

THE CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO
DRAFT TREE PRESERVATION BY-LAW
SUMMARY OVERVIEW

Note: The below summary overview is provided for illustrative purposes only and does not form part of the Tree Preservation By-law.

Established in 1980, the Township of The Archipelago is a water-based, seasonally oriented municipality consisting of several thousand islands in Georgian Bay and a number of inland freshwater lakes. The Township originated from a strong desire to preserve its high-quality recreational character and the natural environment and to recognize and respect the interests of its taxpayers. These unique natural features support a variety of aquatic and land-based species, flora, and fauna, support a vibrant tourism economy, and provide countless opportunities for residents and visitors to enjoy high-quality recreational activities.

Together with the Site Alteration By-law, the Tree Preservation By-law provides a framework to preserve and protect the natural environment within the Township, leading to an experience for residents and visitors to enjoy a relaxing and aesthetically appealing environment. The health of the natural environment is determined by a variety of factors, natural and human, and the Township will continue to do all that it can to protect and preserve the high-quality natural environment in our community. Together, the Site Alteration By-law and Tree Preservation By-law provide an enhanced layer of protection for the natural environment, above the minimum requirements for development as per the Township's Comprehensive Zoning By-law (By-law A2000-07, as amended) and the strategic direction for development as outlined in the Township's Official Plan.

This Tree Preservation By-law recognizes the rights of property owners to use and enjoy their property, including minor changes to a property that are likely to have little environmental impact, without making an application or inquiry to the Township beforehand. Instead, the Tree Preservation By-law is intended to apply to situations where clear cutting or significant removal of trees and/or shoreline vegetation is proposed in a manner that is likely to have significant and negative impact upon sensitive environmental features on said property or neighbouring lands or bodies of water.

This Tree Preservation By-law applies to all residentially zoned lands and lands zoned for environmental protection as per the Township's Comprehensive Zoning By-law. It is intended to be understood and applied in tandem with the Site Alteration By-law, with similar goals of environmental protection. The Site Alteration By-law is intended to apply to situations when significant change to the grade or topography of a property is proposed.

The Tree Preservation By-law establishes opportunities for property owners to seek permission for certain activities not otherwise permitted by the Tree Preservation By-laws, with approval of these requests delegated to Township staff, and the opportunity for appeal of staff's decision to Council for final determination. *In such instances, property owners, or someone acting on their behalf, are encouraged to apply for and obtain permission from the Township before such significant projects and activities are undertaken on residentially zoned lands or lands zoned for environmental protection, as noted above. The Tree Preservation By-law is intended to be flexible and responsive to the needs of property owners in the Township. The Tree Preservation By-law, together with the Site Alteration By-law, is intended to be applied on a "go forward" basis and does not affect existing development or landscaping.*

**THE CORPORATION OF
THE TOWNSHIP OF THE ARCHIPELAGO**

BY-LAW NO. 2024-XX

**BEING A BY-LAW TO REGULATE THE PROTECTION, PRESERVATION, AND REMOVAL
OF TREES WITHIN THE TOWNSHIP OF THE ARCHIPELAGO**

WHEREAS Section 10(2) of the *Municipal Act* 2001, S.O. 2001, c.25, as amended, authorizes a Municipality to pass by-laws respecting the economic, social and environmental well-being of the Municipality and the health, safety and well-being of persons;

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

AND WHEREAS, Section 135 of the *Municipal Act*, 2001, S.O., c.25, as amended, authorizes a municipality to require that a permit be obtained to injure or destroy trees and to impose conditions to such a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

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

AND WHEREAS, an order to discontinue and work orders are authorized under Section 444 and 445 of the *Municipal Act*, 2001, S. O. 2001 c. 25 where a contravention of this by- law has occurred;

AND WHEREAS the primary objective of the Township of The Archipelago's Official Plan is to respect, maintain and improve the natural environment of the region, and of the UNESCO Biosphere Reserve, of which the Township is a part;

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

- Conserving the overall natural landscape and waterscape, including habitats of endangered and threatened species;
- Preserving the natural appearance, character and aesthetics of The Township, including changes to trees, natural vegetation and the grade of land; and,
- Preserving the high-quality recreational character and natural environment.

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

1. ADMINISTRATION

- (a) The short title of this By-law is the "Tree Preservation By-law".

2. DEFINITIONS

In this By-law:

- (a) **"Building"** means a structure, whether temporary or permanent, as defined within the *Building Code*, used or intended to be used for the shelter, accommodation or enclosure of persons, goods or chattels;
- (b) **"Building Permit"** means a building permit issued under the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- (c) **"Clear Cutting"** means any action which causes or results in the removal of all, or substantially all, of the trees within any portion of a property, at the determination of the Manager;
- (d) **"Clerk"** means the Clerk of the Corporation of the Township of The Archipelago;
- (e) **"Council"** means the Council of the Corporation of the Township of The Archipelago;
- (f) **"Destroy"** means any action which causes or results in the irreversible injury or death of a tree and/or native shoreline vegetation, by cutting, burning, uprooting, chemical application or other means;
- (g) **"Diameter"** means the width measured outside the bark at a specified point of a tree stem or trunk;
- (h) **"Diameter at Breast Height"** (DBH) means the outside bark diameter of a tree at breast height. Breast height is defined as 1.37 m (4.5 feet) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line;
- (i) **"Driveway"** means any open roadway developed on private property or across Crown land that provides vehicular access from a public or private road to one individual lot;
- (j) **"Good Arboricultural Practice"** means the proper implementation of, renewal and maintenance activities deemed by a professional to be appropriate for the individual trees to minimize detrimental impacts and includes pruning of trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate removal of not more than one-third of the live branches or limbs of a tree;
- (k) **"Good Forestry Practice"** means the proper implementation of harvest, renewal, and maintenance activities deemed by a professional for the forest and environmental conditions under which they are being applied and that minimize detriments of forest values, including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health, and the aesthetics and recreational opportunities of the landscape;
- (l) **"Hazardous Tree"** means a dead or severely damaged tree that, in the Officer's opinion, may pose a danger to persons or property;

- (m) **"Highwater Mark"** means, in the case of Georgian Bay 176.44 metres G.S.C. above sea level, and in all other cases means the normal water mark of any water at the time of the original surveys of the geographic townships unless altered by the construction of a dam or dams belonging to any municipal, provincial or other public authority, in which case the measurement shall be from the highwater mark as controlled by such dam or dams;
- (n) **"Injure"** means to do harm, damage, or impair;
- (o) **"Manager"** means the Manager of Development and Environmental Services for the Township of The Archipelago;
- (p) **"Native Shoreline Vegetation"** means vegetation (i.e., any woody plant, or contiguous cluster of plants including, but not limited to, trees, shrubs, and hedgerows) comprised of plant species, other than invasive species or noxious weeds, which:
- a. are Indigenous to the Township, or
 - b. reasonably could have been expected to naturally occur on lands, and
 - c. are located within 7.5m (25ft.) of the highwater mark of any navigable waterway;
- (q) **"Navigable"** means any body of water that is capable in its natural state or, at normal water level of being navigated by floating vessels of any description for the purposes of transportation, recreation or commerce, so long as such navigation does not negatively impact the aquatic environment of that body of water; it also includes a canal and any other body of water created or altered for public use as a result of the construction of any work, as well as any waterway where the public right of navigation exists by dedication of the waterway for public purposes or by the public having acquired the right to navigate through long use;
- (r) **"Officer"** means a person designated by By-law by Council as an Officer for the purposes of implementing and enforcing this By-law;
- (s) **"Order"** means a directive requiring a person to stop the injuring or destruction of trees, rehabilitate the land or plant or replant trees in such a manner and within such a period as the Officer considers appropriate, including any treatment necessary to re-establish the trees;
- (t) **"Owner"** includes with respect to land or property, the registered owner, occupant, tenant, or the person for the time managing or receiving the rent of the property whether on his own account or on account of an agent or trustee of any other person, or any of the aforesaid;
- (u) **"Person"** means any individual, an Owner, corporation, partnership, company, firm, association, or party and includes the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to who the context can apply according to law and the singular shall include the plural;
- (v) **"Planning Act"** means the Provincial legislation, the *Planning Act*, R.S.O. 1990, c.P.13;

- (a) **“Professional”** means a person who, in the opinion of the **Manager**, demonstrates experience and training in the pertinent discipline, and which includes the following for the purposes of this By-law:
- (i) **“Qualified Arborist”** means an expert in the care and maintenance of trees and includes an arborist certified by the Ontario Ministry of Training, Colleges and Universities or the International Society of Arboriculture, or a consulting arborist registered with the American Society of Consulting Arborists;
 - (ii) **“Qualified Tree Marker”** means
 - a. an individual who is certified through the Ontario Ministry of Natural Resources Certified Tree Marker Training Program; or
 - b. a Registered Professional Forester qualified to do tree marking; or
 - c. an Associate Member of the Ontario Professional Foresters Association qualified to do tree marking;
 - (iii) **“OPFA Member”** means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association (OPFA) as defined in the *Professional Foresters Act*, 2000, S.O. 2000, c. 18, as amended;
 - (iv) Any other person, who in the opinion of the Manager, is a qualified expert with expertise appropriate for the relevant critical area or subject;
- (w) **“Road, Private”** means any roadway or open way that allows for the passage of a conventional passenger vehicle(s) and serves as access over more than one property to more than one lot, but does not include a driveway, a public road or public highway as defined in the *Municipal Act*;
- (x) **“Road, Public”** means a public highway or road other than a driveway, a lane, right-of-way or private road that is maintained by a public road authority and that is open and passable by the public;
- (y) **“Road, Seasonal”** means a private road or a public road other than an improved public road, that is not maintained year-round;
- (z) **“Road, Temporary Access”** means a temporary road that is no wider than 4.5 m (15 ft) and has been constructed for the purpose of gaining temporary access to a water access only property in order to allow for construction vehicles or other machinery to safely maneuver on a property;
- (aa) **“Site”** means the area of land containing any tree(s) proposed to be destroyed and/or injured;
- (bb) **“Structure”** means anything that is erected, built, or constructed, the use of which requires location on the ground or being attached to something having location on the ground, and for the purposes of this By-law, shall not include free standing walls, fences, or hedges;

- (cc) **"Tree or Healthy Tree"** means any living species of a stemmed perennial woody plant, with a Diameter at Breast Height (DBH) of 15cm (6 in.) or greater, located on any lands within the Township;
- (dd) **"Township"** and **"Township of The Archipelago"** means the Corporation of the Township of The Archipelago;
- (ee) **"Waterway"** means any creek, pond, stream, river or standing body of water whether or not such body of water is seasonal;
- (ff) **"Zone"** means an area delineated on a Zoning Map Schedule and established by the Zoning By-law for a specific use; and,
- (gg) **"Zoning By-law"** means the By-law regulating land use within the Township as required under the *Planning Act*.

Note that definitions for terms not otherwise defined above may be found in the Township's Comprehensive Zoning By-law (By-law A2000-07, as amended).

3. LAND SUBJECT TO THIS BY-LAW

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

- (a) All lands zoned Natural State (NS), Natural State Conservation (NSC), Environmentally Sensitive (ES), Environmentally Sensitive One (ES1), Environmentally Sensitive Two (ES2), Coastal/Island Residential (CR), Inland Lakes Residential (IR), General Residential (GR), as defined in the Zoning By-law.

4. PROHIBITION

(a) No person, through their own actions or through any other person or corporation, shall undertake any action(s) which result in the clear cutting of trees located in an area described in Section 3 of this By-law, or shall destroy or injure any native shoreline vegetation in an area described in Section 3 of this By-law unless:

- (i) exempted pursuant to Section 5 of this By-law; or
- (ii) exempted in accordance with approval granted pursuant to Section 7 of this By-law.

(b) No person shall fail to comply with an Order issued under this By-law.

(c) No person shall remove or deface an Order posted under this By-law.

5. EXEMPTIONS FROM APPLICATION OF BY-LAW

(a) Notwithstanding Section 4 of this By-law, a person may destroy or injure a tree or native shoreline vegetation without obtaining prior approval from the Township where one or more of the following activities are proposed:

- (i) Minor landscaping, including yard maintenance activities, the installation of flowerbeds, food gardens, and similar landscaping features and activities where the

landscaping does not alter the grade or topography of the land more than 30cm (12in.).

- (ii) The maintenance or replacement of existing features such as landscaping, pathways, driveways, parking areas, patios, stairways, walkways, retaining walls, firepits, and picnic table platforms, to a reasonably similar size.
 - (iii) The destruction or injuring of trees or native shoreline vegetation that is required in order to install and provide utilities to the construction or use of the building, structure or thing in respect of which a building permit has been issued.
 - (iv) The injuring or destruction of trees or native shoreline vegetation which may be obstructing, or otherwise shading, panels used to gather solar energy.
 - (v) The injuring or destruction of trees or native shoreline vegetation that is required to demolish, repair, enlarge, replace or construct a building pursuant to a building permit issued under the *Building Code Act*.
 - (vi) The destruction or injuring of trees or native shoreline vegetation that is required in order to facilitate development permitted by the Zoning By-law, including, but not limited to, the construction of a shoreline structure, such as a dock or sauna, and which complies with the requirements of the Zoning By-law, as may be amended.
 - (vii) The destruction or injuring of trees or native shoreline vegetation that is required in order to install a pathway no wider than 2.0m (6.5ft.).
 - (viii) The destruction or injuring of trees or native shoreline vegetation that is required to install a driveway for vehicular access to a building or structure for which a building permit has been issued, provided that no tree is destroyed or injured that is located more than 1.0m (3ft.) from the edge of the driveway.
 - (ix) The injury or destruction of severely damaged trees following any natural disasters, storms, high winds, floods, fires, snowfalls, freezes, or as a result of insects, disease, or wildlife.
 - (x) The pruning, injuring or destruction of trees or native shoreline vegetation in accordance with good forestry practices or good arboricultural practices.
- (b) The provisions of this By-law do not apply to activities exempted by subsection 135(12) of the *Municipal Act* as follows:
- (i) Activities or matters undertaken by the Township or a local board of the Township;
 - (ii) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*, 1994.
 - (iii) The injuring or destruction of trees or native shoreline vegetation by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey.

- (iv) The injuring or destruction of trees or native shoreline vegetation 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 of subdivision agreement entered into under those sections.
- (v) The injuring or destruction of trees or native shoreline vegetation 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.
- (vi) The injuring or destruction of trees or native shoreline vegetation 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.
- (vii) The injuring or destruction of trees or native shoreline vegetation 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*.
- (viii) The injuring or destruction of trees or native shoreline vegetation undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - a. that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - b. on which a pit or quarry is a permitted land use under a by-law passed under Section 34 of the *Planning Act*.

6. DESIGNATION OF OFFICERS

Council may appoint, by by-law, Officers to enforce the provisions of this By-law for such terms and on such conditions as Council considers appropriate, and the Clerk is authorized to issue Certificates of Designation to these individuals.

7. RELIEF

- (a) If any owner, contractor, or person wishes to apply for exemption from this By-law, they may do so by submitting a written request identifying the nature and extent of the relief requested and accompanied by a site plan/diagram and a description of the proposed tree or native shoreline vegetation removal/cutting to the Clerk.
- (b) The Township hereby delegates to the Manager the authority to grant a request for an exemption and to impose conditions in accordance with good arboricultural practices.
- (c) An owner who applies for exemption from this By-law shall submit the following information:
 - (i) A completed application form;
 - (ii) Payment of the required application fees;

- (iii) A report prepared by a qualified professional which provides a general visual assessment and categorization of the existing trees, sets forth the reasons for the proposed destruction of the trees, confirms that endangered, threatened, or at risk tree species are not present, and shall include recommendations for preservation and protection of any trees to be retained.
- (d) A decision regarding an application for an exemption shall not be made until such time as all the required documents have been filed, the applicable fee has been paid, and any required inspections have been completed. The Manager shall have the option of not requiring the report noted in Section 7(c)(iii) in special circumstances to be determined at their sole discretion. Upon deeming the application complete, the Manager shall issue a notice to this effect to the Owner by personal service, ordinary mail, or email.
- (e) The Manager may grant a request for an exemption where the applicant has demonstrated that the proposed injuring of trees and/or native shoreline vegetation is in accordance with good forestry practices and:
 - (i) Will not interfere with natural drainage processes;
 - (ii) Will not result in soil erosion, slope instability, or siltation in a watercourse;
 - (iii) Will not have a significant impact on any healthy vegetation within and adjacent to the subject property;
 - (iv) Will not have a significant impact on fish or wildlife habitat within and adjacent to the subject property; and,
 - (v) Will not be in contravention of the *Species at Risk Act*, the *Endangered Species Act*, or the *Migratory Birds Convention Act*.
- (f) The Manager, in deciding whether to grant an exemption, may impose such conditions which may include:
 - (i) Requiring that replacement trees be planted.
 - (ii) Requiring that tree cutting work be completed only under the supervision of a qualified professional.
 - (iii) Requirements as to the manner and timing in which injury is to occur.
 - (iv) Requirements as to the species, size, number, and location of trees to be injured.
- (g) Where the Manager decides to grant an exemption from this By-law to permit tree or native shoreline vegetation removal/cutting otherwise prohibited, any activities undertaken shall be consistent with the supporting material(s) provided for their consideration, including, but not limited to, a site plan indicating the following relevant detail pertaining to the site and the proposed activities:
 - (i) property boundaries of the site with dimensions, including its area in hectares;

- (ii) all existing above and below grade utilities, ditches, swales, drainage courses, storm sewers, bodies of water, watercourses, natural heritage features and environmental sensitive areas on the site and on abutting properties and highways;
- (iii) locations of all driveways on the site and of all easements and rights-of-way over, under, across or through the site;
- (iv) location and dimensions of all existing buildings and structures on the site;
- (v) location of all wetlands, floodplains, shoreline, top of bank features and approximate regulation limits as required by the applicable Conservation Authority; and,
- (vi) any other information as deemed reasonably necessary by the Manager to inform their decision as to whether to grant relief.

8. APPEALS TO COUNCIL

- (a) An owner who requests an exemption pursuant to this By-law may appeal in writing to the Council by filing notice of appeal by personal service or registered mail with the Manager:
 - (i) If the Manager refuses to grant an exemption, within thirty (30) days after the refusal.
 - (ii) If the Manager fails to make a decision on the application, within forty-five (45) days after the date of the notice of complete application.
 - (iii) If the applicant objects to a condition in the granted exemption, within thirty (30) days after the exemption is granted.
- (b) The Council has the same powers as the Manager under this By-law, and may:
 - (i) Confirm the refusal to grant the exemption.
 - (ii) Grant the exemption, with or without conditions.
 - (iii) Affirm, vary, or add any conditions to the granted exemption.
 - (iv) Confirm the issuance of an Order to discontinue work.
- (c) The decision of the Council shall be final.

9. INSPECTION/COMPLIANCE MONITORING

- (a) This By-law shall be enforced by an Officer.
- (b) Upon the Township's receipt of a request to grant an exemption, the Owner shall permit an Officer to enter upon his or her property and undertake such site inspections as may be required to consider the application. An Officer may undertake a site inspection prior to, during, and after the proposed activity.

- (c) For the purposes of an inspection under this By-law, the Officer may:
- (i) require the production for inspection of documents or things relevant to the inspection;
 - (ii) inspect, scan and, if necessary, remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (iii) require information from any person concerning a matter related to the inspection; and
 - (iv) alone or in conjunction with a professional possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- (d) All documents and records shall be kept in a good and business-like manner for review by the Officer at their request.
- (e) A receipt shall be provided for any document or thing removed under this By-law and the document or thing shall be promptly returned after the copies or extracts are made.
- (f) No Person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law.

10. ORDERS

- (a) If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened this By-law, or who caused or permitted the contravention or the owner of the lot on which the contravention occurred to:
- (i) discontinue the contravening activity; and/or
 - (ii) do work to correct the contravention.
- (b) An Order shall set out:
- (i) reasonable particulars of the contravention adequate to identify the contravention;
 - (ii) the location of the land on which the contravention occurred; and
 - (iii) either:
 - a. in the case of an Order under section 10 (a)(i), the date by which there must be compliance with the Order; or
 - b. in the case of an Order under section 10 (a)(ii), the work to be done and the date by which the work must be done.
- (c) In default of any work required by an Order under section 10 (a)(ii) being done by the owner directed or required to do it, the work may be done by the Township at the

owner's expense. For the purposes of this section, the Township and its employees, agents and representatives may enter upon land at any reasonable time.

- (d) The Township may recover the costs of doing or any matter pursuant to this By-law by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- (e) The costs in section 10 (d) shall include interest calculated at a rate per annum for the period commencing on the day the Township incurs the costs and ending on the day the costs, including interest, are paid in full.
- (f) An Order issued under this By-law shall be served on the person who the Officer believes is contravening this By-law, by personal delivery or registered mail at the last known address, or by email to the last known email address to whom service is required to be made. The Order shall be deemed to have been served on the fifth business day after the date of mailing or emailing or on the date of personal delivery.
- (g) An Officer, who is unable to effect service of an Order pursuant to this By-law, shall place a placard containing the Order in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service.
- (h) A person who has been served with an Order and who is not satisfied with the terms and conditions of the Order may appeal to Township Council, or its delegate, by sending a notice of appeal and the applicable fee by registered mail or personal delivery to the Clerk within thirty (30) days after being served with the Order.
- (i) An appeal under section 10 (h) shall be conducted pursuant to the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22, as amended.
- (j) An Order under this By-law, that is not appealed within the time referred to in section 10 (h), shall be deemed to be final.

11. PENALTY

- (a) Any Person, including a corporation, who contravenes any provisions of this By-law, or an Order issued pursuant to this By-law, the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, and Section 444(1) or 445(1) of the *Municipal Act*, R.S.O. 2001, c.25, as amended, is guilty of an offence and, upon conviction, is liable:
 - (i) on a first conviction, to a fine of not more than \$10,000;
 - (ii) upon a second or subsequent conviction for the same offence, to a fine of not more than \$100,000; and
 - (iii) upon conviction for a continuing offence, to a fine of not more than \$10,000 for each day or part of a day that the offence continues. The total daily fines is not limited to \$100,000.
- (b) If a corporation has contravened any provision of this By-law or an Order issued pursuant to this By-law and Section 444(1) or 445(1) of the *Municipal Act*, 2001, every director and officer of said corporation is guilty of an offence.

- (c) Every person who is alleged to have contravened any of the provisions of this By-law, shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of their duties.
- (d) For the purposes of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.
- (e) If a contravention of any provision of this By-law has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- (f) If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- (g) For the purposes of this By-law, a “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- (h) In addition to the penalties set out in section 11 (a) herein, should a provincial offences officer within the meaning of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 lay charges under Part I of that Act, the accused is liable to the set fines corresponding to the short form wording set out in Schedule ‘A’ hereto. For clarity, it is the intention of Council that after the passing of this By-law, the set fines for Part I offences listed in Schedule ‘A’ hereto shall be specified by the Regional Senior Justice of the Ontario Court of Justice in accordance with section 91.1(2) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- (i) Upon conviction, any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

12. CONFLICT WITH OTHER BY-LAWS

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

13. SEVERABILITY

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

14. TRANSITION AND EFFECTIVE DATE

Notwithstanding anything herein to the contrary, this By-law shall come into effect on [month], [day] [year].

15. BY-LAW REVIEW AND UPDATE

This By-law shall be reviewed by Council and updated on an ongoing and periodic basis.

16. INTERPRETATION

- (a) References in this By-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended or re-enacted.
- (b) The words “include”, “includes” and “including” are not to be read or interpreted as limiting words, phrases or descriptions that precede them.
- (c) Dimensions specified in metric units shall be the official dimensions. Imperial dimensions contained in parentheses are provided as a convenience only.
- (d) In this by-law, the word “metre” shall be represented by the abbreviation “m”, the word “centimetre” shall be represented by the abbreviation “cm”, and the word “millimetre” shall be represented by the abbreviation “mm”. The words “foot” and “feet” shall be represented by the abbreviation “ft.” and the word “inch” shall be represented by the abbreviation “in.”. The word “hectare” shall be represented by the abbreviation “ha”.
- (e) Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this By-law.
- (f) This By-law and the provisions contained within are intended to be complementary to provincial statutes and to other by-laws passed by the Township. In the event that any other applicable law requires a higher standard than this By-law requires, the higher standard shall apply.
- (g) In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.
- (h) Where this By-law refers to a person undertaking an activity, matter, work or thing, it is also intended to apply to persons that direct another person to undertake such activity, matter, work or thing.
- (i) The Schedules appended to this By-law are incorporated into and form part of this By-law, subject to the set fine amounts listed in Schedule ‘A’ for proceedings commenced under Part I of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, which amounts shall be specified by the Regional Senior Justice of the Ontario Court of Justice in accordance with section 91.1(2) of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, after the passing of this by-law.

READ a first and second time this xx day of xx, 2024.

READ a third time and finally passed this xx day of xx, 2024.

Reeve – Bert Liverance

Clerk – Maryann Martin

(DRAFT) SCHEDULE 'A' TO BY-LAW 2024-XX

CORPORATION OF THE TOWNSHIP OF THE ARCHIPELAGO

PART I PROVINCIAL OFFENCES ACT BY-LAW 2024-XX: TREE PRESERVATION BY-LAW

**A BY-LAW TO REGULATE THE PROTECTION, PRESERVATION, AND REMOVAL OF
TREES WITHIN THE TOWNSHIP OF THE ARCHIPELAGO.**

Item	Short-Form Wording	Provision Creating the Offence	Set Fine
1.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law, without the Manager granting relief from this By-law, unless otherwise exempted by Section 5 of this By-law.	Section 4(a)	\$900.00
2.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law, without the owner's consent.	Section 4(b)	\$900.00
3.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law, not in accordance with an approved Site Plan.	Section 4(a) Section 5(l)	\$900.00
4.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law not in accordance with an approved Subdivision Agreement.	Section 4(a) Section 5(l)	\$900.00
5.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law not in accordance with an approved Consent Agreement.	Section 4(a) Section 5(l)	\$900.00
6.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law not in accordance with an approved Condominium Agreement.	Section 4(a) Section 5(l)	\$900.00

Item	Short-Form Wording	Provision Creating the Offence	Set Fine
7.	Destroy or injure, or permit or cause any other person to destroy or injure, any tree or native shoreline vegetation located in an area described in Section 3 of this By-law not in accordance with a condition to a development permit authorized by regulation made under Section 70.2 of the <i>Planning Act</i> or as a requirement of an agreement entered into under the regulation.	Section 4(a) Section 5(m)	\$900.00
8.	Fail to comply with an Order.	Section 4(c)	\$1,000.00
9.	Remove or deface an Order posted under this By-law.	Section 4(d)	\$900.00
10.	Obstruct or interfere with or attempt to obstruct or interfere with an Officer.	Section 4(e)	\$900.00
11.	Fail to present identification to an Officer upon request.	Section 10(c)	\$900.00

The penalty provision for the offences indicated above is Section 12.2 of the *Provincial Offences Act*. R.S.O 1990. C.P.33