

THE CORPORATION OF THE COUNTY OF HALIBURTON

DRAFT SHORELINE PRESERVATION BY-LAW

SUMMARY OVERVIEW

The County of Haliburton is blessed with many lakes that serve important environmental, economic and social roles. Haliburton is unique in that it includes natural lakes and managed water level or reservoir lakes that form part of the Trent Severn Waterway. These lakes support a variety of aquatic species, flora and fauna. They support a vibrant tourism economy and are home to many residents. They provide countless opportunities for recreational activities such as swimming, boating and fishing to name a few. The health of our lakes is important for current and future residents and businesses.

The health of our lakes is determined by a variety of factors, natural and human, things that happen on the land and in the water. As one of many stewards of lake health, the County of Haliburton will continue to do all that it can do to preserve the quality of water in our community.

This Shoreline Preservation By-law applies to lands [insert shoreline buffer distance] from the high water mark of all lakes, rivers, streams and ponds within the County, as well as natural heritage features and areas, like significant wetlands, that play a role in water quality.

This Shoreline Preservation By-law recognizes the rights of shoreline property owners to use and enjoy their property, including minor landscaping, creation of access and views to the water and normal forest and/or tree management. A property owner that is pruning a diseased tree, creating a new perennial bed, replacing an existing pathway, installing a fire pit, undertaking minor repairs to an existing retaining wall, or similar activities, will not have to apply for a permit under this By-law.

Instead, this Shoreline Preservation By-law is intended to apply to situations where a property owner (or someone acting on behalf of the property owner) intends to significantly alter the grade or topography of a property in a manner that increases the flow of surface water to neighbouring lands or bodies of water. It is also intended to apply to situations when significant removal of trees and/or vegetation is proposed.

In such instances, property owners (or someone acting on behalf of the property owner) will be required to apply for and receive permit approval before such significant projects and activities are undertaken in the shoreline buffer area. The By-law includes a transition model for implementation and a regular review and update period.

This By-law is flexible. While the By-law includes a uniform shoreline buffer, it is recognized that there are varied shoreline lot characteristics in the County. This By-law recognizes these varied characteristics and allows for lesser buffers, where appropriate. This By-law is also intended to be applied on a “go forward” basis and does not affect existing development or landscaping. The By-law also establishes opportunities for property owners to speak to County Council (or delegate) directly should a decision on a permit not be made in a timely manner or if they would like to dispute a decision or condition of decision.

**THE CORPORATION OF THE
COUNTY OF HALIBURTON**

By-law Number 2022 -

BEING A BY-LAW TO PROHIBIT OR REGULATE THE DESTRUCTION OR INJURING OF TREES AND NATIVE VEGETATION, AND TO PROHIBIT OR REGULATE THE PLACING OR DUMPING OF FILL, THE REMOVAL OF TOPSOIL, THE ALTERATION OF THE GRADE OF LAND ON SHORELINE PROPERTIES IN THE COUNTY OF HALIBURTON AND TO REPEAL AND REPLACE BY-LAW 3505

WHEREAS The County of Haliburton Official Plan requires that all shorelines in the County be preserved in a natural state by prohibiting development and site alteration, and by retaining trees and native vegetation within 30 metres from the high water mark of water bodies;

WHEREAS Section 135 of the *Municipal Act* authorizes a municipality to pass by-laws to prohibit or regulate the destruction or injuring of trees;

WHEREAS Section 142 of the *Municipal Act* authorizes a municipality to pass by-laws to prohibit or regulate the placing or dumping of fill, the removal of topsoil, the alteration of the grade of the land, and blasting of rock;

WHEREAS the Council for the County of Haliburton deems it desirable and in the public interest to enact a by-law to protect shoreline areas for the purposes of achieving:

- the objectives of the Official Plan for the County of Haliburton;
- managing the ~~no~~ further loss of natural shorelines within the County of Haliburton;
- a greater proportion of native vegetative contiguous cover;
- a minimum 75 percent native vegetative cover overall;
- a minimum 50 percent high quality native 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, native 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.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF HALIBURTON ENACTS AS FOLLOWS:

SECTION 1 – SHORT TITLE

1. This By-law shall be known as the Shoreline Preservation By-law.

SECTION 2 – AREA OF APPLICATION

2. This By-law shall apply to the **shoreline** in the **County**.

SECTION 3 – PROHIBITION

SITE ALTERATION

- 3.1 No **person** shall undertake any **site alteration**, except as noted in Section 4 – Exemptions or in accordance with a **shoreline permit** issued under Section 5 – Permits.

TREES

- 3.2. No **person** shall **injure** or **destroy** a **tree**, or remove **native vegetation**, except as noted in Section 4 – Exemptions or in accordance with a **shoreline permit** issued under Section 5 – Permits.
- 3.3 Notwithstanding section 3.2, no **person** shall disturb or remove a **tree** stump or root system in a **steep slope**.

SECTION 4 – EXEMPTIONS

SITE ALTERATION

- 4.1 Section 3.1 of this By-law does not apply to:
 - a) **minor landscaping**;
 - b) the maintenance or replacement of existing features such as landscaping, pathways, driveways and beaches (including raking or weeding);
 - c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*; or,
 - d) the removal of topsoil as an incidental part of a normal agricultural practice, unless the topsoil is removed for sale, exchange or other disposition.

TREES

- 4.2 Sections 3.2 of this By-law does not apply to:
 - a) the injuring or destruction of up to 25% of **native vegetation** (including **trees**) in the **shoreline** for residential properties, and where such **native vegetation** (including **trees**) have been removed, the area where **native vegetation** (including **trees**) have been removed may be maintained open and free of **native vegetation** (including **trees**);

~~f) the injuring or destruction of up to 30% of **native vegetation** (including **trees**) in the **shoreline** for commercial or waterfront landings, and in the case of marinas up to 50%, and where such **native vegetation** (including **trees**) have been removed, the area where **native vegetation** (including **trees**) have been removed may be maintained open and free of **native vegetation** (including **trees**); trees measuring less than 5 centimetres diameter base height;~~

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b) **good arboricultural practices;**

c) **good forestry practices;**

d) **emergency work;**

~~e) the injuring or destruction of up to 25% of **trees** in a concentrated area of the **shoreline** for residential properties, and where such **trees** have been removed, the area where **trees** have been removed may be maintained open and free of **trees**;~~

~~f) the injuring or destruction of up to 30% of **trees** in a concentrated area of the **shoreline** for commercial or waterfront landings, and in the case of marinas up to 50%, and where such **trees** have been removed, the area where **trees** have been removed may be maintained open and free of **trees**;~~

g) activities or matters undertaken pursuant to a permit issued under the **County Forestry By-law 3196**, as amended or replaced;

h) activities or matters undertaken pursuant to a license issued under the *Crown Forest Sustainability Act, 1994*; or,

i) 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.

GENERAL

4.3 Sections 3.1 and 3.2 of this By-law do not apply to activities and matters undertaken:

a) to demolish, repair, enlarge, replace or construct a building pursuant to a **building permit** issued under the *Building Code Act*, provided the activity or matter is lawful, required to achieve construction of the building or structure and meets the intent of this By-law;

b) to demolish, repair, enlarge, replace or construct driveways or pathways provided the driveway or pathway does not exceed 5 metres in width and meets the intent of this By-law;

c) to use, operate, establish, alter, enlarge, extend or maintain an approved sewage treatment system;

d) by the **County** or a **lower tier municipality**; or a local board of a municipality, provided the intent of this By-law is maintained;

e) imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or 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;

- f) 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 that regulation;
- g) by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing or maintaining a transmission system or a distribution system, as those terms are defined in that section;
- h) 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*; or
- i) on land in order to lawfully establish and operate or enlarge any pit or quarry on the land, that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and on which a pit or quarry is permitted land use under a by-law passed under Section 34 of the *Planning Act*.

4.4 Notwithstanding section 2, a lesser **shoreline** may be permitted if:

- a) it is not physically possible to meet the definition of a **shoreline** due to topography or lot characteristics such as lot depth;
- b) a **site evaluation report** in support of the lesser **shoreline** is submitted to the satisfaction of the **Director**; or,
- c) in the opinion of the **Director**, the intent of this By-law will be maintained.

4.5 Notwithstanding section 3 and 4, no **person** shall **place** or **dump** any fill, alter the **grade** of **land** or **injure** or **destroy** a **tree** in a **prohibited area**, unless the activity is exempt from this By-law through federal or provincial legislation and regulations or constitutes emergency work.

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SECTION 5 – SHORELINE PERMITS

APPLICATION

5.1 A **person** making an application for a **shoreline permit** shall submit:

- a) a complete application containing the information set out in Schedule A; and,
- b) the required fee, as set out in the **County's** Tariff of Fees By-law.

5.2 Notwithstanding section 5.1, the **Director** may waive or alter a requirement of the shoreline plan described in Schedule A, after taking into consideration the proposed works and anticipated impact on the **site**, **adjacent lands** and an **adjacent body of water**.

ISSUANCE

5.3 The **Director** shall issue a **shoreline permit** where:

- a) the **Director** is satisfied that the application is complete, in accordance with this By-law;

- b) the **Director** is satisfied that the activities and works proposed in the application will not result in:
- i) the removal of more than 25% of **trees** in the **shoreline**;
 - ii) flooding or ponding;
 - iii) erosion;
 - iv) blockage or siltation of a **body of water**;
 - v) increased surface water flow to **adjacent** lands;
 - vi) increased surface water to **adjacent** bodies of water;
 - vii) a detrimental effect on any **tree**; and,
 - viii) a contravention of the intent of this By-law.

5.4 The issuing of a **shoreline permit** does not relieve a **person** from any responsibility to obtain all other approvals that may be required from any level of government or authority or agencies thereof having jurisdiction.

CONDITIONS

5.5 A **shoreline permit** is subject to the terms and conditions set out in Schedule B.

5.6 The **Director** may impose additional terms and conditions to a **shoreline permit** issued under section 5.2 that, in the opinion of the **Director** are reasonable considering:

- a) the economic, social and environmental well-being of the **County**;
- b) the health, safety and well-being of **persons** as a result of anticipated impacts.

EXPIRY

5.7 A **shoreline permit** shall be valid for a period of three (3) years from the date the **shoreline permit** is issued.

5.8 Notwithstanding section 9.1 a **shoreline permit** shall expire if work is not commenced within ~~eighteen (18) months~~ ~~one (1) year~~ of the date the **shoreline permit** being issued.

EXTENSION

5.9 An **owner** may request an extension to the expiry date of a **shoreline permit** by submitting a written request outlining the reasons an extension is required to the **Director** with payment of the extension fee in accordance with the **County's** Tariff of Fees By-law. Extension requests must be submitted three (3) months prior to the expiry date of the **shoreline permit**; ~~or,-~~

5.10 The **Director** upon being satisfied with the reasons for requesting an extension may grant an extension for a **shoreline permit** for up to but no more than one (1) additional year.

REVOCATION

5.11 The **Director** may revoke a **shoreline permit** for the following reasons:

- (a) it was obtained on mistaken, false or incorrect information;
- (b) it was issued in error;
- (c) the **owner** requests in writing that the **shoreline permit** be revoked;
- (d) the terms and conditions of this By-law, a **shoreline permit**, a site alteration agreement or the approved plans have not been complied with;
- (e) work authorized under a **shoreline permit** has not commenced prior to its expiry date.

5.12 Where a **shoreline permit** has been revoked, the **owner** shall forthwith cease all activity and work.

TRANSFER

5.13 A **shoreline permit** may be transferred to a new registered **owner** of a **lot** upon submitting a written request for a transfer to the **Director** with payment of the transfer fee in accordance with the **County's** Tariff of Fees By-law.

5.14 The **Director** upon being satisfied that all requirements of this By-law, a **shoreline permit** and any associated terms and conditions continue to be met may authorize the transfer of the **shoreline permit**.

5.15 A **shoreline permit** is not transferable to another **lot**.

RESTORATION

5.16 If a **shoreline permit** expires after work has commenced and prior to completion of the work in accordance with the **shoreline permit**, the **owner** shall forthwith restore the **site** to its original condition, rehabilitate the **lands**, or stabilize the **site** to the satisfaction of the **Director** or an **Officer**.

REFUSAL

5.17 Where the **Director** refuses to issue a **shoreline permit**, the **Director** shall provide written reasons for such refusal to the **owner**.

APPEALS

5.18 If the **Director** fails to decide on an application within thirty (30) days of receiving a complete application, the **owner** may appeal the **Director's** non-decision to **County** Council, or its delegate, for determination.

5.19 An **owner** who is not satisfied with the terms and conditions of a **shoreline permit** established under sections 5.5 or 5.6, or the **Director's** refusal of a **shoreline permit** under section 5.17, may appeal to **County** Council, or its delegate, as defined in the County's Delegation By-law, by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the **Clerk** within thirty (30) days after being advised of any additional terms and conditions or written reasons of refusal by the **Director**.

5.20 An appeal under section 8.3 shall be conducted pursuant to the *Statutory Powers and Procedures Act*

SECTION 6 - ADMINISTRATION

6.1 The **Director** is hereby delegated authority to administer this By-law.

6.2 All **shoreline permit** application shall be made to the **Director**, who:

- a) shall receive and process all **shoreline permits** and extension or transfer of **shoreline permits** required under this By-law;
 - b) shall administer the issuance of **shoreline permits** in accordance with the provisions of this By-law;
 - c) shall sign all **shoreline permits** issued pursuant to this By-law;
 - d) shall maintain and keep records of all applications received, all **shoreline permits** issued, extended and transferred, any suspension or revocation of a **shoreline permit**, or any other status change to a **shoreline permit** issued under this By-law;
 - e) shall generally perform all functions incidental to and necessary for the due administration and compliance monitoring of this By-law.
- 6.3 The **Director** may create and require the use of forms or other documents for the proper implementation of this By-law.
- 6.4 **County** Council ~~or~~ its delegate, as defined in the County's Delegation By-law, shall have the same powers as the **Director** pursuant to this By-law for the purpose of authorizing the issuing of a **shoreline permit** and the entering into of a site alteration agreement.

SECTION 7- INSPECTION/COMPLIANCE MONITORING

- 7.1 This By-law shall be enforced by the **Director** or an **Officer**.
- 7.2 The **Director** or **Officer** may enter upon the **land** 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 **shoreline permit**, or a term or condition of a **shoreline permit**;
 - (c) an agreement, or a term or condition of an agreement;
 - (d) the approved plans;
 - (e) a direction or order made under the *Municipal Act, 2001*, or this By-law.
- 7.3 For the purposes of an inspection under this By-law, the **Director** or **Officer** may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect, scan and, if necessary, remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any **person** concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a **person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 7.4 All documents and records shall be kept in a good and business-like manner for review by the **Director** or **Officer** at their request.
- 7.5 A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.

- 7.6 A sample taken under this By-law shall be divided into two parts, and one part shall be delivered to the **person** from whom the sample is taken, if the **person** so requests at the time the sample is taken and provides the necessary facilities.
- 7.7 If a sample is taken under this By-law and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the **person** from whom the sample was taken.
- 7.8 No **person** shall hinder or obstruct, or attempt to hinder or obstruct, a **Director** or **Officer** exercising a power or performing a duty or corrective works pursuant to this By-law.

SECTION 8 - ORDERS

- 8.1 If a **Director** or **Officer** is satisfied that a contravention of this By-law, terms and conditions of a **shoreline permit**, an agreement or the approved plans has occurred, the **Director** or **Officer** may make an Order requiring the **person** who contravened this By-law, the terms and conditions of a **shoreline permit** or of an agreement or who caused or permitted the contravention or the **owner** of the **lot** on which the contravention occurred to:
- (a) discontinue the contravening activity; and/or
 - (b) do work to correct the contravention.
- 8.2 An Order under section 8.1 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention;
 - (b) the location of the **land** on which the contravention occurred; and
 - (c) either:
 - (i) in the case of an Order under section 8.1 (a), the date by which there must be compliance with the Order; or
 - (ii) in the case of an Order under section 8.1 (b), the work to be done and the date by which the work must be done.
- 8.3 In default of any work required by an Order under section 8.1 (b) being done by the **owner** directed or required to do it, the work may be done by the **County** at the **owner's** expense. For the purposes of this section, the **County** and its employees, agents and representatives may enter upon **land** at any reasonable time.
- 8.4 The **County** may recover the costs of doing or any matter pursuant to this By-law or the site alteration agreement by drawing on the securities posted, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 8.5 The costs in section 8.5 shall include interest calculated at a rate of 19 per cent per annum, calculated for the period commencing on the day the **County** incurs the costs and ending on the day the costs, including interest, are paid in full.
- 8.6 An Order issued under this By-law shall be served on the **person** the **Officer** or **Director** believes is contravening this By-law, the terms and conditions of a **shoreline permit**, a site alteration agreement or the approved plans by personal delivery or registered mail at the last known address or by email to the last known email address to whom service is required to be made. The Order shall be deemed to have been served on the fifth business day after the date of mailing or on the date of personal delivery.

- 8.7 An **Officer** or **Director** who is unable to effect service of an Order pursuant to this By-law shall place a placard containing the Order in a conspicuous place on the **land** and the placing of the placard shall be deemed to be sufficient service.
- 8.8 A **person** who has been served with an Order and who is not satisfied with the terms and conditions of the Order may appeal to the **County** Council by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the **Clerk** within thirty (30) days after being served with the Order.
- 8.9 An appeal under section 8.9 shall be conducted pursuant to the *Statutory Powers and Procedures Act*.
- 8.10 An Order under this By-law that is not appealed within the time referred to in section 8.9 shall be deemed to be final.

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SECTION 9- OFFENCES AND PENALTIES

- 9.1 Any **person** who contravenes an Order made pursuant to this by-law is guilty of an offence.
- 9.2 Every **person** who contravenes any provision of this By-law and every director or officer of a corporation, who knowingly concurs in the contravention by a corporation is guilty of an offence and upon conviction is liable to:
- (a) ~~on a first offence, a Part 1 provincial offences act ticket of \$925; and/or and~~
 - (b) ~~on a second offence and each subsequent offence, to a fine not less than \$1,000 and not more than \$100,000.00~~
- 9.3 Every **person** who is issued a Part 1 offence notice or summons and is convicted of an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended and this By-law shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 9.4 Every **person** who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an **Officer** or **Director** upon request, failure to do so shall be deemed to have hindered or obstructed an **Officer** or **Director** in the execution of his or her duties.
- 9.5 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 9.6 If a **Person** convicted of an offence for contravening a provision of this by-law or an Order made 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 correct the contravention in such manner and within such period as the court considers appropriate, including but not limited to,
- (a) by rehabilitating the **land**,
 - (b) by removing the **fill dumped** or **placed** contrary to the by-law or the **shoreline permit**,
 - (c) by restoring the **grade** of the **land** to its original condition,
 - (d) by removing the **topsoil** stored on the **land**,
 - (e) by planting or replacing of **trees**;
 - (f) by prohibiting the continuation or repetition of the contravention.

SECTION 10 - FEES

- 10.1 The fee for a **shoreline permit**, extension of a **shoreline permit**, a revision to a **shoreline permit**, an appeal and agreement shall be in accordance with the **County's** Tariff of Fees By-law.
- 10.2 Where the **Director** determines that the **County** needs to retain legal, engineering, environmental, or any other consultants to evaluate studies or a site alteration agreement, the cost shall be paid by the **owner**.

SECTION 11 – SECURITIES

11.1 Where a security deposit is required in accordance with this By-law it shall be:

- (a) in the form of an irrevocable letter of credit from a chartered Canadian bank in a form satisfactory to the **County** or a certified cheque to secure:
 - (i) the performance of the work for which a **shoreline permit** is issued, performance of work in accordance the agreement or the approved plans, or to restore the **land** to a condition satisfactory to the **Director** and to recover any costs to the **County** in performing or having performed the said work;
 - (ii) the performance of work that an **owner** has failed to perform to the satisfaction of the **Director**;
 - (iii) the performance of any works on **County** or publicly owned lands which service the **site**;
 - (iv) the completion of work required under an Order issued pursuant to this By-law;
 - (v) guarantee of payment to the **County** of all inspection, consulting or other costs the **County** may incur in connection with works required under the **shoreline permit**, a site alteration agreement, the approved plans or this By-law.
- (b) in the amount of 100% of the estimated costs to the satisfaction of the **Director** to:
 - (i) maintain the **site** control measures;
 - (ii) stabilize the **site**;
 - (iii) undertake the completion of work outlined in 11.1 (a);
 - (iv) the performance of any works on **County** or publicly-owned lands of any kind which service the **site**;
 - (v) guarantee of payment to the **County** as outlined in 11.1 (a) (v);
- (c) in effect for the duration of the **shoreline permit**, agreement or until completion of the works to the satisfaction of the **Director**, whichever is later;
- (d) in the case of an irrevocable letter of credit or a renewal thereof, contain a clause stating that thirty (30) days written notice shall be provided to the **County** prior to its expiry or cancellation.

11.2 In the event the **County** receives notice that a letter of credit is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days, the **County** may draw on the letter of credit at the discretion of the **Director**.

11.3 In the event, an **Owner** fails to perform or complete work or make payment for matters outlined in section 15.1 (a) the **County** shall be at liberty to draw upon the security provided to pay the costs incurred by the **County** for any work undertaken or costs incurred by it or on its behalf.

11.4 The **County** at the request of the **owner** shall release the securities or remaining securities upon:

- (a) submission of a certificate from a **qualified person**:
 - (i) that the **final grade** has been completed in accordance with the **shoreline permit**, site alteration agreement and the approved plans;
 - (ii) that the finished project does not detrimentally affect **drainage** on **adjacent** properties;
 - (iii) that the finished project does not detrimentally affect the quality or quantity of water in wells on neighbouring properties.
- (b) a final inspection being conducted by the **Director** or **Officer**; and
- (c) the **Director** being satisfied that the works have been completed in accordance with this By-law, the terms and conditions of the **shoreline permit** and the agreement and the approved plans.

SECTION 12 – SEVERABILITY

12.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council of the **County** that the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

SECTION 13 – TRANSITION AND EFFECTIVE DATE

13.1 Notwithstanding anything herein to the contrary, this By-law shall come into effect on [month], [day] [year], during the 365 days immediately following the passing of this By-law, a person making an application for a shoreline permit shall submit a complete application containing the information set out in Schedule C and shall not be required to pay any fees.

SECTION 14 – BY-LAW REVIEW AND UPDATE

14.1 This By-law shall be reviewed and updated at least every year from the date of passing of this By-law.

SECTION 15 - DEFINITIONS

15.1 In this By-law:

“**adjacent**” means abutting or contiguous;

“**Aggregate Resources Act**” means the *Aggregate Resources Act*, R.S.O. 1990, c. A. 8, as amended;

“**blasting of rock**” means to break up or dislodge various rock material, to form or open up **land** through various means including, but not limited to, explosives or hydraulics;

“**body of water**” means a lake or, river, stream or pond, or but does not include any other area which is permanently covered by water, but does not include human-made features such as drainage channels, irrigation channels, ponds or other features, or, **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**;

“**County**” means the Corporation of the County of Haliburton or its land within the geographic limit of the County as the context requires;

“**Diameter Breastase Height (DBH)**” means the **diameter** of the stem of a **tree** measured at a point 1.37 metres from the ground;

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“**destroy**” or “**destroyed**” or “**destruction**” means any action which causes or results in the irreversible **injury** or death of a **tree**;

“**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** and includes any person delegated and authorized by the Director of Planning to carry out any of the powers and/or duties of the Director of Planning pursuant to this By-law;

“**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**” or “**dumped**” or “**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 **lot** to another location;

“**emergency work**” means any work required where the likelihood of **tree** failure is imminent and a **tree** or part of a **tree** poses a risk in which there is a threat to public health and safety, or threat to property;

“**erosion**” means the detachment and movement of soil, sediment or rock fragments;

“**fill**” means any type of material **dumped** or **placed** on or removed from a **site** and includes but is not limited to earth, **soil**, **topsoil**, stone, brick, concrete, asphalt, sod or turf, either singly or in combination;

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

“**good arboricultural practices**” 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 habitat** and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics’ and recreational opportunities of the landscape. Such practices can be described in a **Silvicultural Prescription** approved by an **OPFA Member**, and in accordance with **tree** marking carried out by a **Qualified Tree Marker**.

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

- (a) “**existing grade**” means the elevation of the existing ground surface of the **land** upon which the **placing, dumping**, cutting or removal of **fill** or altering of the grade or the **blasting of rock** is proposed, except where such activity has occurred in contravention of this By-law, then the existing grade shall mean the ground surface of such **lands** as they existed prior to **placing, dumping**, cutting or removal of **fill** or altering of the grade or the **blasting of rock** requiring a **shoreline permit** under this By-law;
- (b) “**proposed grade**” means the proposed finished elevation of ground surface of **land** upon which **fill** is proposed to be placed or the **site** is proposed to be altered.
- (c) “**finished grade**” means the approved final elevation of ground surface of the **land** upon which **fill** has been placed, **dumped**, cut or removed or the grade altered in accordance with this By-law and a **shoreline permit**. Finished grade and as built shall have a corresponding meaning;

“**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 (the line where the **land** meets the water at a normal controlled level);

“**highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“**injure**” or “**injured**” or “**injury**” means any action that causes physical, biological or chemical damage to a **tree** and does not include pruning or removing branches for maintenance purposes;

“**land**” means a **lot** or any part thereof and includes a **site**;

“**littoral**” means the aquatic portion, extending from the water’s edge to the maximum depth at which sunlight penetrates to the bottom of the water;

“**lot**” means a parcel of land which is capable of being legally conveyed;

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

“**minor landscaping**” means yard maintenance activities, the installation of a walkway or pathways, flowerbeds, retaining walls less than 1 metre in height, and similar landscaping features and activities where the landscaping does not alter the grade or topography of the **land** more than 0.3 metres and shall not increase the flow or the rate of flow of surface water to **adjacent** land or adjacent **body of water**. For the purposes of clarity, this does not include the planting or creation of a lawn;

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

“**officer**” means a police officer, municipal law enforcement officer, compliance monitoring officer, or any other person appointed by by-law to enforce the provisions of this By-law;

“**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**” includes the registered owner of the **land** or any **person** in charge, management or control of such **land** and includes as the context requires an applicant, an operator, a **shoreline permit** holder and a contractor;

“**person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

“**riparian**” means the land closest to the water, representing a transition from terrestrial to aquatic habitat, which may contain trees, shrubs, grasses, or a mix of vegetation types;

“**shoreline permit**” means a permit issued pursuant to this By-law;

“**place**” or “**placing**” means the distribution of **fill** on a **lot** to establish a **finished grade**;

“**Prohibited area**” means:

- (a) Provincially significant wetland;
- (b) Environmental Protection or Hazard Land as identified in the **County** or **Lower-tier municipality** Official Plan including wetlands, but excluding terrestrial features or areas such as deer wintering areas;
- (c) **Lands** owned by the **County**, **lower-tier municipality** or the province including a 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 tree marker**” means:

- (i) an individual who is certified through 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;

“**shoreline**” means an area of **land** measured over a horizontal distance that is located within ~~20~~ 30 metres from the **high water mark** of a **body of water**;

“**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;

“**site**” means an area of **land** to which **site alteration** occurs;

“**site alteration**” means any removal, **placing or dumping of fill, blasting of rock** or any other activity that would increase or decrease **existing grade** or **finished grade** of the **land** by 0.3 metres or more;

“**site evaluation report**” means a report that can be used to determine whether a proposed development is suitable for a **site** and whether a **lesser setback** is appropriate. Site evaluation reports may be required to evaluate the suitability of a site related, but not limited to, lot size and configuration, topography, soil cover, drainage, trees, natural vegetation and any existing and proposed development. A site evaluation report prepared in satisfaction of any other approval relating to the proposed development may be used in support of an application for a **lesser setback** for the purposes of this By-law;

“**soil**” means the natural materials commonly known as earth, **topsoil**, loam, subsoil, clay, sand or gravel;

“**source site**” means **land** where **soil** is excavated from;

“**spawning ground**” means a spawning ground as documented by the Province of Ontario, , **County** or a **Lower-tier Municipality**;

“**steep slope**” means an area of **land** with a continuous frontage along a shore and with a slope 25% or greater measured over a horizontal distance that is located within 45 metres from the **high water mark** of a **body of water**;

“**topsoil**” means those horizons in a **soil** profile, commonly known as the “O” and “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat;

“**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.

SECTION 16 – INTERPRETATION

- 16.1 References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- 16.2 The words “include”, “includes” and “including” are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- 16.3 Dimensions specified in metric units shall be the official dimensions. Imperial dimensions contained in parentheses are provided as a convenience only.
- 16.4 In this by-law, the word “metre” shall be represented by the abbreviation “m”, the word “centimetre” shall be represented by the abbreviation “cm”.

16.5 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.

16.6 This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the **County**. In the event that any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.

16.7 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

16.8 Where this By-law refers to a person undertaking an activity, matter, work or thing, it is also intended to apply to persons that direct another person to undertake such activity, matter, work or thing.

16.9 The Schedules appended to this By-law are incorporated into and form part of this By-law.

SECTION 17- REPEAL

17.1 By-law 3505 is hereby repealed on the effective date established in Section 13 of this By-law.

READ three times and finally passed
this XX day of (Month), 2021.

Warden

Clerk

**SCHEDULE 'A' to BY-LAW 2021-XX
SHORELINE PERMIT APPLICATION REQUIREMENTS**

A **shoreline permit** application shall contain the following information:

1. Shoreline permit type (i.e. site alteration, tree removal or both)
2. Shoreline permit purpose (i.e. place or dump fill, alter grade of land, injure or remove tree)
3. Site legal description
4. Site municipal address
5. Site area, lot frontage, lot depth and lot width
- 5-6. Site photos
- 6-7. Applicant information (i.e. registered owner, address and contact information)
- 7-8. Agent information, if applicable (i.e. name, company, address, contact information)
- 8-9. Contractor information, if applicable (i.e. name, company, address, contact information)
- 9-10. Project schedule (i.e. anticipated start and finish date)
- 10-11. A shoreline plan drawn to scale that includes:
 - a) A key map showing the location of the site, number of hectares of the site, municipal address, legal description, nearest major intersection, a legend, north arrow and scale;
 - b) The approximate boundaries of the site and approximate location of any easements or rights of way;
 - c) The approximate topography of the site and within 30 metres of the site;
 - d) The use of the site and the approximate location of all natural and artificial features, including existing buildings and structures and drainage on and within 30 metres of the site;
 - e) The approximate location of any **body of water** and **high water mark**;
 - f) A description of the proposed works;
 - g) Dates when the proposed works will occur.

**SCHEDULE 'B' to BY-LAW 2021-XX
SHORELINE PERMIT CONDITIONS**

A **shoreline permit** is subject to the following terms and conditions:

1. The **Director** shall be notified within 72 hours of the commencement of any activity authorized under an approved **shoreline permit**;
2. The **Director** shall be notified within 48 hours of the completion of any **tree** removal or control measures required by the shoreline plan;
3. The **owner** shall not modify the shoreline plan, without prior approval of the Director;
4. The owner shall mark all trees which are to be removed or destroyed with clearly visible marks of paint at breast height prior to removal/destruction and upon the stump to remain after cutting.
5. The **owner** shall install, inspect and repair or maintain all control measures in the approved shoreline plan and shall ensure that the control measures perform adequately at all times;
6. The **owner** shall allow the **Director** or an **officer** to enter the **site** to inspect for compliance with the approved shoreline plan or to perform any work necessary to bring the site into compliance with the approved shoreline plan;
7. The **owner** shall request the **Director** carry out a final inspection of the **site** and obtain approval from the **Director** that this By-law and the terms and conditions of the **shoreline permit** have been complied with by the **owner**;
8. The **owner** shall maintain a copy of the approved shoreline plan on the **site**; and,
9. The **owner** shall ensure that the work that is the subject of the **shoreline permit** does not soil or otherwise foul any **highway**. Should a **highway** become fouled, the **owner** shall rectify the fouling to the satisfaction of the **Director**.
10. The **owner** may be required to provide security deposit in accordance with section 11 of this By-law.

**SCHEDULE 'C' to BY-LAW 2021-XX
PROVINCIAL OFFENCES ACT SCHEDULE PLACEHOLDER**

(To be completed by County)

DRAFT