



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of the Whole Meeting
Meeting Date: May 24, 2022
Report Number: PDS.22.064
Title: Municipal Tree By-Law – Update and Directions Report
Prepared by: Travis Sandberg, Intermediate Planner

A. Recommendations

THAT Council receive Staff Report PDS.22.064, entitled “Municipal Tree By-Law – Update and Directions Report”;

AND THAT Council direct Staff to proceed with a Public Meeting to obtain public comment/feedback on the proposed draft changes to Municipal Tree Preservation By-law 2010-68, as outlined in Attachment 2 of Staff Report PDS.22.064.

B. Overview

This report provides a summary and overview of comments received by Planning Staff as a result of consultation with the Town’s Agricultural Advisory Committee and Sustainability Advisory Committee, as was directed by Council by Resolution dated September 7, 2021. A working Draft By-law resulting from the consultation completed to-date is included for Council’s information and preliminary consideration.

C. Background

Planning Staff provided an update to Council on completed consultation for the proposed revisions to Municipal Tree Municipal By-law 2010-68 in September 2021 per Staff Recommendation Report [PDS.21.080](#). By Resolution, Council did direct Planning Staff to implement “Option 2” of Recommendation Report PDS.21.080, with consultation with the Town’s Agricultural Advisory Committee and the Sustainability Advisory Committee, and which also included the following:

1. Direct Staff to complete housekeeping updates to Municipal Tree Preservation By-law 2010-68, as necessary, to ensure coordination with any updates completed by the County of Grey regarding County Forest Management By-law 4341-06, as amended.
2. To also include in the update to the Municipal Tree Preservation By-law 2010-68, provisions that controls tree clearing, prior to development applications and pursue the following objective and/or exemptions:

- Apply the Town's Tree Preservation Bylaw inside the Settlement Areas of the Town only (as defined in the County of Grey Official Plan)
- Require a permit for tree removal on parcels with a minimum of 0.5 ha when
 - a. When the applicant proposes to destroy five (5) or more trees simultaneously or in a given calendar year, regardless of diameter; and
 - b. When the applicant proposes to destroy a tree with a minimum diameter of thirty (30) cm or more.
- Only allow permits in certain Official Plan land use designations, when supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems necessary:
- To pursue additional exemptions to the By-law:
 - a. Land parcels which are less than 0.5ha in size";
 - b. The removal of a tree that necessitates removal as a result of being considered locally as an
 - c. invasive species, diseased, dead, or a hazard to life or property
 - d. 4 or fewer trees a certain size can be removed

Following this Council direction, Planning Staff attended the Town's Agricultural Advisory Committee and Sustainability Advisory Committee on September 16, 2021, and October 13, 2021, respectively. Planning Staff also attended a Joint Meeting of these Town Committees on January 13, 2022.

Materials were circulated to members of each respective Committee in advance of the meetings in order to facilitate meaningful discussion and to obtain comment on the direction of the revisions to Municipal Tree Preservation By-law 2010-68, as outlined in the Resolution of Council. The circulated materials included a working draft of the proposed By-law changes, which was prepared as a result of Council direction and that public consultation/comments received at that time as part of the review exercise. A brief overview of the comments received from the Committees is included below.

D. Analysis

Comments received from the Sustainability Advisory Committee and the Agricultural Advisory Committees as a result of the additional consultation can be generally summarized into the following themes:

Agricultural Advisory Committee Comments:

- Legal authority for the Town to implement a By-law to regulate tree cutting on private property.
- Area of application of the By-law – should be focused on Settlement Area only.
- The maximum threshold of 0.5ha should be removed; +/- 30cm trees on smaller properties should be included.
- Penalties should be split into two categories: individual resident vs. corporate penalty.
- Mapping: aerial photos to show trees in Settlement Area.

- What is the process to amend this By-law in the future? Would there be a public process?
- Definition of “agriculture” should match the Official Plan.

Sustainability Advisory Committee Comments

- Need administrative documents attached – one document for permit including exemptions, fees, application fee, etc.
- Section 2.3: A Tree Inventory Plan needs to be completed prior to a development application as preface to a Tree Protection Plan.
- Remove exemption for invasive species.
- Need a statement “no-clear cutting” as it has not been addressed.
- Focus more effort on incentives to maintain trees as green infrastructure in developments.
- What guarantees are there that this would not extend into the Rural area?
- Concerns with applying regulations to private properties.
- How much time will be provided for public review?
- How many properties will actually be captured by the By-law? 0.5ha should be removed to include all properties. Reconsider to reduce to 0.25ha.
- Finances – what is cost to implement, administer and enforce?
- Remove reference to “Settlement Area” – title it “By-law Application Area” or something similar.
- Section 2.3 supersedes S.4(a)(b).
- Broaden application for permit – dead, hazardous, etc., still needs a permit – consider reduced fee.
- Conservation Authority approval should be required prior to issuance of a permit.
- Invasive species and Arborist review – need Community Services/qualified person to review arborist report.
- Permit should be posted at destruction site.
- Town and County development planning process do not provide for protection of trees before a development application has been applied for and approved. The By-law does not and cannot address this process.
- Exception (L) needs to be removed.
- Clear cutting needs to be defined in its biological sense in the By-law.
- Fees could vary depending on property size or tree size/quantity.
- Applying By-law to all properties avoids discrimination and reinforces we all have a part to play.
- Number of Exemptions need to be reduced – visual analysis by the Director should be required for diseased/dead/hazardous trees. Permit fee waived for these removals.

Planning Staff have reviewed the committee comments and have amended the working draft By-law, as appropriate. A Comment Response Matrix, including any resulting action taken, is provided as Attachment 1. It is generally noted that comments, suggestions, and examples of

“Best Practices” have also been received by Planning Staff from the Town’ Sustainability Advisory Committee throughout the duration of the exercise, which has been reviewed and incorporated into the current working draft By-law, as appropriate.

Moving forward, Planning Staff are requesting Council direction to hold a second Public Meeting to obtain final comment and feedback from the general public on the proposed working draft By-law. Following completion of this second Public Meeting, any relevant or desired adjustments to the working draft By-law can be undertaken, and a recommendation Staff Report provided to Council for consideration of adoption of the revisions/updates to Municipal Tree Preservation By-law 2010-68.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

No adverse environmental impacts are anticipated as a result of the recommendation of this report.

G. Financial Impacts

No adverse financial impacts to the Municipality are anticipated as a result of the recommendations of this report.

H. In Consultation With

Will Thomson, Director of Legal Services

I. Public Engagement

The topic of this Staff Report will be the subject of a Public Meeting and/or a Public Information Centre in accordance with the following schedule:

- May 24, 2022 Committee of the Whole – Initial staff report (staff report number and title) with recommendation to proceed to public consultation;
- June 6, 2022 Council – recommendation from Committee of the Whole considered by Council
- June 7, 2022 Public Meeting Notice Circulated;
- June 22, 2022, June 29, 2022, and July 6, 2022 -Public Meeting advertised in the Collingwood Connection;
- July 11, 2022 – Public Meeting Held
- August 9, 2022 – Recommendation Report and Final Draft By-law to Committee of the Whole;
- August 15, 2022 Council – recommendation from Committee of the Whole and related By-law considered by Council

Any comments regarding this report should be submitted to Travis Sandberg,
planning@thebluemountains.ca

J. Attached

1. Comment Response Matrix
2. Working Draft By-law

Respectfully submitted,

Travis Sandberg, Intermediate Planner

Trevor Houghton, MCIP RPP
Manager of Community Planning

For more information, please contact:
Travis Sandberg, Intermediate Planner
planning@thebluemountains.ca
519-599-3131 extension 283

Report Approval Details

Document Title:	PDS.22.064 Municipal Tree By-Law - Update and Directions Report.docx
Attachments:	- PDS.22.064 Attachment 1.pdf - PDS.22.064 Attachment 2.pdf - PDS.22.064 Attachment 3.pdf
Final Approval Date:	May 16, 2022

This report and all of its attachments were approved and signed as outlined below:

Trevor Houghton - May 10, 2022 - 4:20 PM

No Signature found

Will Thomson - May 12, 2022 - 11:46 AM

No Signature found

Shawn Everitt - May 16, 2022 - 1:11 PM

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

Comments Received By:	Date Received:	Comment/Concern/Question Summary	Response	Action Taken
COUNCIL AND COMMITTEE COMMENTS				
Agricultural Advisory Committee	13/01/2022 (Joint Committee Meeting); September 16, 2021, AAC Meeting	- Does the Town have legal authority to impose such a By-law? - Should only apply to Settlement Area. - The maximum threshold of 0.5ha should be removed; +/- 30cm trees on smaller properties should be included. - Penalties should be split into two categories: individual resident vs. corporate penalty. - Mapping: aerial photos to show trees in Settlement Area. - What is the process to amend this By-law in the future? Would there be a public process? - Definition of “agriculture” should match the Official Plan.	- Authority is explicitly permitted under the <i>Municipal Act, 2001</i>, per Section 270 and Section 135. Lower-tier municipalities may prohibit or regulate destruction of trees that are not so designated under a by-law of an upper tier. Upper-tier may prohibit or regulate on a ‘woodlands’ basis, where lower-tier may regulate ‘certain trees’ - By Resolution (7/09/2021) Council directed that any future revised By-law shall apply to Settlement Area only. - By Resolution (7/09/2021) Council directed a minimum property size of 0.5ha shall be included. - Applicable penalty at discretion of Court in which the conviction is entered. - Noted. - A public process would be required prior to enactment of any future changes to the scope of the By-law. - Noted.	- None required. - None required. - None required. - None required at this time. - Mapping to be included in Staff Report. - None required. - Definition of “agricultural activity” to be modified to be more inline with Official Plan definition.
Sustainability Advisory Committee	13/01/2022 (Joint Committee Meeting); October 13,	Need administrative documents attached – one document for permit including exemptions, fees, application fee, etc.	- Draft application form was included as Attachment 4 of PDS.19.141; applicable fees to be determined by Council. - Tree Inventory/Protection Plans prepared by qualified professionals	- None required. - None required. - Exemption to be modified to match Exemption 3.1(k) to require Director

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

	2021, SAC Meeting	2. Section 2.3: A Tree Inventory Plan needs to be completed prior to a development application as preface to a Tree Protection Plan. 3. Remove exemption for invasive species. 4. Need a statement “no-clear cutting” as it has not been addressed. 5. Focus more effort on incentives to maintain trees as green infrastructure in developments. 6. What guarantees are there that this would not extend into the Rural area? 7. Concerns with applying regulations to private properties. 8. How much time will be provided for public review? 9. How many properties will actually be captured by the By-law? 0.5ha should be removed to include all properties. Reconsider to reduce to 0.25ha. 10. Finances – what is cost to implement, administer and enforce? 11. Remove reference to “Settlement Area” – title it “By-law Application Area” or something similar. 12. Section 2.3 supersedes Section 4(a)(b) 13. Broaden application for permit – dead, hazardous, etc., still needs a permit – consider reduced fee. 14. Conservation Authority approval should be required prior to issuance of a permit.	typically required as part of standard development review process. <i>Municipal Act</i> exempts tree removal as part of Planning Act approval (Section 3.2(e)(f)). 3. Noted. 4. Clear-cutting addressed through permit requirements for removal of 5 or more trees (Section 2.1(c)). 5. Incentive policies and green infrastructure to be considered through comprehensive tree strategy. Proposed by-law is for regulation of injuring/destruction of trees only. 6. Council approval and public process required to extend scope into rural area. 7. <i>Municipal Act, 2001</i>, provides authority to the Municipality to enact a By-law for the injuring/destruction of trees (see previous response above). 8. A formal second Public Meeting will be suggested to Council prior to presenting a final By-law to Council for consideration. 9. 72.5% of the urban Settlement Area meet the criteria of 0.5ha and above (2,120ha out of a total of 2,924ha). It is noted that this is a gross calculation and includes properties otherwise subject to Tree Preservation Plans,	confirmation, but not a formal permit. 4. None required. 5. None required. 6. None required. 7. None required. 8. Spoken to as part of this Staff Report. 9. None required. 10. Fees associated with the implementation of the By-law to be determined by Council. 11. None required. 12. Additional clarity to be included in Section 2.3. 13. None required. 14. None required. 15. None required. 16. None required. 17. None required. 18. None required. 19. None required. 20. None required. 21. None required. 22. None required.
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**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		15. Invasive species and Arborist review – need Community Services/qualified person to review arborist report. 16. Permit should be posted at destruction site. 17. Town and County development planning process do not provide for protection of trees before a development application has been applied for and approved. The By-law does not and cannot address this process. 18. Exception (L) needs to be removed. 19. Clear cutting needs to be defined in its biological sense in the By-law. 20. Fees could vary depending on property size or tree size/quantity. 21. Applying By-law to all properties avoids discrimination and reinforces we all have a part to play. 22. Number of Exemptions need to be reduced – visual analysis by the Director should be required for diseased/dead/hazardous trees. Permit fee waived for these removals.	other levels of government regulations, and municipal/government owned lands. 10. Costs will be incurred in implementation, administration, and enforcement of the By-law. Council to determine appropriate fees. 11. “Settlement Area” is consistent with the Official Plan and Council direction and provides clear delineation between urban uses and rural uses. 12. Allows for select tree removal prior to <i>Planning Act</i> approval, where necessary, such as to complete technical studies. Permit still required, but may be considered “concurrently” with development application. 13. This exemption is a “best practice” based on jurisdictional review of by-laws of municipalities of a similar size. 14. To be determined based on factors such as if the tree removal is located on Conservation Authority regulated lands, is it abutting a significant woodlot, etc. 15. To be determined. 16. Section 6.2 requires permit to be posted on property prior to destruction. 17. Tree Inventory/Protection Plans prepared by qualified professionals	
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**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

			typically required as part of standard development applications. The By-law cannot change development review process, but it can protect against tree cutting prior to development application. 18. See response per point 3 above. 19. Based on “best practices” clear-cutting does not require definition for the municipal by-law, as by-law applies to individual trees as opposed to large woodlands which would otherwise be subject to County Forest Management By-law. 20. Fees to be determined by Council. 21. By Resolution (7/09/2021) Council directed a minimum property size of 0.5ha shall be included. 22. Director approval not required, at the advice of Town’s legal counsel.	
PUBLIC COMMENTS (verbal from January 13, 2022, Joint Committee Meeting)				
Gerbe Botden	13/01/2022	1. Supports agricultural uses being exempt. 2. Due process to not extend authority of By-law to rural area without public process. 3. Dead, hazardous, diseased trees should not require an arborist report for residents.	1. Noted. 2. Noted. 3. Arborist report/ permit is not being proposed as required for removal of dead, hazardous, or diseased trees.	1. None required. 2. None required. 3. None required.
Brian Gilroy	13/01/2022	1. Supports agricultural uses are exempt.	1. Noted.	1. None required.
AGENCY COMMENTS				

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

NVCA	1/04/2021	1. Will NVCA fulfill any role in administration of the By-law? 2. Should an additional exemption clause be considered for the removal of dead and/or hazardous trees at the landowner's discretion? 3. The By-law proposes an exemption for tree cutting for personal firewood, to a limit of 20 face cords per calendar year. How would this be measured and/or enforced? 4. How will the by-law impact discretionary tree removals as prescribed under a Managed Forest Plan approved by the province? 5. Has the Town considered provisions for tree removals in exchange for compensatory plantings and/or cash-in-lieu payments to the municipality?	1. To be determined. 2. Up to 4 trees may be removed without permit is proposed. Exemption also included for removal of dead, diseased, or hazard trees. 3. Owners' obligation to demonstrate their action is within limit of exemption. 4. Does not apply to Forest Management Plans (per Section 3 of draft By-law). 5. Noted.	1. None required. 2. None required 3. None required. 4. None required. 5. Compensation has been included in Section 10 of draft By-law.
GSCA	17/11/2019	1. Section 2(d)(i): why are permits not to be issued in 'escarpment', 'wetlands', and 'ANSI' areas? If done properly, removing a few trees should not have a large impact on overall health. 2. Section 3(b): "activities undertaken by a Conservation Authority" – What does this encompass? 3. Section 3(m): what is timeframe for removal of 4 or less trees? Does point ii) mean all trees less than 15cm DBH can be removed? 4. Section 4: does Director has final say on all permits? 5. Section 6(3) – is there a way to attach suitable replacement species or a minimum size requirement?	1. Noted. 2. Exemption per the <i>Municipal Act</i>. Refers to any tree removal conducted by the Conservation Authority. 3. Timeline is one calendar year. All trees less than 15cm may be removed without limit/permit. 4. Noted. 5. Noted.	1. Clarity added to Section 2 of the draft By-law. 2. None required. 3. None required. 4. Council appeal process included in Section 11 of the draft By-law. 5. Replacement subject to International Society of Arboriculture Trunk Formula Method (Part 10.1).

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

PUBLIC COMMENTS (written)				
Arthur Shellnut	11/5/2021	1. Property owners should be left to manage their trees as their situation requires.	1. Noted.	1. None required.
Barbara Blackstock	11/5/2021	1. By-law should focus on clear-cutting on large areas of land. 2. Penalties should be greater than \$20,000. 3. Should not impact lands subject to Forest Management Program.	1. See Part 2 of Draft By-law. 2. Noted. 3. Noted.	1. Scope of By-law clarified and would apply to larger properties within Settlement Area. 2. Financial penalties increased and additional compensation measures included in Sections 9 and 10 of the draft By-law. 3. Exemption included under 3.1(o) of the draft By-law.
Blue Mountain Rate Payers Association	13/01/2022	1. Term “Settlement Area” is confusing as it is associated with Thornbury/Clarksburg. Should be referred to as “Tree By-law Area”. 2. Term “replacement” should be included in the title of the By-law – “ <i>A By-law to prohibit destruction, and to regulate the destruction and replacement, of certain trees</i> ”. 3. By-law does not apply to approved developments. Efforts should be made to include ‘sunset clause’ on existing plans. 4. Section 2.3 should be removed, and a permit only be granted following draft plan approval. 5. Replacement standards should address tree size/replacement ratio. Should also apply to developments not requiring site plan approval. 6. “May” should be changed to “shall” in Section 6.3.	1. “Settlement Area” is consistent with the Official Plan and Council direction and provides clear delineation between urban uses and rural uses. 2. <i>Municipal Act</i> limits authority of a By-law under Section 135 to the destruction and injuring only. 3. Noted. 4. Intent of 2.3 is to permit select tree removal in cases where needed to complete technical studies etc. 5. By-law applies to all tree cutting outside of activities included under Exemptions. Replacement policy included in Section 10.1 of draft By-law. 6. Noted.	1. None required. 2. Replacement may be included as a condition of a permit, where deemed appropriate by the Director, and as penalty for non-compliance. None required. 3. None required. 4. None required. 5. None required. 6. None required.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

Blue Mountain Resorts	18/11/2019	1. By-law should include exemption for lands subject to the NEC Development Control permit process.	1. Noted.	1. Exemption included under Part 3.1(d) of draft By-law.
Brenda Smith	11/05/2021	1. By-law is not necessary – not enough mismanagement to warrant a by-law.	1. Noted.	1. None required.
Climate Action Now Network	10/01/2022	1. Preservation should be included in the Title. 2. Removal of one healthy mature tree should require 100 new trees to be planted. 3. Stricter penalties should be included. 4. Does the By-law apply to public and private lands?	1. Noted. 2. Replacement subject to International Society of Arboriculture Trunk Formula Method (Part 10.1). 3. Noted. 4. Yes – See Section 2.1 of draft By-law.	1. By-law title revised. 2. None required. 3. Penalties increased under Section 9.1 of draft By-law. 4. None required.
Catherine Howell	22/03/2021	1. TBM has a responsibility to maintain character of Thornbury and surrounding area by developing by-laws to protect tree canopy.	1. Noted.	1. None required.
Rudy Chiarandini	11/02/2022 09/09/2021	1. Wholesale destruction of tree and the environment needs to be stopped. 2. Developers should be required to hire an arborist and evaluate each proposed lot to determine trees that can be protected/maintained. 3. Minimum size should be 10cm, as opposed to 15cm.	1. Noted. 2. Tree Inventory and Protection Plan prepared by qualified professionals is typically required through development review process. 3. Best practices include exemptions generally ranging from 15cm-20cm. 15cm provides minimum best practice.	1. None required. 2. None required. 3. None required.
Christina Eaton	22/03/2021	1. Trees need to be protected and preserved. 2. Form large part of neighbourhood character. 3. Development should be directed to areas where trees do not have to be removed.	1. Noted. 2. Noted. 3. Noted.	1. None required. 2. None required. 3. None required.
Christina Zettler	11/05/2021	1. Enforcement of selling of lumber for firewood – is there regular inspection of forest? Is the person required to replant? Permit for lumber business is free, could an annual fee be applied and used for reforestation programs?	1. Commercial harvesting is subject to the County of Grey Forest Management By-law. 2. Incentive policies and green infrastructure to be considered through comprehensive tree strategy. Proposed	1. None required. 2. None required.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		2. Education and incentives for tree preservation would be welcome. Tax breaks for sizable trees would encourage private planting. Annual budget allocation should be dedicated for planting/preservation on public property should be a priority.	by-law is for regulation of injuring/destruction of trees only.	
Denise Ouellette	21/11/2019 14/01/2022	1. “Face Cord” should not be used, per Measurement Canada. “Cord” should be used, which is approximately 128 cubic feet. 2. Face Cord should not be referenced in the Draft By-law in order to avoid confusion.	1. Noted. 2. Noted.	1. “Stacked Cubic Metre” used, per recommendation of Measurement Canada. 2. Reference to “Face Cord” removed.
Duncan McKinlay	14/01/2022	1. By-law is a rational tool in long term establishment of sustainable urban canopy. 2. Agricultural definition should be better aligned with Agricultural Uses in the Official Plan or Provincial Policy Statement. 3. Settlement Area is the right choice. 4. Agricultural exemptions make sense. 5. Tree planting as an interim agricultural use in In future development lands – should not morph into ‘significant woodlands’ with development restrictions, will discourage tree planting.	1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Woodland mapping completed at County level. Agricultural use included as exemption in draft By-law.	1. None required. 2. Modified definition of “agricultural activity” to be more inline with Official Plan definition. 3. None required. 4. None required. 5. None required.
Elizabeth Marshall	10/03/2020	1. By-law is unconstitutional and beyond legislative authority of the Municipalities.	1. Authority is explicitly permitted under the Municipal Act, 2001, per Section 270 and Section 135. Lower-tier municipalities may prohibit or regulate destruction of trees that are not so designated under a by-law of an upper tier. Upper-tier may prohibit or regulate on a ‘woodlands’ basis, where lower-tier may regulate ‘certain trees’.	1. None required.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

Eniko Herceg	10/05/2021	1. Unopened Right of Way should be included in the Tree By-law.	1. By-law applies to all municipally owned lands (Section 2.1(a)).	1. None required.
Fred Young	29/03/2020	1. Fully endorse inclusion of trees on private property be regulated and subject to a permit from the Town. 2. Concern with clear cutting associated with development projects – tree inventory should be required before construction and replacement plantings provided.	1. Noted. 2. Tree Inventory/Protection Plans prepared by qualified professionals typically required as part of standard development review process. <i>Municipal Act</i> exempts tree removal as part of <i>Planning Act</i> approval (Section 3.2(e)(f)).	1. None required. 2. None required.
Greg Ardiel	25/11/2019	1. Outrageous and irresponsible for the Town to determine best practices for farms and rural properties for tree removal. 2. Oppose amendments.	1. Draft By-law does not apply to agricultural properties. 2. Noted.	1. None required. 2. None required.
Harbour West Residents Group		1. Town has not fulfilled <i>Municipal Act</i> requirement to have an official policy to preserve and maintain tree canopy by March 1, 2019. 2. By-law does not contribute to <i>Municipal Act</i> requirements – need policies to protect and enhance tree canopy.	1. Current Official Plan policy D8.2 satisfies requirement for tree canopy policies. Additional policies might be developed in preparation of Sustainability Plan. 2. Noted.	1. None required. 2. None required.
Jan Pratt	3/04/2021	1. Not in support of new by-law that adds more hoops for people to jump through. 2. Interested in planting trees and involvement in future park and streetscape development.	1. Noted. 2. Noted.	1. None required. 2. None required.
Jill Kitchen	17/05/2019	1. Language should be specific regarding application and lot sizes.	1. Noted.	1. Clearer language included in Section 2 of draft By-law.
June Porter	24/03/2021 14/05/2021	1. How has the declaration of a Climate Emergency impacted the proposed changes? Why has the economic value of trees in stormwater management not been included?	1. Draft By-law would be an implementation tool – contribution to stormwater, carbon sequestering, etc.,	1. None required. 2. Reference to PDS removed – allows designation of

P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)

		2. Why is the designated authority the Director of Planning and Development? 3. How does the update progress the Town in fulfilling requirements of the <i>Municipal Act</i> regarding tree protection/enhancement policies?	more appropriate in other policy documents. 2. Carried forward from existing By-law. 3. Furthers effort for tree protection per Section D8.2(b) of the Official Plan	appropriate Director at Council's discretion. 3. None required.
Kari Tyler	23/03/2021 20/11/2019	1. Grave concerns about proposed changes. 2. Over-stepping mandate put forth to restrict clear-cutting by developers and micro-manage private property. 3. Constituents do not want to be policies regarding trees nor be taxed for this unnecessary scheme. 4. County By-law is fair and respected. 5. Abuse of power is unfolding – the bylaw is legally ineffective by means of superior Acts. 6. There are existing measures to protect against logging and development activities. 7. Do not dare to dictate a limitation on firewood, or presume to direct a landowner how to manage their forest. 8. Concerned about cost of implementation.	1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Authority is explicitly permitted under the Municipal Act, 2001, per Section 270 and Section 135. Lower-tier municipalities may prohibit or regulate destruction of trees that are not so designated under a by-law of an upper tier. Upper-tier may prohibit or regulate on a 'woodlands' basis, where lower-tier may regulate 'certain trees'. 6. Noted. 7. Noted. 8. Noted.	1. None required. 2. None required. 3. None required. 4. None required. 5. None required. 6. None required. 7. None required. 8. None required.
Linda Teed	11/05/2021	1. Oppose the proposed By-law.	1. Noted.	1. None required.
Al and Keri Lockhart	11/05/2021	1. By-law needs to be updated to stop developers from clear cutting trees. 2. Town and Planning Department could start by not clear-cutting unopened road allowances. Allowing neighbourhoods to be treed and full of life.	1. For clarity, By-law intended to prevent cutting prior to development application being received. <i>Municipal Act</i> exempts tree cutting as part of a <i>Planning Act</i> approval, where review has been completed. 2. Noted.	1. None required. 2. None required.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

Lorraine Sutton	12/01/2022 29/08/2021	1. Good forestry practices- definition has no explanation of source attached to it. Is it from 1962 or 2021? 2. Same issue with definition of ‘Woodlands” and ‘Forest Management Plan’. 3. Section 2.3 should be removed. 4. Should not be administered by Director of Planning and Development Services. 5. Need to reduce the number of exemptions. Why does it not apply to Quarries? An explanation needs to be provided. 6. Penalties need to be increased. 7. Section 9.3: replacement/replanting of equivalent size within 3-months and maintenance period of 3-years. 8. It is not clear this applies to public and private lands. 9. Survey is based on individual reactions, not the common good. 10. By-law needs to demonstrate trees are important part of climate change mitigation. 11. Preservation has been dropped from By-law title – needs to be reinstated. 12. Has TBM signed on to the Nature Canada 2 billion Tree Planting Initiative to plant in all parks and public properties? 13. The out of date Rural/Urban divide is longer appropriate. What is Lora Bay? Rural, Urban, Exurban? Needs to be reviewed with clearer distinctions.	1. Definition maintained from existing By-law. Consistent with definitions in other municipal by-laws. 2. “Woodlands” definition consistent with <i>Municipal Act</i>. 3. Noted. 4. Noted. 5. Quarries are exempt per Section 135(12) of the <i>Municipal Act</i>. 6. Noted. 7. Replacement subject to International Society of Arboriculture Trunk Formula Method (Part 10.1). 8. Noted. 9. Noted. 10. Noted. 11. Noted. 12. Noted. 13. Lora Bay is within the Settlement Area of the Town per Official Plan designations.	1. None required. 2. None required. 3. None required. 4. Reference to PDS removed – allows designation of appropriate Director at Council’s discretion. 5. None required. 6. Financial penalties increased and additional compensation measures included in Section 9 and 10 of draft By-law. 7. None required. 8. Clarity included in Section 2 of the draft By-law. 9. None required. 10. Reference to Climate Emergency included in draft By-law recitals. 11. “Preservation” included in Title of the draft By-law. 12. None required. 13. Mapping included in Schedule “A” outlining Settlement Areas.
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**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

Matt Distefano	11/05/2021	1. Reluctant to support anything that increases regulation over private property. 2. Is there consideration about scale? i.e. development versus an individual property owner on one acre of land who wants to remove 1-2 trees? 3. If this is going to present an unnecessary burden to the small single home landowner, then against it.	1. Noted. 2. Draft By-law applies to lands 0.5ha (1.2ac); exemption included for removal of individual trees (Section 3.1(f)(g)). 3. Noted.	1. None required. 2. None required. 3. None required.
Tobias Effinger	19/08/2019	1. Are any exemptions being considered for invasive species? 2. Are any considerations being considered for removal of native vs. non-native species? 3. What will the permit fee be? Application requirements? 4. "Certified Arborist" definition should also include certification from Provincial Ministry of Training, College, and Universities as well as ISA. 5. Canopy Enhancement policies should be considered.	1. Noted. 2. No exemption has been considered for removal of non-native species. 3. Fee to be determined by Council. 4. Noted. 5. Enhancement policies may be considered in development of Sustainability Plan.	1. Exemption included for invasive species (Section 3.1(l)) of the draft By-law. 2. None required. 3. Application requirements included in Section 4. 4. Definition modified. 5. None required.
Osler Bluff Ski Club	19/11/2019	1. Request an additional exemption be included for the Osler lands. Lands are not under NEC Development Control but are subject to the County of Grey Forest Management By-law.	1. Draft By-law does not apply to lands subject to County Forest Management By-law (Section 3.1(c)).	1. None required.
Pamela Spence	13/05/2021	1. A tree/canopy strategy should be created. 2. It should be called "Tree Protection By-law" and apply to sizable trees on all lands and lots over 0.2ha. 3. Protection should be communicated early on. 4. Permit exemptions should be clear and fair.	1. Enhancement policies may be considered in development of Sustainability Plan. 2. By Resolution (7/09/2021) Council directed a minimum property size of 0.5ha shall be included. 3. Noted.	1. None required. 2. Draft By-law title revised to include "Preservation". 3. None required. 4. None required. 5. Clarity included in Section 2 – applies to "Settlement Area"

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		- There should be more zoning and official plan categories in Section 2(d). - Issuing permits should not be in purview of the Director of Planning. - TBM should create a green infrastructure department.	- Noted. - Noted. - Noted.	with no reference to individual land use designations. - Reference to PDS removed – allows designation of appropriate Director at Council’s discretion. - None required.
Paul Roberts	22/03/2021	- Section 2a of the draft By-law appears to imply that only a tree identified under a tree preservation plan is subject to protection. The property owner is not always aware if a preservation plan applies to their property. - Nothing in the By-law defines the size of a piece of land upon which a person can cut all or most trees without getting permission from the Town. - Section 2b says no person shall destroy a tree on land owned by the Town or County, but does not apply to activities of the Town or County. There should be a process for approving whether such a tree must be destroyed. - Consider a height vs. diameter approach. - New developments appear to be exempt under the present by-law. There should be an attempt to leave mature trees standing where possible based on house location.	- Noted. - See Exemptions under Section 3. - Activities undertaken by a municipality are exempt, per Section 135(12) of the <i>Municipal Act</i>. - Best practices utilize “diameter” of the tree at a height of 1.37m, per the <i>Forestry Act</i>. - Draft By-law intended to prevent cutting prior to development application being received. <i>Municipal Act</i> exempts tree cutting as part of a <i>Planning Act</i> approval, where review has been completed.	- Section 2 of draft By-law revised for additional clarity. Mapping to be developed identifying all Tree Preservation Plans. - None required. - None required. - None required. - None required.
Randy McLeod	13/01/2022 15/04/2021	- Page 1 should be revised to state a by-law to regulate trees within defined settlement areas. There must be consistency. “Town’s urban forest” point b). Urban forest must be defined in the definitions section.	Draft By-law continues to apply to all municipally owned lands throughout the Town (not just Settlement Area), as well as properties subject to Tree Preservation Plan.	- None required. - Urban Forest definition added to draft By-law. - Modified definition of “agricultural activity” to be

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		3. Agricultural activity and farm operation must be consistent with definitions in the <i>Farming and Food Production Protection Act</i>. 4. 2.1c) settlement area, remove threshold of 0.5ha. All lands within settlement areas, as defined, regardless of size. 5. Penalties are declared in Section 9. When will a fee schedule and a sample application form be released?	2. Noted. 3. For consistency, definition per Official Plan has been used. 4. By Resolution (7/09/2021) Council directed a minimum property size of 0.5ha shall be included. 5. Applicable fees to be determined by Council; Draft application form to be included in future report.	more inline with Official Plan definition. 4. None required. 5. None required.
Randy Tyler	17/03/2020	1. Strongest wish as a constituent that the proposed amendments be voted against and not be brought forth to council again ever in the foreseeable future. 2. Town cannot afford the time and money spent on such absurdly unnecessary measures. 3. Priority should be given to developing cost saving initiatives that will help stabilize or lower municipal property taxes. 4. How dare staff come to council with a plan that has no actual idea or estimates of cost to implement amendments – why is council allowing staff to spend tax dollars on new ways to waste money and burden people in the municipality? 5. Grey County Forest management By-law functions already – stop trying to double dip. 6. If development is the concern, town does not need a blanket by-law on private property to fix it. 7. Target developers be ensuring that if you don't get approval first for clear cutting, it must be farmed for ten years minimum or replanted.	1. Noted. 2. Noted. 3. Noted. 4. Noted. 5. Noted. 6. Noted. 7. Noted.	1. None required. 2. None required. 3. None required. 4. None required. 5. None required. 6. None required. 7. None required.

P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)

Richard Lamperstorfer	10/02/2022 30/11/2019	1. Object to proposed tree preservation by-law for Thornbury proper.	1. Noted.	1. None required.
Robert Woodcock	13/03/2020	1. Effect of the proposed By-law would be minimal versus additional cost to landowners. 2. Would the Town become liable for any damages or harm that a tree may cause between the time the property owner loses legal control of the tree and its fate is finally decided? 3. Town should focus on planting on Municipally Owned lands.	1. 72.5% of the urban Settlement Area meet the criteria of 0.5ha and above (2,120ha out of a total of 2,924ha). It is noted that this is a gross calculation and includes properties otherwise subject to Tree Preservation Plans, other levels of government regulations, and municipal/government owned lands. 2. Noted. 3. Noted.	1. None required. 2. Director approval/review removed for hazardous or dangerous trees from draft By-law. 3. None required.
Roberta Eagles	12/05/2021	1. Own property currently subject to Forest Management Plan and cut firewood. 2. People raised in this area and plan to remain in this area do not need counsel or a group of people from other areas to tell us what we can do on our property.	1. Noted. 2. Draft By-law does not apply to lands subject to Forest Management Plan (Section 3.1(o)).	1. None required. 2. None required.
Sally Leppard	27/08/2021	1. Comments from Sustainability Committee need to be included in proposed By-law. 2. Best practices should be used to produce a new tree preservation by-law that reflects community priorities and respects and protects the beautiful area.	1. Noted. 2. Noted.	1. Comments from Town's Sustainability Committee have been considered and incorporated, as appropriate. 2. Best practices have been reviewed and incorporated into draft By-law.
Sara Simmons	25/11/2019 19/11/2019	1. By-law will affect all properties over 0.5ha in size. 2. Frustrated by the audacity and arrogance of Council and staff to presume authority to dictate and attempt to enforce this bill on private landowners.	1. Noted. 2. Noted. 3. Noted. 4. Authority is explicitly permitted under the <i>Municipal Act</i> , 2001, per Section	1. None required. 2. None required. 3. None required. 4. None required. 5. None required.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		- Public Notice has not been accurate. - Municipalities are limited to by-laws that only affect their property or property that they have entered into an agreement with the owner, per <i>Forestry Act, Property and Civil Rights Act</i>, and <i>Municipal Act</i>. - Not in purview of Council to enact this by-law on private landowners. - Public deserves to be democratically consulted again and all landowners threatened to be affected by this By-law, given fair change to engage with staff and council on this matter.	270 and Section 135. Lower-tier municipalities may prohibit or regulate destruction of trees that are not so designated under a by-law of an upper tier. Upper-tier may prohibit or regulate on a 'woodlands' basis, where lower-tier may regulate 'certain trees'. - See response to point 4 above. - Public engagement completed through spring and summer of 2021. A formal second Public Meeting will be suggested to Council prior to presenting a final By-law to Council for consideration.	None required.
Shelly Hobson	11/05/2021	- This is an infringement on our private property rights and privileges. - We comply with Forest Management Program and are allowed to make hiking trails, cut down deadfall, diseased and hazardous trees. - Seems like a monetary grab. - A separate by-law should be considered for agricultural landowners. - Was there notification of public awareness for the meeting of May 6, 2019?	- Noted. - By-law does not apply to lands subject to Forest Management Plan (Section 3.1(o)). - Noted. - Proposed draft By-law does not apply to agricultural uses (Section 3.1(b)(i)). - Public Notice was provided in accordance with Corporate Policy POL.COR.07.03.	- None required. - None required. - None required. - None required. - None required.
Stephen Granger	23/04/2021	- Concerned with the strength and administration of enforcement to be able to maintain integrity of the revised documents intent. - A point covering "heritage features" further to include requiring a heritage report should designation be considered under the <i>Heritage Act</i>.	- Noted. - Designated trees to be considered at sole discretion of Council. - Noted.	- None required. - None required. - Stop Work provision included in Section 8 of the draft By-law.

**P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)**

		3. Penalties should not wait for conviction, as currently outlined under Part 6. Stop Work provisions should be incorporated to effect immediate action in the instance of non-compliance.		
Tina Grey	16/03/2020	1. The changes should apply to developers only, not to individual landowners.	1. Draft By-law may not apply to <i>Planning Act</i> approvals, per Section 135(12) of the <i>Municipal Act</i> . Intent is to regulate tree cutting prior to development applications and generally maintain existing tree canopy.	1. None required.
Tree Trust TBM	31/01/2022 5/05/2021	1. Consider application to smaller property sizes and smaller trees than currently proposed in Section 2.1 – should apply to all properties within settlement area regardless of size. Single tree threshold should also be reduced from 30cm to 20cm, and 10cm for five or more trees. 2. Meaningful provision addressing the number and viability of replacement trees in the event of removals (S.6.3) – a schedule should be included for suitable species, sizes, and number to accompany each single and multiple tree removal permit. 3. Meaningful fines for non-compliance. 4. Clarify language and specific criteria related to permit issuance at the Directors discretion (Section 5.3) – Section 2.3 and 5.3 are confusing and appears to be a potential loophole. 5. Strengthen conditions for issuance of permit (Section 5.1 and 2.2) – preservation of older trees	1. By Resolution (7/09/2021) Council directed a minimum property size of 0.5ha. Best Practices use current proposed threshold. 2. Replacements are subject to International Society of Arboriculture Trunk Formula Method, per Section 10 of proposed By-law. 3. Noted. 4. Noted. 5. All permits subject to arborist report as deemed necessary by Director. 6. Definition based on “best practices”.	1. None required. 2. None required. 3. Penalties increased in the draft By-law. 4. Additional clarity included in Section 5.4 and Section 2.3 in the draft By-law. 5. None required. 6. None required.

P463 Municipal Tree By-law Update
Comment Response Matrix (2020-2022)

		in good condition should be added to narrow conditions listed in Section 5.1. 6. Expand the definition of a tree (Section 1) – does not address multi-stem forms and thereby could overlook protection of mature, highly valuable multi-stemmed trees (i.e., native birch trees).		
Victoria Yeh	12/04/2021	1. Permits to remove healthy trees should come with a requirement to replant. 2. Needs to be guidelines and regulations to prevent unnecessary clearcutting of land when new subdivisions are being built.	1. Condition of permit may include replanting (Section 6) of the draft By-law. 2. Tree Inventory/Protection Plans prepared by qualified professionals typically required as part of standard development review process. <i>Municipal Act</i> exempts tree removal as part of <i>Planning Act</i> approval (Section 3.2(e)(f)).	1. None required. 2. None required.

**THE CORPORATION OF
THE TOWN OF THE BLUE MOUNTAINS
BY-LAW NO. #####- ##**

**Being a By-law to prohibit and regulate the destruction or injuring of
certain trees in The Town of The Blue Mountains**

WHEREAS Section 135 of the *Municipal Act*, R.S.O. 2001, c. 25, provides Council with the authority to pass By-laws for prohibiting or regulating the destruction or injury of trees and to require that a permit be obtained for the injuring or destruction of trees specified in the By-law and prescribing fees for the permit, and prescribing conditions under which a permit may be issued;

AND WHEREAS the Council of the Town of The Blue Mountains declared a Climate Emergency on October 21, 2019, and trees have been identified as an important element in mitigating the impacts of a changing climate;

AND WHEREAS trees were identified as an important element of the Town's natural and cultural landscape;

AND WHEREAS it was found to be desirable and in the public interest to amend By-law 2010-68 for the purpose of:

- a) Better regulating and controlling the removal, maintenance, and protection of trees;
- b) Supporting the goal of increasing and maintaining the Town's urban forest; and
- c) Promoting good arboricultural and forestry practices that sustain healthy woodlands and the urban forest.

NOW THEREFORE, the Council of The Corporation of The Town of The Blue Mountains enacts the following:

1. DEFINITIONS

In this By-law,

- a) **"Agricultural Activity"** means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including but not limited to livestock facilities, manure storages, value retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.;
- b) **"Applicant"** means the person who submits an application to the Town of The Blue Mountains for a Permit to Destroy or Injure Trees pursuant to the provisions of this By-law;
- c) **"Certified Arborist"** means an arborist certified by the Certification Board of the International Society of Arboriculture or who possess appropriate certification from the Ministry of Training, College and Universities;
- d) **"Destroy"** means the injuring or removal of trees by cutting, burning, uprooting, chemical application or other means;
- e) **"Designated Tree"** means a tree that is designated by Council by By-law, as being unique and of importance to the Town of The Blue Mountains with respect to distinctive form, size, age, and/or historical significance to the community;
- f) **"Diameter"** refers to the diameter of the stem of a tree at a height of 1.37m from the ground, in accordance with the Forestry Act, R.S.O. 1990, c. F26;
- g) **"Director"** means the Director of a Municipal Department, as designated by Council to administer this By-law, or his or her designate, as outlined in the Town's Delegation By-law, as amended;

- h) **"Farm Operation"** means an agricultural or horticultural operation that is carried on in expectation of gain or reward, and includes the cultivation of land, the raising of livestock and poultry, the production of agricultural crops and maple syrup production;
- i) **"Forest Technician/technologist"** means a graduate of a post-secondary school forestry and/or ecology-based program;
- j) **"Forestry Consultant"** means a forest technician, a forest technologist, a forest/wildlife ecologist, a managed forest plan approver, or a professional forester;
- k) **"Good Forestry Practice"** means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the woodlands and the environmental conditions under which it is being applied and which minimize detriments to woodlands values, including: significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, woodlands productivity and health, and the aesthetic and recreational values of the landscape and includes the cleaning and thinning of trees for the purposes of stimulating tree growth and improving the quality of the woodlands without permanently breaking the canopy; the cutting and removal of hazardous, severely damaged, diseased and insect-infested trees in order to prevent injury, damage, contamination or infestation of other trees; and the cutting or removal of trees which no longer contribute to the achievement of woodlands values;
- l) **"Harvesting"** means the destruction of trees and may be either a single cut or a series of cuts, and shall include logging;
- m) **"Hazardous Tree"** means a dead or severely damaged tree that may pose a danger to persons or property;
- k) **"Infestation"** means infestation as defined in The Forestry Act, R.S.O. 1990, cF26, as amended;
- l) **"Injure"** means to do harm, damage, or impair;
- m) **"Landscape Architect"** means a graduate of a post-secondary school landscape architect program and who is a member of The Ontario Association of Landscape Architects;
- n) **"Municipality"** means The Corporation of The Town of The Blue Mountains;
- o) **"Officer"** means an individual appointed by By-law for the administration and enforcement of this By-law, and includes a Municipal By-law Enforcement Officer;
- p) **"Owner"** means the person having the right, title, interest or equity in land;
- q) **"Permit"** means the written authorization of the director under this by-law to destroy or injure trees, with or without conditions, at the sole discretion of the Director.
- r) **"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;
- s) **"Professional Forester"** means a professional forester as defined in the Crown Forest Sustainability Act, S.O., 1994;
- t) **"Settlement Area"** means lands identified and located within the *Settlement Area* of the Town of The Blue Mountains, as outlined on Schedule "A" to this By-law;
- u) **"Stacked Cubic Metre"** means the recommended unit of measurement of bulk firewood in Canada, in accordance with *Measurement Canada*. The total stacked cubic metres of a stack of firewood is calculated by measuring, in centimetres, the length, height, and width, including wood, bark, and airspace, and dividing the result by 1,000,000. For example: 209cm x 120cm x 34cm = 1,183,200cm³. 1,183,200cm³ / 1,000,000 = 1.18 stacked cubic metres.
- v) **"Tree"** means any species of single-stemmed perennial woody plant, which has reached or can reach a height of at least 4 metres at physiological maturity;
- w) **"Tree Farm"** means land where trees are grown and maintained for sale;
- x) **"Tree Preservation Plan"** means a plan prepared by an arborist, a landscape architect, a forest technician, a forest technologist, a forest/wildlife ecologist, a managed forest plan approver, or a professional forester which determines trees to be preserved through an assessment process which identifies trees, shrubs and other specific areas of natural habitat and their ecological function or importance, and determines the impacts of development on the trees, shrubs, and other specific areas of natural habitat and their ecological function or importance and such plan shall determine mitigation measures and measures to protect and manage trees to be

preserved and proper practices to remove trees to be destroyed;

- y) **“Urban Forest”** means the trees and shrubs in the Settlement Area, including trees in yards, along streets and utility corridors, in protected areas, and in watersheds. This includes individual trees, street trees, and green spaces with trees;
- z) **“Woodlands or Forest Management Plan”** means a plan for a woodlands prepared according to guidelines set by the Ministry of Natural Resources or other recognized guidelines, which set out objectives and management practices to ensure the sustainability of the woodlands, and approved by a forestry consultant.

aa) **“Woodland”** means land that is one hectare or more in area with at least:

- (i) 1000 trees, of any size, per hectare;
- (ii) 750 trees, measuring over five (5) centimetres/1.96 inches in Diameter at DBH, per hectare;
- (iii) 500 trees, measuring over twelve (12) centimetres/4.72 inches, in Diameter at DBH, per hectare; or
250 trees, measuring over twenty (20) centimetres/7.87 inches in Diameter at DBH, per hectare;

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

2. **AREA OF APPLICATION OF BY- LAW**

2.1 Applicability- This By-law applies to the following lands:

- a) Town Owned Lands - Despite Section 3.2(a) no person shall, within the boundaries of the Municipality, destroy or cause to be destroyed any tree that is located on land owned, controlled or managed by the Municipality or the County of Grey or any local board thereof without first obtaining the written authorization of the Municipality or the County of Grey or the local board.
- b) Tree Preservation Plans - No person, shall, within the boundaries of the Municipality, destroy or permit or cause to be destroyed any tree that is identified as a tree for preservation on a tree preservation plan or an area of tree preservation forming part of, or referenced, in an agreement entered into with the municipality, unless supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems appropriate.

c) Settlement Area

- i. On a parcel of land with an area of 0.5 hectares (ha) or more within the Settlement Area, as outlined on Schedule “A” and subject to the Exemptions outlined in Section 3, no person shall injure or destroy or cause or permit the injury or destruction of trees without first obtaining a Permit pursuant to this By-law in the following cases:
 - a. When the applicant proposes to destroy five (5) or more trees simultaneously or in a given calendar year, each with a *diameter* between fifteen (15) cm and thirty (30) cm;
 - b. A tree with a diameter greater than thirty (30) cm;

2.2 A Permit pursuant to Section 2.1 of this By-law shall not be issued to destroy trees located on lands unless supported by appropriate studies and reports, such as a Certified Arborist Report, Environmental Impact Study, or any other report that the Director deems appropriate.

2.3 This By-law is a component of the municipality’s development review and approval process. An application for a Permit may be processed and considered concurrently with a development related application submitted pursuant to the *Planning Act* and a Permit pursuant to this By-law may be issued prior to the granting of approval of the *Planning Act* application at the Director’s discretion, where the issuance of a permit would not otherwise prejudice a decision on the *Planning Act* application.

3. **EXEMPTIONS**

3.1 A tree may be injured or destroyed, without applying for a Permit from the Town, where:

- a) The tree is located on a Lot which is less than 0.5ha in size;
- b) The tree is located on lands located outside of the Settlement Area, as outlined on Schedule “A”, and/or within the Hamlet Area, Agricultural, Special Agricultural, Rural, Rural Employment, and Mineral Resource Extraction Area designations of the Town of The Blue Mountains Official Plan, as amended.
- c) Any tree which is subject to the County of Grey Forest Management By-law No. 4341-06;
- d) Any tree which is subject to the Development Control policies of the Niagara Escarpment Plan, as amended.
- e) Any Tree which is located within an area regulated by a Conservation Authority under Ontario Regulation 151/06, as amended.
- f) The applicant proposes to injure or destroy four (4) or fewer trees simultaneously or in a given calendar year, each with a diameter between fifteen (15) cm and thirty (30) cm; or
- g) The tree has a diameter of less than fifteen (15) cm.
- h) The cutting of firewood for personal use to a maximum volume of twenty-five (25) Stacked Cubic Metres per calendar year;
- i) The injury or destruction as necessary to clear land in accordance with a normal farm practice conducted by a farm operation for its own agricultural activity;
- j) The maintenance of a tree in accordance with good arboriculture practice;
- k) The removal of a dead, diseased or Hazardous Tree;
- l) The removal of a tree that necessitates removal as a result of being considered locally as an invasive species, when certified as such by an individual designated as such by the Director;
- m) The removal of a damaged or destroyed tree, where the removal is in the interest of public safety, health or general welfare following any man-made or natural disasters, storms, high winds, floods, fires, snowfall or freezes;
- n) A tree injured or destroyed in compliance with a tree preservation plan approved by the Director or otherwise approved and recognized in an executed Development Agreement;
- o) A tree on land covered by a woodlands management plan approved by a forestry consultant, a copy of which has been submitted to the Director, provided such work is undertaken in accordance with good forestry practice and the woodlands management plan;

3.2 In accordance with Section 135(12) of the *Municipal Act*, this By-law does not apply to:

- a) Activities or matters undertaken by the Municipality or the County of Grey or any local board thereof;
- b) Activities or matters undertaken by a conservation authority as defined by the *Conservation Authorities Act*;
- c) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act, 1994*;
- d) The injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying of his or her agent, while making a survey;
- e) 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;
- f) 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;
- g) 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;

- h) The injuring or destruction of trees undertaken 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*;
- i) 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* 2001, c. 25, s. 135(12); 2002, c. 17, Sched. A, s. 27 (3,4).

4. PERMIT APPLICATION

4.1 An Owner who applies for a Permit shall submit the following, as part of a complete application:

- a) A completed Application Form;
- b) Payment of the required fees in accordance with the Town of The Blue Mountains Fees and Charges By-law, as amended;
- c) A report prepared by a landscape architect or a qualified forestry consultant which will provide a general visual assessment and categorization of the existing trees, set forth the reasons for the proposed destruction of the tree(s), shall confirm that endangered, threatened, or at risk species are not present, and shall include recommendations for preservation and protection of any trees to be retained;
- d) Any other technical reports or studies as deemed necessary and appropriate by the Director;
- e) The Director shall have the option of not requiring the report noted in Section 5.1(c) in special circumstances to be determined at their sole discretion; and
- f) Following receipt of an application, the Director or their designate may enter and inspect the lands upon which the tree is located and the submitted of the application shall be deemed permission to so enter and inspect.

5. PERMIT ISSUANCE

5.1 A Permit shall not be issued unless the Director is satisfied that the injury or destruction of a tree will not result in:

- a) Soil erosion or slope instability including impacting existing flood control measures;
- b) Blockage of a watercourse or interference with natural drainage processes;
- c) Siltation in a watercourse;
- d) Pollution of a watercourse;
- e) Significant impact on any healthy vegetation community within, or adjacent to the subject site; or
- f) Significant impact on any fish or wildlife habitat within, or adjacent to, the subject site.

5.2 The Director shall review the complete Application and may:

- a) Issue a Permit;
- b) Issue a Permit with conditions; or
- c) Refuse to issue a Permit

5.3 The Director may confer with such persons, staff, qualified professional, and agencies as they consider necessary for the proper review of the Application.

5.4 A Permit shall not be issued where:

- a) An application for a plan of subdivision or consent related to lands on which the tree is located has been submitted to the municipality and has not received draft approval unless otherwise permitted per Section 2.3;
- b) An application to amend the Official Plan, for re-zoning, or for site plan approval related to the lands on which the tree is located has been submitted to the municipality, and has not received final approval unless otherwise permitted under

Section 2.3;

- c) Trees that are listed as endangered, threatened, or at-risk species in the *Endangered Species Act*, R.S.O., 1990 or the *Species at Risk Act*, 2002;
- d) Where approval would be in contravention of the *Migratory Birds Act*, 1994;
- e) The Permit would result in the destruction of a Designated Tree; or
- f) The destruction of a tree will not be in accordance with good arboricultural and forestry practices, as determined by the Director.

6. TERMS AND CONDITIONS OF A PERMIT

- 6.1 The Director may impose conditions on a Permit that in their sole discretion are reasonable. Without limiting the generality of the foregoing, the following conditions may be imposed:
- a) Any conditions in accordance with good arboricultural and forestry practice, and established silviculture;
 - b) Measures to be implemented to protect the retained trees during construction, including if application, directional boring, and the length of time that the Permit is valid for;
 - c) The requirement to prepare a Tree Preservation and Protection Plan, which must be approved and implemented as a condition of the Permit;
 - d) To require the destruction or injury to the tree to occur in a safe and appropriate manner and within a specified time frame;
 - e) A requirement to plant a replacement tree in accordance with Section 7.3 of this By-law, as deemed appropriate by the Director; and
 - f) Where the destruction or injury of a tree is not conducted as part of, and in accordance with, a Site Plan Agreement, a Subdivision Agreement, or a Condominium Agreement, the Owner may be required to:
 - i. Enter into an agreement regarding the conditions as set out in 7.1(a) to (e) above this section which form part of the Permit; and
 - ii. Register the agreement on the title to the lands affected by the Permit.
- 6.2 A copy of the Permit shall be posted on the property prior to the commencement of any injury or destruction of any tree allowed by the Permit, in a conspicuous place on the subject property that is adjacent to a public road and visible to all persons or at such other location deemed appropriate.
- 6.3 Where a Permit requires the planting of replacement trees, the Director may impose conditions on the Permit that in their sole discretion are reasonable. Without limiting the generality of the foregoing, the following provisions related to the replacement tree may be imposed:
- a) The species, size, number, and location of the replacement tree;
 - b) The date by which any replacement tree is to be planted;
 - c) The maintenance and care of any replacement tree shall be determined by the Director in consultation with a landscape architect or qualified forestry consultant;
 - d) Where removal involves a distinctive tree, the replacement tree shall be equal to the net Diameter of the removed tree, either as a single tree or multiple trees, and shall include the same species, where appropriate and commercially available;
 - e) The maintenance and care of a replacement tree including the deposit of security in the form of a letter of credit, cash or certified cheque, in an amount to be determined by the Director to guarantee, for a specified period of time, the cost of maintaining or replacing a replacement tree;
 - f) Replacement trees are to be maintained and protected in accordance with good arboricultural and forestry practices by the Owner or person responsible for the injury or destruction, for a minimum period of two (2) years after planting;
 - g) Replacement trees shall be subject to the following locational priorities:
 - i. The first and highest priority shall be to plant the replacement tree on the property where the tree was destroyed; and
 - ii. The next highest priority shall be to plant the replacement tree on another site(s) in the municipality for the purpose of general reforestation.

7. ADMINISTRATION

- 7.1 The Director is responsible for the administration of this By-law and is hereby delegated the authority to receive applications and the required fees, if applicable, and to issue permits and/or approvals and to attach conditions thereto in accordance with this By-law.
- 7.2 If there is a conflict between this By-law and a By-law passed under the *Forestry Act*, the *Species at Risk Act*, the *Endangered Species Act* or the *Municipal Act*, the provision that is the most restrictive shall prevail.

8. ENFORCEMENT

- 8.1 As assigned by the Director, an officer may, during daylight hours and upon producing a certificate of designation, enter and inspect any land to which this By-law applies. An Officer may, in carrying out an inspection, be accompanied by an assisting person.
- 8.2 If the Director is satisfied that a contravention of this By-law has occurred, an Officer may issue a Stop Work Order requiring the person that contravened the By-law, or that caused or permitted the contravention of the By-law, to stop any injury or destruction to the tree, subject to the following:
- a) The Stop Work Order shall set out reasonable particulars of the contravention in sufficient detail to identify the contravention, the location of the contravention, and the date by which there must be compliance with the Order.
 - b) A Stop Work Order may be served personally by an Officer, may be posted in a conspicuous place on the property where the contravention occurred, or may be sent by registered mail to the person contravening this By-law. Where an order is issued under this By-law is served personally by an Officer, it shall be deemed to have been served on the date of delivery to the person(s) named.
 - c) The placing of the Order on the affected lands shall be deemed to be sufficient service of the Order on the person or corporation to whom the Order is directed on the date it is posted.
 - d) Where an Order issued under this By-law is sent by registered mail, it shall be sent to the last known address of the applicant, the Owner, or the person or company retained to work on the trees on the lands.
 - e) Where a person fails to comply with an Order issued under this By-law and the municipality enters on the lands and completes the work specific in the Order, the municipality shall be entitled to recover the costs to complete the work from the person named in the Order by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

9. PENALTIES FOR NON-COMPLIANCE WITH BY-LAW

- 9.1 Any person who contravenes any provision of this By-law or an order is guilty of an offence and on conviction is liable:
- a) on a first conviction, to a fine of not more than \$50,000.00 or \$1,000.00 per tree, whichever is greater; and
 - b) on any subsequent conviction, to a fine of not more than \$100,000.00 or \$2,500.00 per tree, whichever is greater.
- 9.2 Where a person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed by the By-law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repletion of the offence by the person convicted or any other person;
- 9.3 Where a person is convicted of an offence under this By-law, the court in which the conviction has been entered, and any court of competent jurisdiction, thereafter, may order the person to replant or have replanted such trees in such manner and within such a period of time as the court considers appropriate, including any silvicultural treatment necessary to re-establish the tree or have the tree re-established and may also order the person to provide compensation for the injury or destruction of the tree

to the municipality, in accordance with Section 12 of this By-law.

9.4 No Permit shall be renewed or extended where the Owner or the Applicant is in breach of any terms of this By-law or a condition of said Permit.

10. COMPENSATION

10.1 The Director shall calculate the compensation for the injury or destruction of a tree required as a condition of a Permit, or required as a condition of an Order issued under this By-law, as follows:

- a) The value of any tree that is injured or destroyed shall be determined using the International Society of Arboriculture Trunk Formula Method.
- b) The value of the tree injured or destroyed, as calculated pursuant to Section 10.1.a), shall be used to determine the number, species, and size of the replacement tree that shall be planted by the permit holder or person responsible for the injury or destruction, as the case may be. The Director shall make this determination in consultation with a qualified forestry consultant and their decision to the number, species, and size of replacement tree shall be final.
- c) The provisions of Section 7.3, with necessary modifications, shall apply to replacement trees planted in accordance with this Section.

11. APPEALS TO COUNCIL

11.1 An Applicant for a Permit pursuant to this By-law may appeal in writing to the Council by filing a notice of appeal by personal service or pre-paid registered mail with the Clerk:

- a) If the municipality makes a decision to refuse to issue a Permit, an appeal shall be submitted within thirty (30) days following the date of the refusal;
- b) If the municipality fails to make a decision on the Application, within forty-five (45) days after the application is received by the Town; or
- c) If the Applicant objects to a condition in the Permit, an appeal shall be submitted within thirty (30) days after the issuance of the Permit.

11.2 The Council has the same powers as the Director under this By-law, and may:

- a) Confirm the refusal to issue the Permit;
- b) Issue a Permit, with or without conditions;
- c) Affirm, vary, or add any conditions to the Permit; or
- d) Confirm the issuance of a Stop Work Order.

The decision of Council is final.

12. SHORT TITLE

This By-law may be referred to as 'The Tree By-law'.

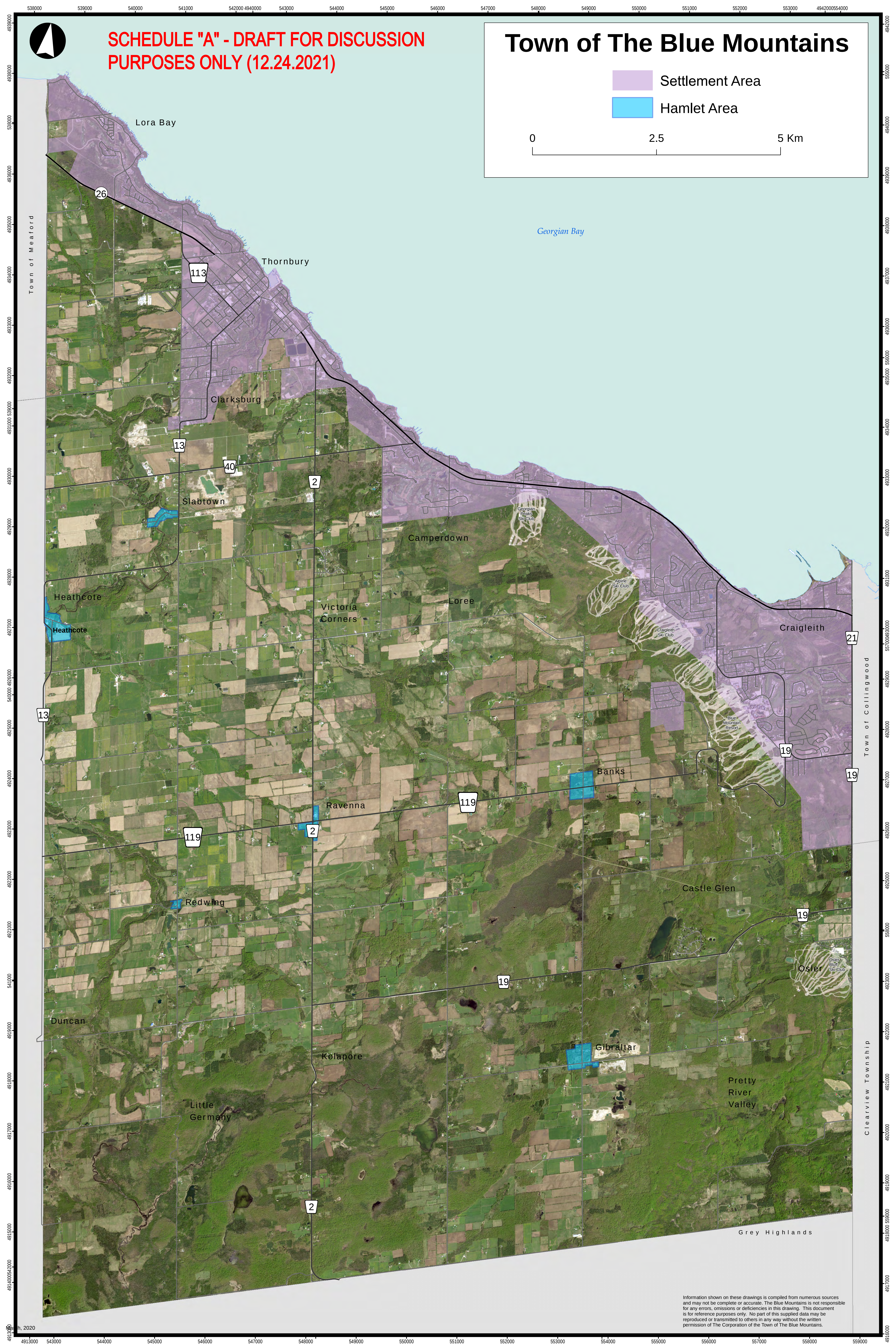
13. VALIDITY OF THE BY-LAW

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

14. EFFECTIVE DATE OF BY-LAW

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

Enacted and passed this day of , 2022 .



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