

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW NO. 2007 - 64

Being a By-law Providing for the Planting,
Care and Removal of Trees on Public Lands.

WHEREAS the Town of Gravenhurst declares that all trees growing upon public lands within the Town of Gravenhurst are the property of the Corporation of the Town of Gravenhurst;

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

AND WHEREAS Section 135 (1) of the Municipal Act states that “Subject to subsection (4) and without limiting sections 9, 10 and 11, a local municipality may prohibit or regulate the destruction or injuring of trees. 2006, c. 32, Sched. A, s. 71 (1).”

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

AND WHEREAS the Town of Gravenhurst desires to plant, preserve, maintain and protect trees on public lands in the Town;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

This by-law may be cited as the “Tree Control By-law”.

**PART 1
DEFINITIONS**

1. In this By-law:

(a)“Boulevard” means that portion of every road allowance within the limits of the Town of Gravenhurst which is not used as a sidewalk, driveway, traveled roadway or shoulder.

- (a) “Corporation” means the Corporation of the Town of Gravenhurst.
- (b) “Deface” includes but is not limited to the painting, carving of words, figures, symbols or any other markings on the bark of a tree.
- (c) “Designated Staff” means the Manager of Public Works and Operations, the Manager of Recreation, Community Services and Centennial Centre Operations, the Chief Municipal Law Enforcement Officer and any employee, or authorized contract person acting under their direction.
- (d) “Destroy” means to change the structure or condition of a tree such that it cannot reasonably be returned to its original structure or condition.
- (e) “Highway” shall mean all common and public roads under the jurisdiction of the Corporation.
- (f) “Public Lands” shall mean Town lands such as roads, road allowances, boulevard, parks, trails and other land owned by the Corporation.
- (g) “Tree” shall mean a growing or dead tree or shrub planted or left growing on Town lands such as roads, road allowances, boulevard, parks, trails and other land owned by the Corporation for the purpose of shade or ornament and includes the portion of a tree on private property where the branches extend over a highway, public land or hydro wires.

PART 2 GENERAL PROVISIONS

2.0 Administration of the By-law

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

2.1 Designated Staff – Authority

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

2.2 Branch Extending over Highways or Public Land

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

2.3 Trees May Be Removed – Prohibited Species or Diseased Trees on Public Lands

Designated staff may remove, without notice to any person, a tree of the prohibited species listed in Schedule “A” of the By-law or remove a tree that is diseased and is in the best public interest to be removed. The removal of a diseased trees may require an arborist report prior to removal.

2.4 Trees Planted on Public Lands

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

2.5 Location for Planting

No person shall plant a tree that may become a nuisance or obstruct the reasonable use of public lands or inhibit safe passage through or over public lands.

2.6 Driveway Entrance Permit

Upon approval of a driveway entrance permit, diseased or healthy trees may be removed to allow safe passage through or over the permitted area.

2.7 Public Request for Removal of Public Trees from Designated Staff

The Public may forward a request, for removal of diseased or healthy trees from public lands for private benefit, to designated staff.

2.8 Refusal to Permit Planting of Trees on Public Lands

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

- The nature of the pavements, walks, sewers, public structures /facilities or other works thereon;
- The use to which the lands abutting the public lands, are put;
- The consequence of the extent and nature of the traffic or activity thereon;
- Insufficient dimensions of said property;

- The existence of rock or unfertile soil thereunder; and,
- Where the planting of trees thereon would be impracticable or dangerous to traffic or public or constitute a nuisance upon the property, or equipment of the Corporation.

2.9 Planting of a Selection of Varied Native Tree Species

The Corporation requires that all trees proposed to be planted, on public lands, shall be preferred from a selection of varied Native Tree Species as designated in Schedule “B”.

2.10 Planting of Trees by the Corporation

The Corporation may plant or cause to be planted, trees upon a highway or public lands.

2.11 Planting and Care of Trees on District of Muskoka Lands by the Corporation

The Corporation may plant or cause to be planted, or may care for, trees on District of Muskoka property with prior District approval.

PART 3 PROHIBITED MATTERS

3.1 Plant without Permission

No person shall plant a tree on public lands, or without written permission from Council.

3.2 Plant Prohibited Species

No person shall plant, or cause to be planted, on public lands a species of a tree designated in Schedule “A” of this By-law as a prohibited species.

3.3 Cut Down/Deface/Trim/Injure – Prohibited

No person shall cut down, deface, trim, prune, destroy or injure a tree located on public lands in the Town of Gravenhurst unless authorized by Designated staff.

3.4 Hinder Designated Staff in Duties

No person shall hinder or obstruct, or attempt to hinder or obstruct, designated staff in the exercise of the powers and performing the duties authorized and contained in this by-law.

3.5 Attaching Objects Prohibited without Permission

No person shall attach any object or thing to a tree upon public lands without permission from designated staff.

3.6 Undertaking Work Causing Tree Damage

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

PART 4 ENFORCEMENT

4.0 Fine for Contravention

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

4.1 Continuation/Repetition – Prohibited by Order

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

PART 5 REPEAL – ENACTMENT

5.0 By-law Previous

By-Law No.90-150 and all amendments thereto are hereby repealed.

5.1 Effective Date

This by-law shall come into force and effect on the day of its final passing.

READ A FIRST, SECOND AND THIRD TIME and finally passed this _____ day of _____, 2007.

Mayor

Clerk

SCHEDULE “A”

PROHIBITED SPECIES OF TREES

COMMON NAME(S)	SPECIES NAME
<u>Norway maple</u>	<u><i>Acer platanoides</i></u>
<u>Horse chestnut</u>	<u><i>Aesculus hippocastanum</i></u>
<u>Tree-of-heaven</u>	<u><i>Ailanthus altissima</i></u>
<u>European alder, Black alder</u>	<u><i>Alnus glutinosa</i></u>
<u>Silver birch, European white birch</u>	<u><i>Betula pendula</i></u>
<u>Russian olive, Trebizond date, Oleaster</u>	<u><i>Elaeagnus angustifolia</i></u>
<u>Autumn olive</u>	<u><i>Elaeagnus umbellata</i></u>
<u>White mulberry</u>	<u><i>Morus alba</i></u>
<u>Norway spruce</u>	<u><i>Picea abies</i></u>
<u>Scots pine, Scotch pine</u>	<u><i>Pinus sylvestris</i></u>
<u>White poplar</u>	<u><i>Populus alba</i></u>
<u>Lombardy poplar</u>	<u><i>Populus nigra var. italica</i></u>
<u>European buckthorn, Common buckthorn</u>	<u><i>Rhamnus cathartica</i></u>
<u>Glossy buckthorn</u>	<u><i>Rhamnus frangula</i></u>
<u>Black locust, False acacia</u>	<u><i>Robinia pseudoacacia</i></u>
<u>European mountain ash</u>	<u><i>Sorbus aucuparia</i></u>
<u>Siberian elm</u>	<u><i>Ulmus pumila</i></u>
Manitoba Maple	<i>tba</i>

All non-native species will be considered prohibited.

Note: Other species may be considered with approval by Municipal authority.

SCHEDULE “B”

ALLOWABLE SPECIES OF TREES

Native Tree Species
Cold Hardy in Muskoka

COMMON NAME	SCIENTIFIC NAME	ZONE
Alder, Green	<i>Alnus viridis</i> spp. <i>crispa</i>	
Alder, Speckled	<i>Alnus incana</i> ssp. <i>rugosa</i>	3
Ash, Black	<i>Fraxinus nigra</i>	2
Ash, Red	<i>Fraxinus pennsylvanica</i>	2
Ash, White	<i>Fraxinus Americana</i>	3b
Basswood	<i>Tilia americana</i>	2b
Beech, American	<i>Fagus americana</i>	3
Birch, White	<i>Betula alba papyrifera</i>	2
Birch, Yellow	<i>Betula alleghaniensis</i>	3b
Butternut	<i>Juglans cinerea</i>	3b
Cedar, Eastern Red	<i>Juniperus virginiana</i>	3
Cedar, Eastern White	<i>Thuja occidentalis</i>	3
Cherry, Black	<i>Prunus serotina</i>	2
Cherry, Pin	<i>Prunus pennsylvanica</i>	1b
Chokecherry, Common	<i>Prunus virginiana</i>	3
Dogwood, Alternate-Leaf	<i>Cornus alternifolia</i>	3
Eastern Cottonwood	<i>Populus deltoides</i>	2
Elm, White	<i>Ulmus americana</i>	2
Fir, Balsam	<i>Abies balsamea</i>	3
Hackberry	<i>Celtis occidentalis</i>	2b
Hawthorn, Cockspur	<i>Crataegus crus-galli</i>	3
Hawthorn, Fleshy	<i>Crataegus, succulenta</i>	3
Hazel, Beaked	<i>Corylus cornuta</i>	3
Hemlock, Eastern	<i>Tsuga canadensis</i>	3
Ironwood /Hop-hornbeam	<i>Ostrya virginiana</i>	3
Locust, Honey	<i>Gleditsia triacanthos</i>	4
Maple, Red	<i>Acer rubrum</i>	3
Maple, Silver	<i>Acer saccharinum</i>	4
Maple, Striped	<i>Acer pensylvanicum</i>	2
Maple, Sugar	<i>Acer saccharum</i>	4a
Mountain-Ash, Showy	<i>Sorbus decora</i>	2
Mountain-Ash, American	<i>Sorbus americana</i>	3
Nannyberry	<i>Viburnum lentago</i>	2

Oak, Bur	Quercus macrocarpa	2
Oak, Pin	Quercus palustris	4
Oak, Red	Quercus rubra	3
Oak, White	Quercus, alba	3
Pine, Eastern White	Pinus strobus	3
Pine, Red	Pinus resinosa	3
Pine, Jack	Pinus banksiana	2
Plum, Canada	Prunus nigra	2
Serviceberry, Downy	Amelanchier arborea	3b
Serviceberry, Saskatoon	Amelanchier alnifolia	1
Serviceberry, Allegheny	Amelanchier laevis	3b
Spruce, Black	Picea mariana	1
Spruce, White	Picea glauca	1
Sumac, Staghorn	Rhus typhina	3
Tamarack	Larix laricina	1
Viburnum, Cranberry	Viburnum trilobum	2
Winterberry, Common	Ilex verticillata	3b