



THE CORPORATION OF THE TOWN OF GODERICH

BY-LAW NO. 115 OF 2021

BEING A BY-LAW TO PLANT, MAINTAIN AND REMOVE TREES ON MUNICIPAL PROPERTY WITHIN THE TOWN OF GODERICH

WHEREAS the Town of Goderich declares that all trees growing on municipal land within the Town of Goderich are considered a municipal asset and the property of the Corporation of the Town of Goderich;

AND WHEREAS the *Municipal Act, 2001* allows municipalities to pass by-laws respecting matters within their sphere of jurisdiction which includes Town lands such as highways, road allowances, parks, trails and other land owned by the Corporation;

AND WHEREAS Section 135 (1) of the *Municipal Act, 2001*, S.O. 2006, c. 32, Schedule A, s. 71 (1) provides that subject to subsection 4 and without limiting sections 9, 10 and 11, a local municipality may prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Sections 62 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, s. 62 (1) provides that a municipality may, at any reasonable time, enter upon land lying along any of its highways, (a) to inspect trees and conduct tests on trees; and (b) to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the municipality, the trees or branches pose a danger to the health or safety of any person using the highway;

AND WHEREAS requests for trees to be planted on Town property (i.e., parks, boulevards) will be based on availability, allocated budget and at the discretion of the Town of Goderich Operations Manager;

AND WHEREAS planting of native tree species will be prioritized over non-native tree species based on availability and cost at time of purchase (Schedule A);

AND WHEREAS public requests from community groups or other public entities wishing to plant trees upon municipal land within the Town of Goderich must obtain Council approval;

AND WHEREAS all planting, maintenance, and removal of trees on municipal property will be performed by Designated staff.

AND WHEREAS the Town of Goderich desires to plant, preserve, maintain, and protect trees on municipal lands within the Town of Goderich.

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF GODERICH ENACTS AS FOLLOWS:

1. DEFINITIONS:

For the purposes of this by-law:

“Boulevard” shall mean the portion of every road allowance within the limits of the Town of Goderich which is not used as a sidewalk, driveway, travelled roadway or shoulder;

“Corporation” means the Corporation of the Town of Goderich;

“Deface” includes but is not limited to the painting, carving of words, figures, symbols or any other markings on the bark of a tree;

“Designated staff” shall mean the Director of Operations, Operations Manager, Public Works Supervisor, Parks Supervisor, and any employee, or authorized contractor acting under their direction;

“Destroy” shall mean to change the structure or condition of a tree such that it cannot reasonably be returned to its original structure or condition;

“Highway” shall mean all common and public roads under the jurisdiction of the Corporation, and has the same meaning as in the *Highway Traffic Act*, R.S.O. 1990, c. H. 8;

“Maintain” shall mean to enable tree health and growth by continuing to provide the necessities for life;

“Municipal Land/Property” shall mean Town lands such as roads, road allowances, boulevards, parks, trails and other land assets that are owned by the Corporation;

“Native Species” shall mean a type of tree that occurs naturally in a particular area. In this instance, tree species that are native to the Goderich landscape. Planting native tree species can result in more successful growth and longer survival rates due to the tree species being accustomed to the local soil and weather conditions. Benefits include growth of a hardier tree, more disease resistance, and less maintenance (see Schedule A).

“Plant” shall mean to place or fix a tree in a specified position and location;

“Preserve” shall mean to provide care for a tree in its existing state;

“Protect” shall mean to provide safety for a tree from harm or injury;

“Remove” shall mean to eliminate an existing tree from its location due to sickness, disease, infestation and/or safety concerns;

“Tree” shall refer to a growing or dead tree or shrub planted or left growing on municipal land such as roads, road allowances, boulevard, parks, trails and other land owned by the Corporation for the purpose of shade or ornament and includes the portion of a tree on private property where the branches extend over a highway, municipal land or hydro wires;

2. SCOPE

- a) This By-Law shall apply to all land within the geographic limits of the Town of Goderich.

3. GENERAL PROVISIONS:

3.0 Administration of the By-law

This By-law shall be administered and enforced by the Designated staff.

3.1 Designated Staff - Authority

Designated staff are authorized to plan, regulate, supervise, and carry out all planting, removal, trimming, and all maintenance with respect to trees situated on municipal property.

3.2 Branch Extending over Highways or Municipal Land

Designated staff may trim any tree planted on private property where branches extend over a highway or municipal property.

3.3 Location of Planting

No person shall plant a tree that may become a nuisance or obstruct the reasonable use of municipal land or inhibit safe passage through or over municipal property. Tree planting projects located on municipal property proposed by community groups or other types of public request will be at the discretion of Council and must obtain Council approval.

Locations on municipal property will vary based on available space and at the discretion of Designated staff. Some examples of Town-owned lands where trees could be planted include: boulevards of highways and road allowances, as well as municipally owned parks, trails and other. Designated staff can provide a list of specific areas upon request.

3.4 Trees Planted on Municipal Property

A tree planted upon municipal land shall be located at such a distance from the street line, sidewalk, overhead wires, public structures/facilities or from any other tree planted or growing on the same municipal land, as may be determined by the Operations Manager.

3.5 Planting and Maintenance of Trees by the Corporation

The Corporation may plant, plan to plant, and provide maintenance to trees upon a highway or municipal property.

3.6 Public Request for Tree Planting Projects on Municipal Property

Trees planted as a community group project will be done so by Designated staff with the required training documentation necessary to prevent safety and liability concerns.

3.7 Refusal to Permit Planting of Tree on Municipal Property

The Corporation may refuse to permit the planting of trees, on municipal land, or part thereof for any of the following reasons, but the Corporation shall not be restricted to those reasons:

- The nature of the pavements, walks, sewers, public structures/facilities or other related works thereon
- The use to which the lands abutting the municipal lands, are put
- The consequence of the extent and nature of the traffic or activity thereon
- Current insufficient dimensions of said property
- Future insufficient dimensions of said property due to future development
- The existence of rock or unfertile soil thereunder
- Where the planting of trees thereon would be impracticable or dangerous to traffic or public or constitute a nuisance upon the property, or equipment of the Corporation

3.8 Planting of Native Tree Species on Municipal Property

The Corporation will prioritize the purchase of native trees from the selection defined in Schedule A when trees are proposed to be planted on municipal property. This decision by Designated staff will be based on the availability of the native tree species, time frame of the planting, as well as cost based on the annual budget.

3.9 Tree Removal Due to Prohibited Species or Diseased Trees on Municipal Land

Designated staff may remove, without notice to any person, a tree of the prohibited species list in Schedule B of the By-Law or remove a tree that is diseased and is in the best public interest to be removed.

3.10 Public Request for Tree Removal by Designated Staff

The Public may forward a request, for removal of diseased trees or other concern, from municipal property to Designated staff. The Operations Manager will inspect the trees included in the request and proceed with the removal based on the outcome of the inspection.

4. PROHIBITED MATTERS:

4.1 Plant Without Permission

No person shall plant a tree on municipal property, or without permission from Council.

4.2 Plant Prohibited Species

No person shall plant, or cause to be planted, on municipal land, a species of tree defined in Schedule B or this By-Law as a prohibited species.

4.3 Removal/Deface/Trim/Injure/Destroy - Prohibited

No person shall remove, cut down, deface, trim, prune, destroy, or injure a tree located on municipal property within the Town of Goderich unless authorized by the Operations Manager,

4.4 Hinder Duties of Designated Staff

No person shall hinder or obstruct, or attempt to hinder or obstruct, Designated staff in the exercise of the powers and performing the duties authorized and contained in this By-Law.

4.5 Attaching Objects Prohibited Without Permission

No person shall attach any object or thing to a tree upon municipal property without permission from the Operations Manager.

4.6 Undertaking Work Causing Tree Damage

No person shall undertake any work over, upon or under municipal property so as to cause injury to any tree.

5. ENFORCEMENT:

5.1 Fine for Contravention

Every person who contravenes any provision of this By-Law is guilty of an offence and is liable to a fine and other penalties imposed pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P-33, as amended.

5.2 Continuation/Repetition – Prohibited by Order

The court in which the conviction has been entered, and any other court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted, pursuant to the *Municipal Act*, S.O. 2001, c. 25, section 442.

6. ENACTMENT:

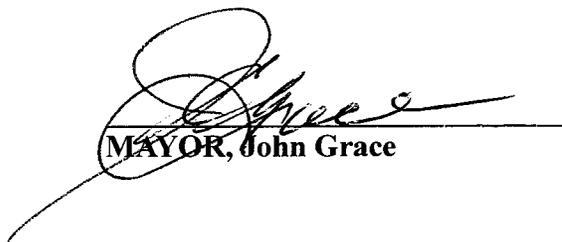
That this By-Law shall come into force and effect on the day of its final passing.

That the Mayor and Clerk are hereby authorized to execute and affix the Corporate Seal.

7. SHORT TITLE:

This By-Law may be referred to as the "Tree Planting By-Law".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 20th DAY OF SEPTEMBER 2021.


MAYOR, John Grace


CLERK, Andrea Fisher

Schedule A

Preferred Species of Native Trees within the Town of Goderich

(Obtained from the Tree Atlas: Southwest Region, Ministry of Natural Resources and Tree Canada)

COMMON NAME	SCIENTIFIC NAME
Ash, Black	<i>Fraxinus nigra</i>
Ash, Red	<i>Fraxinus pennsylvanica</i>
Ash, White	<i>Fraxinus americana</i>
Aspen, Largetooth	<i>Populus grandidentata</i>
Aspen, Trembling	<i>Populus tremuloides</i>
Basswood	<i>Tilia americana</i>
Beech, American	<i>Fagus americana</i>
Birch, White	<i>Betula papyrifera</i>
Birch, Yellow	<i>Betula alleghaniensis</i>
Butternut	<i>Juglans cinerea</i>
Cedar, Eastern White	<i>Thuja occidentalis</i>
Cherry, Black	<i>Prunus serotina</i>
Cherry, Pin	<i>Prunus pennsylvanica</i>
Chokecherry, Common	<i>Prunus virginiana</i>
Dogwood, Alternate-Leaf	<i>Cornus alternifolia</i>
Elm, American	<i>Ulmus americana</i>
Fir, Balsam	<i>Abies balsamea</i>
Hackberry, Northern	<i>Celtis occidentalis</i>
Hawthorn, Cockspur	<i>Crataegus crus-galli</i>
Hawthorn, Dotted	<i>Crataegus punctata</i>
Hawthorn, Downy	<i>Crataegus mollis</i>
Hawthorn, Fleshy	<i>Crataegus succulenta</i>
Hemlock, Eastern	<i>Tsuga canadensis</i>
Hickory, Bitternut	<i>Carya cordiformis</i>
Hickory, Shagbark	<i>Carya ovata</i>
Honey Locust	<i>Gleditsia triacanthos</i>
Ironwood	<i>Ostrya virginiana</i>
Maple, Freeman	<i>Acer freemanii</i>
Maple, Red	<i>Acer rubrum</i>
Maple, Silver	<i>Acer saccharinum</i>
Maple, Sugar	<i>Acer saccharum</i>
Mountain-Ash, American	<i>Sorbus americana</i>
Mountain-Ash, Showy	<i>Sorbus decora</i>
Oak, Black	<i>Quercus velutina</i>
Oak, Bur	<i>Quercus macrocarpa</i>
Oak, Chinquapin	<i>Quercus muehlenbergii</i>
Oak, Pin	<i>Quercus palustris</i>
Oak, Red	<i>Quercus rubra</i>
Oak, White	<i>Quercus alba</i>
Ohio Buckeye	<i>Aesculus glabra</i>
Pine, Eastern White	<i>Pinus strobus</i>
Pine, Red	<i>Pinus resinosa</i>
Poplar, Balsam	<i>Populus balsamifera</i>
Redcedar, Eastern	<i>Juniperus virginiana</i>
Serviceberry, Downy	<i>Amelanchier arborea</i>
Serviceberry, Saskatoon	<i>Amelanchier alnifolia</i>
Serviceberry, Smooth	<i>Amelanchier laevis</i>
Spruce, Black	<i>Picea mariana</i>
Spruce, White	<i>Picea glauca</i>
Sycamore	<i>Platanus occidentalis</i>
Tamarack	<i>Larix laricina</i>

Tulip Tree	<i>Liriodendron tulipifera</i>
Willow, Black	<i>Salix nigra</i>
Willow, Peachleaf	<i>Salix amygdaloides</i>

Schedule B

Prohibited Species of Trees within the Town of Goderich (Obtained from the Ontario Invasive Plant Council)

COMMON NAME	SCIENTIFIC NAME
Alder, European/Black	<i>Alnus glutinosa</i>
Birch, Silver/European White	<i>Betula pendula</i>
Buckthorn, European/Common	<i>Rhamnus cathartica</i>
Buckthorn, Glossy	<i>Rhamnus frangula</i>
Elm, Siberian	<i>Ulmus pumila</i>
Locust, Black (False acacia)	<i>Robinia pseudoacacia</i>
Maple, Manitoba	<i>Acer negundo</i>
Maple, Norway	<i>Acer platanoides</i>
Mountain-Ash, European	<i>Sorbus aucuparia</i>
Mulberry, White	<i>Morus alba</i>
Olive, Autumn (Japanese Silverberry)	<i>Elaeagnus umbellata</i>
Olive, Russian (Trebizond date, Oleaster)	<i>Elaeagnus angustifolia</i>
Pear, Bradford (Callery)	<i>Pyrus calleryana</i>
Pine, Scots (Scotch Pine)	<i>Pinus sylvestris</i>
Poplar, Lombardy	<i>Populus nigra italica</i>
Poplar, White	<i>Populus alba</i>
Spruce, Norway	<i>Picea abies</i>
Tree-of-heaven	<i>Ailanthus altissima</i>