/04;
 - iii) The drainage system for the site is provided in accordance with this by-law and all other applicable by-laws and the Director is satisfied that the provision has been made where such drainage is not provided by natural gradients or a swale;
 - iv) Erosion and sediment control requirements are met as required by this by-law.
- e. No person shall carry out any site alteration on any site during any period in which a wind warning or a severe storm warning for the area has been issued by Environment Canada, except for mitigation measures designed to prevent adverse impacts.
- f. No person shall carry out any site alteration adjacent to or within 30 metres of wetlands, fish habitat, significant wildlife habitat, habitat of endangered or threatened species, areas of natural or scientific interest and body of water without having been issued a permit under this by-law.
- g. No person shall permit or cause to be permitted any site alteration activities, no permit shall be issued for proposed site alteration that will result in:
- Soil erosion
 - Blockage of a storm drainage system;
 - Blockage of a natural drainage system or watercourse;
 - Siltation or pollution in a body of water;
 - Flooding or ponding caused by a watercourse overflowing its banks;
 - Flooding or ponding on a neighbouring property or adverse effect on the amenities adjacent to the site to which the permit relates;
 - A negative impact on any environmental protection area, area of natural or scientific interest, wetlands or fish habitat;
 - The contamination of soil or groundwater; and
 - An adverse effect to archaeological or historically significant features.
- h. No Person, Owner or Occupant shall, or shall permit any Person to, Alter or Obstruct, or cause or contribute to the Obstruction of a Ditch, Drain, or lot grade such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern and causes or is likely to cause an adverse condition on any abutting Property.
- i. No Owner or Occupant shall allow a private Ditch or Drain to fall into disrepair such that the flow of storm, rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern and causes or is likely to cause an adverse condition on any abutting Property.

PART III – EXEMPTIONS

1. The provisions of Part II subsection 3 of this By-law do not apply to:

- (a) activities or matters undertaken by the County or a Lower-tier Municipality or a local board of the County or a Lower-tier Municipality; or
- (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*; or
- (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; or
- (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; or
- (e) the injuring or destruction of trees imposed after December 31, 2002 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; or
- (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; or
- (g) 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*; or
- (h) 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*; or
- (i) activities or matters undertaken by the provincial government or federal government or their authorized agents; or
- (j) 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; or
- (k) the injuring or destruction of trees in accordance with a Permit issued under Section 5 of this By-law or the County of Haliburton Forest Conservation By-law No. 3196, as amended, or any successor thereof; or
- (l) the injuring or destruction of trees in accordance with Good Forestry Practices described in a Silvicultural Prescription approved by an OPFA Member, and in accordance with tree marking carried out by a Qualified Tree Marker; or

- (m) the injuring or destruction of trees in accordance with Good Arboriculture Practice described in a Tree Protection Plan prepared by a Qualified Arborist, and in accordance with tree marking carried out by a Qualified Arborist; or
- (n) the destruction or injuring of trees that is reasonably required in order to install and provide utilities to the construction or use of the building, structure or thing in respect of which a Building Permit has been issued; or
- (o) the injuring or destruction of trees that is required in order to erect or maintain a buffer around any existing building, structure or thing in respect of which a building permit is issued and has taken into consideration the protection of trees surrounding the structure or work within the building envelope, provided that no tree is destroyed or injured that is located more than 5 m from the outer edge of the building, structure, septic system, or thing; or
- (p) the injuring or destruction of trees that is required to replace any structure or thing permitted as an exemption to the setback in the Comprehensive Zoning By-law of a Lower-tier Municipality provided that no tree is destroyed or injured that is located more than 3 m from the outer edge of the structure or thing; or
- (q) the destruction or injuring of trees that is reasonably required in order to install a single lane driveway for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued provided that no tree is destroyed or injured that is located more than 2.5 metres from the centreline of the driveway; or
- (r) the destruction or injuring of trees that is reasonably required in order to install a pathway no wider than 5m to gain access to the water; or
- (s) the injury or destruction of trees measuring less than 5 cm DBH; or
- (t) the injury or destruction of severely damaged trees in the interest 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; or
- (u) the injury or destruction of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good arboricultural practice; or
- (v) 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; or
- (w) the pruning of tree branches, in accordance with good arboricultural practice, to permit a view of the water from the primary building, provided such pruning maintains and protects tree health and surrounding forest health;
- (x) Despite the foregoing, in areas of steep slopes, Part III subsections (n)(r)(s)(t) and (u) shall only apply when stumps and root systems are not disturbed or removed; and
- (y) Despite the foregoing, in areas adjacent to identified fish habitat, Part III subsections (n)(o)(p)(q)(r) and (s) shall not apply; and

- (z) Despite the foregoing, Part III subsections (k)(n)(o)(p)(q) and (s) shall not apply to a municipally owned shore road allowance which is directly adjacent to a privately owned property and which is located between the boundary of the property and the high water mark of a body of water.

2. The provisions of Part II subsection 4 of this By-law do not apply to:

- (a) The placing of fill for the purposes of minor landscaping, provided that;
- There is no change in the location, direction or elevation of any natural or artificial watercourse, open channel, swale or ditch flow rate;
 - There is control of any sediment runoff; and
 - Less than 5 metric tons of material are being added or removed.
- (b) The maintenance or replacement of any existing landscaping, existing driveways and existing beaches (both natural beaches or beaches where permits has been obtained from the appropriate approval authority);
- (c) The placing or dumping of fill, removal of topsoil, blasting of rock in compliance with the Ontario Provincial Standard Specification, or alteration of the grade of land imposed after December 31, 2002, as a condition of 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 requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (d) The placing or dumping of fill, removal of topsoil, blasting of rock, or alteration of the grade of land undertaken 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;
- (e) The placing or dumping of fill, removal of topsoil, blasting of rock, or alteration of the grade of land undertaken on land described as a license for pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (f) The placing or dumping of fill, removal of topsoil, blasting of rock, or alteration of the grade of land undertaken as an incidental part of drain construction under the Drainage Act or the Tile Drainage Act;
- (g) The removal of topsoil as an incidental part of normal agricultural practice including such removal as an incidental part of sod farming, greenhouse operation and nurseries for horticultural products, but not the removal of topsoil for sale, exchange or other disposition;
- (h) The placing or dumping of fill, removal of topsoil, blasting of rock or alteration of grade necessary for the installation of a foundation for a building or structure or septic system approved and for which a Building Permit has been issued under the Ontario Building Code Act;
- (i) The placing or removal of fill within 3 metres of any building or structure where a Building Permit has been issued;

- (j) A waste, waste disposal site or waste management system that is approved pursuant to the Environmental Protection Act;
- (k) The construction, extension, alteration, maintenance or operation of works under Section 26 of the Public Transportation and Highway Improvement Act;
- (l) The activities of Crown Agencies as defined in the Crown Agency Act;
- (m) Activities authorized under a work permit issued by the Ministry of Natural Resources under the Public Lands Act or the Lakes and Rivers Improvement Act;
- (n) Fill placed in an excavation to the elevation of the existing grade at the immediate perimeter of the excavation following the demolition or removal of a building or structure; and
- (o) The placing or removing of material and/or removal of native vegetation to create a path to the water's edge which is less than or equal to 5 m in width.

5. RELIEF

1. If any owner or person wishes to apply for relief from this By-law, they may do so by submitting a written request using the Permit request form found in Schedule D identifying the nature and extent of relief requested and accompanied by a site plan/diagram and a description of the proposed works to the Director. The County of Haliburton will implement a Shoreline Protection Relief Policy which will include the requirements for complete submission for relief sought and permit process.

2. The Director, in deciding whether to grant relief, shall consider the environmental impact of the proposed activity and may require the applicant to provide such additional information as is deemed necessary and, the Director may impose such conditions on the relief as it deems appropriate.

3. Relief may be granted for an area within the 30 m shoreline setback, which is less than or equal to, and no greater than 25% of the water frontage of a property for which relief is being applied.

3. All schedules A through H shall form part of this By-law.

4. The Director is authorized to administer and enforce this By-law and has delegated authority granted by Council to execute the provisions of the By-law, including the imposition of conditions as necessary to ensure compliance with this By-law.

5. Council may appoint, by by-law, officers to enforce the provisions of this By-law for such term and on such conditions as Council considers appropriate, and the Clerk is authorized to issue Certificates of Designation to these individuals. Officers shall have the authority to carry out inspections, make orders to discontinue contravening activities or to do work to correct contraventions, give immediate effect to any order and otherwise enforce this By-law, and the Director may assign duties or delegate tasks under this By-law whether in his or her absence or otherwise.

6. Requirements for issuance of a permit:

a) To obtain a permit pursuant to this by-law an applicant shall provide the following information:

- i) A completed application for site alteration permit, duly signed by the applicant, in the form (schedule D) prescribed by the director as it may be amended from time to time;
- ii) The application permit fee as set out in the County of Haliburton tariff of fees by-law as it may be amended from time to time;
- iii) Proof of insurance from an insurer licensed in the Province of Ontario, for larger projects this may require commercial general liability insurance and environmental liability insurance;
- iv) A site alteration plan, meeting the standards set out in Schedule A and B of this by-law and for larger projects the site alteration plan may be required to be certified by a qualified person;
- v) Confirmation that the application complies with or will comply with the permit conditions, if any, as outlined in Schedule C, to the satisfaction of the Director;
- vi) Where applicable, confirmation that the appropriate archaeological assessment on site have been completed to the satisfaction of the Ministry responsible;
- vii) Any additional information as required in writing, by the Director.

7. Expiry, renewal, transfer, revocation and refusal of permits

a) Permits issued pursuant to this by-law shall be valid for a period of one (1) year from the date of issuance.

b) Should site alteration activities continue past this period or should rehabilitation measures not be completed within one (1) year, the Director may renew the permit one time for an additional one (1) year period. The Director may require additional fees, erosion and sediment control and/or conditions.

c) Notwithstanding subsection 5 (7) (a and b), permits issued under this by-law shall expire ninety days (90) after the date of issuance of the permit if site alteration activities have not commenced.

d) A permit which has expired or is no longer valid pursuant to this by-law must be renewed upon making written application to the Director accompanied by payment of fees, failing which the County shall remedy any deficiencies pursuant to the provisions of this by-law at the owner's expense.

e) If the title of the site for which the permit has been issued is transferred while the permit remains in effect, the permit shall be cancelled unless the new owner of the site, within thirty (30) days advises the Director of such transfer and:

- i) Provides an undertaking to comply with the permit and its conditions for which to existing permit was issued; or
- ii) Applies for and obtains a new permit in accordance with the provisions of this by-law.

f) Where a permit is issued based on mistaken, false or misleading information, the Director shall revoke the Permit and the owner or permit holder shall ensure that all work that was the subject of the revoked permit ceases.

g) A permit may be revoked by the Director under any of the following circumstances:

- i) It was issued in error;
- ii) The owner or permit holder requests, in writing, that it be revoked;
- iii) The terms of the agreement under this by-law have not been complied with;
- iv) Work authorized under the permit has not been commenced prior to its expiry date;
- v) The owner fails to comply with this by-law or conditions of the permit.

8. Where the Director refuses to issue a permit, the applicant shall be informed in writing of the refusal.

6. SERVICE FEES

- 1. Permit for site alteration
 - Application Fee – 2021 - \$0.00
 - Permit Fee - 2021 - \$0.00
 - Extension Fee –50 % of the original permit fee

7. INSPECTION

1. In accordance with the conditions set out in sections 435 and 437 of the *Municipal Act* including the provision of notice to an occupier, an Officer may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- a) this By-law;
- b) a direction, requirement or order made under this By-law; or
- c) an order made under section 431 of the *Municipal Act, 2001* in respect of a contravention of this By-law.

2. An Officer may, for the purposes of an inspection under section 7(1):

- a) require the production for inspection 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, photographing or extracts;
- c) require information from any person concerning a matter related to the inspection; or
- 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.

8. ORDERS

- 1. No person shall fail to comply with an Order issued under this By-law.
- 2. No person shall remove or deface an Order posted under this By-law.
- 3. No person shall obstruct or interfere with an Officer, or any person or agent authorized by an Officer, in the discharge of his or her duties under this by-law.
- 4. An inspection order made under section 8 may be served personally or by registered mail to the last known address of such persons affected by it as the Officer making the order

determines. Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.

5. An Officer may, pursuant to an order under section 438 of the *Municipal Act, 2001*, undertake an inspection for a purpose described in section 7 and exercise powers described in section 7 where he or she has been prevented or is likely to be prevented from carrying out an inspection under sections 7 or 8, provided that:

- a) unless otherwise provided in the order, the conditions set out in section 435 and/or 436 of the *Municipal Act, 2001* are applicable; and
- b) in the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier is given notice concerning the inspection in accordance with subsection 438(5) of the *Municipal Act, 2001*.

6. Where an Officer is satisfied that a contravention of this By-law has occurred, he or she 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 property on which the contravention occurred to discontinue the contravening activity.

7. An order under section 8 shall set out:

- a) reasonable particulars of the contravention adequate to identify the contravention and the location of property on which the contravention occurred;
- b) the work to be done, which may include but is not limited to requiring that:
 - i) prior to performing any work, all necessary permits or other approvals be applied for and obtained;
 - ii) requiring the person to rehabilitate the land or plant or replant trees and/or native vegetation in such a manner and within such a period as the Officer considers appropriate, including any treatment necessary to re-establish the trees and vegetation;
 - iii) examinations, measurements or tests be conducted or samples be taken for the purpose of determining what damage or remedial measures are necessary, and that such examinations, tests or samples be supplied to the Director together with any accompanying reports required in the order; and
 - iv) the date or dates by which the work must be done.

8. An order to discontinue contravening activity made under section 8 (6) or an order to do work made under section 8 (7) may be served personally or by registered mail to the last known address of:

- i) the owner or occupier of the property where the contravention occurred; and
- ii) such other persons affected by it as the Officer making the order determines.

9. Service by registered mail shall be deemed to have taken place five (5) business days after the date of mailing.

10. Where service cannot be given in accordance with the preceding sections of this by-law, sufficient service is deemed to have taken place when the Officer places a placard containing the terms of the order in a conspicuous place on the property where the contravention occurred.

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

9. PENALTY

1. The Director is authorized to give immediate effect to any direction, requirement or order carried out under sections 7 and 8 where the costs of carrying out the direction, requirement or order do not exceed \$10,000 and, where the costs do exceed \$10,000, in such amount as the County may authorize.

2. Any person who contravenes any provision of this By-law or of any provision of an order made under this By-law, is guilty of an offence and upon conviction is liable to a fine or penalty, provided for by *The Provincial Offences Act, R.S.O., 1990, Chapter P.33, as amended*, as follows:

- (a) for a first offence, up to a maximum of \$5,000.00;
- (b) for a second offence, up to a maximum of \$20,000.00;
- (c) in the case of a continuing offence, for each day or part of a day that the offence continues, a maximum fine of \$10,000 for each day;
- (d) Notwithstanding (a), (b), and (c) above, in the case of a multiple offence, for each offence included in the multiple offence, a maximum fine of \$10,000 for each offence included in the multiple offence; and
- (e) for all offences, up to a maximum of \$100,000.00, except that the total of all of the daily fines for the offence is not limited to \$100,000.

3. In accordance with Subsection 429(3)(d) of the *Municipal Act* a special fine may be imposed and may exceed \$100,000 in circumstances where there is an economic advantage or gain from the contravention of this By-Law or an Order under this By-Law.

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 \$2,500 and a maximum fine of not more than \$50,000; and
- b) On any subsequent conviction, to a minimum fine of \$5,000 and a maximum fine of not more than \$100,000.

10. COST RECOVERY

1. Where a person does not comply with a direction, requirement or order under this By-law to do a matter or thing, an Officer, with such assistance by others as may be required, may carry out such direction, requirement or order at the person's expense.

2. The County may recover the costs of doing a matter or thing under sections 7 and 8 by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an interest rate of 1 per cent per 30 days to a maximum of 12% per year, commencing on the day the County incurs the costs and ending on the day the costs, including the interest, are paid in full.

11. SEVERABILITY AND CONFLICT WITH OTHER BY-LAWS

1. Nothing in this By-law shall exempt any person from complying with the requirements of any other By-law or legislation in force or from obtaining any license, permission, permit, authority or approval required under any other By-law or legislation.

2. Where a provision of this by-law conflicts with the provisions of another by-law in force within the County, the provision that establishes the higher standard to protect the health, safety and welfare of persons or the environmental well-being of the County of Haliburton shall prevail.

3. In the event any Court of competent jurisdiction should adjudge that any section or sections of this by-law may not be valid for any reason, such section or sections shall be deemed to be severable from the remainder of the By-law and the remainder of the by-law shall stand and be enforceable to the same extent as if the offending section or sections had not been included therein.

12 SCHEDULES:

1. The following schedules attached to this by-law form and are part of this by-law:

Schedule A – Standards for Site Alteration Plans;
Schedule B – Site Design Guidelines;
Schedule C – Permit Conditions;
Schedule D – Application for Site Alteration Permit;
Schedule E – Work Permit;
Schedule F – Stop Work Order;
Schedule G – Work Order; and
Schedule H – Order to Comply

13 COMMENCEMENT

This by-law shall come into force and effect on the date of passing by County Council.

14 REPEALS

The following by-law of the County of Haliburton is repealed:

(1) By-law Number 3505, as amended 2018, of the County of Haliburton entitled “A By-law conserve, prohibit, protect, restrict and regulate the protection, preservation and removal of trees on shoreline properties in the County of Haliburton”;