

# The Corporation of the Township of Georgian Bluffs

## By-law Number 2024-034

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Being a By-law to regulate the alteration of road allowances in the Township of Georgian Bluffs and repeal By-law 2024-029.

**WHEREAS**, subsection 5(1) of the *Municipal Act, 2001* S.O. 2001, c. 25, as amended, provides that the powers of a municipality shall be exercised by its Council;

**AND WHEREAS**, subsection 5(3) of the *Municipal Act, 2001*, provides that a municipal power shall be exercised by by-law;

**AND WHEREAS**, clause 26 4. of the *Municipal Act, 2001* provides that road allowances in municipalities made by Crown surveyors are highways;

**AND WHEREAS**, clause 28(2)(a) of the *Municipal Act, 2001*, provides that except as otherwise provided in the *Municipal Act, 2001* or under section 8 of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, c. P.50, a local municipality has jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors;

**AND WHEREAS**, section 30 of the *Municipal Act, 2001*, provides that a highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person;

**AND WHEREAS** section 425 of the *Municipal Act, 2001*, provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

**AND WHEREAS** section 436 of the *Municipal Act, 2001*, provides that a municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law of the municipality is being complied with;

**AND WHEREAS** subsection 446(1) of the *Municipal Act, 2001*, provides that if a municipality has the authority under *Municipal Act, 2001* or any other Act or under a by-law, to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

**AND WHEREAS** subsection 429(1) of the *Municipal Act, 2001* provides that the municipality may establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act, 2001*; and

**AND WHEREAS** subsection 446(3) of the *Municipal Act, 2001*, provides that the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

**AND WHEREAS** Council for the Township of Georgian Bluffs deems it necessary and expedient to pass a by-law to regulate the alteration of road allowances in the Township of Georgian Bluffs;

**NOW THEREFORE** the Council of the Corporation of the Township of Georgian Bluffs enacts the following:

### **1.0 SHORT TITLE**

- 1.1 This by-law shall be known and may be cited as the “Road Allowance Alteration By-Law”.

### **2.0 APPLICABILITY AND SCOPE**

- 2.1 This By-Law will apply to all road allowances in the Township, including original shore road allowances, except those road allowances and original shore road allowances that have been permanently closed and conveyed.
- 2.2 Where the provisions of this By-law conflict with the provision of any other By-law or policy in force in the Town, including Policy – TRA-010-10 – Use of Unopened Road Allowances, the provisions of this By-law shall prevail.
- 2.3 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.

### **3.0 DEFINITIONS**

- 3.1 “Approval of the Township” – refers to written approval, usually provided through a Road Allowance Occupancy Permit, for activities within this By-law.
- 3.2 “Fill” – refers to any material, whether originating on the road allowance or elsewhere, used or capable of being used to raise, lower or in any way affect the contours of the ground.

- 3.3 “Invasive” – refers to plant material that is considered invasive as per the *Invasive Species Act, 2015*, S.O. 2015, c. 22, as amended from time to time.
- 3.4 “Materials” – refers to plants, soil, construction materials etc.
- 3.5 “Municipal Law Enforcement Officer” – refers to any person appointed by the Township to enforce its By-laws.
- 3.6 “Non-Native” – refers to species of plant that are not native to Ontario, such as cultivars that may be purchased from some garden centres.
- 3.7 Passage – refers to the ability of the public to make reasonable use of the road allowance to pass from one public point to another.
- 3.8 Right of Way Occupancy Permit – refers to a permit, for which a fee is payable, that is provided by the Township for activities within the Road Allowance.
- 3.9 Road Allowance – refers to lands that were originally laid out for roads by a Crown surveyor and over which the Township has jurisdiction under the *Municipal Act, 2001*. Road allowances are generally 66 feet in width and include original shore road allowances on Georgian Bay and inland waterbodies.
- 3.10 Stormwater Infrastructure – refers to infrastructure designed for the conveyance of water resulting from precipitation and storm events.
- 3.11 Structure – means anything that is temporarily or permanently erected, built or constructed of one or more pieces or parts joined together.
- 3.12 Utility Company – a company, or its agents, recognised as providing services along utility corridors in the province of Ontario, including hydro networks, phone networks, gas networks and fibre optic networks.

#### **4.0 PROHIBITIONS**

- 4.1 No person shall remove, or cause to be removed, any tree or shrub or any part thereof, from the road allowance without the prior written permission of the Township.
  - 4.1.1 For greater clarity, section 4.1 does not apply to;
    - 4.1.1.1 Authorized utility companies protecting existing infrastructure through tree or shrub removal;
    - 4.1.1.2 Operations by, or at the direction of the Township in respect to the management and maintenance of the Township’s infrastructure and property; or

- 4.1.1.3 The emergency management of trees and/or shrubs in the case of imminent risk or danger to persons or property.
- 4.2 No person shall remove, or cause to be removed any item of vegetation from the road allowance.
  - 4.2.1 For greater section, 4.2 does not apply to:
    - 4.2.1.1 The cutting of grass or other vegetation for aesthetic or visibility purposes where this has been traditionally undertaken over previous seasons;
    - 4.2.1.2 The removal of non-native, noxious, invasive or otherwise harmful plant species; or
    - 4.2.1.3 Operations by, or at the direction of the Township in respect to the management and maintenance of the Township's infrastructure and property.
- 4.3 No person shall plant, or cause to be planted, any tree, shrub or other vegetation within the road allowance without the prior, written, approval of the Township.
- 4.4 No person shall place, store or cause to be placed or stored for any duration of time, onto the road allowance, any materials or fill without the prior, written approval of the Township.
  - 4.4.1 For greater clarity, item 4.4 does not apply to;
    - 4.4.1.1 The management of an existing private lane or driveway leading to/from the allowance and recognized by the Township and/or approved through an 'Entry Permit'.
- 4.5 No person shall remove any material from the road allowance, without the prior, written approval of the Township.
- 4.6 No person shall erect, or cause to be erected any structure or temporary structure on the road allowance, without the prior, written approval of the Township.
  - 4.6.1 For greater clarity, item 4.6 does not apply to the erection or replacement of an existing mailbox within the road allowance.
- 4.7 No person shall alter or modify, or cause to be altered or modified, the road allowance, in any way, without the prior, written approval of the Township.

- 4.8 No person shall block or hinder passage, or cause the blocking or hinderance of passage along a road allowance, without the prior, written approval of the Township.
- 4.9 No person shall install a new, or replacement shore well on the road allowance without the prior, written approval of the Township.
  - 4.9.1 For greater clarity, item 4.9 does not apply to routine maintenance of an existing shore well.
- 4.10 No person shall obstruct any stormwater infrastructure placed within the road allowance, including, but not limited to:
  - 4.10.1 The alteration or obstruction of any Township ditch, swale or other drainage structure;
  - 4.10.2 The obstruction of any culvert or other form of drainage alongside or under the road allowance, including driveway culverts; and
  - 4.10.3 Any grate or other entry to any below grade stormwater drainage structure.
- 4.11 No person shall remove or replace a driveway culvert without the prior, written approval of the Township.
- 4.12 No person shall discharge, or cause the discharge of excess water to a road allowance, without the prior, written approval of the Township.
- 4.13 No person shall discharge, or cause the discharge of excess water to any stormwater infrastructure within the road allowance, without the prior, written approval of the Township.
- 4.14 No person shall cause a fence, hedge or other property demarcation to obstruct in any way any part of the road allowance.
- 4.15 No person shall erect, or cause to be erected, a fence or other barrier as a property boundary demarcation on the road allowance, without the prior, written approval of the Township.
- 4.16 No person shall interfere or obstruct with an investigation being undertaken by a Municipal By-law Enforcement Officer in respect of this By-law.
- 4.17 Pursuant to section 446 of the *Municipal Act, 2001* where the Township, its employees or authorized agents have performed work required to bring a road allowance into compliance with the By-law, all expenses incurred by the Township in doing the work as well as any related fees, shall be deemed to be a debt to the Township and may be collected by action or the costs may be added to the tax roll of the property owner who caused the Township

to undertake the work, and collected in the same manner as municipal taxes.

- 4.18 No person shall undertake work to a road allowance without obtaining a Right of Way Occupancy Permit from the Township.

## **5.0 RIGHT OF WAY OCCUPANCY PERMIT**

- 5.1 A person may apply to the Township for a right of way occupancy permit for permission to erect or maintain a structure or undertake activities that are otherwise prohibited by this By-law.
- 5.2 All plans and drawings accompanying a right of way occupancy permit application shall contain the following:
- 5.2.1 a site plan drawn to scale showing all measurements;
  - 5.2.2 a description of the proposed activity or structure;
  - 5.2.3 the owner, applicant, municipal address and legal description of the property;
  - 5.2.4 the existing and/or proposed use of the property;
  - 5.2.5 the area and zoning of the property;
  - 5.2.6 the location of all buildings, parking areas and entrances on or within one hundred (100) metres of the property;
  - 5.2.7 the location of the proposed structure (if applicable) including the setback of the proposed structure from the property line(s);
  - 5.2.8 details of the structure (if applicable), including dimensions, clear height, materials, colours, copy, graphics, area of sign and any other information as may be required to determine compliance with this by-law;
  - 5.2.9 other information as may be determined by the Operations Manager or Designate Council or its delegate as required; and
  - 5.2.10 authorization of the owner of the property abutting the subject road allowance.
- 5.3 The duration of the right of way occupancy permit and any conditions related to the permit shall be determined at the time of issuance.
- 5.4 Where the right of way occupancy permit application meets all of the requirements of this By-law and any other applicable laws and is deemed

to be in the public interest, a permit shall be promptly issued by the Council or its delegate.

- 5.5 If the matters mentioned in the application or if the drawings, specifications or plan of survey submitted with the application indicate that the work will not comply in all respects with the provisions of this By-law and other applicable law, or should the issuance of the road allowance occupancy permit be deemed by Council to be not in the public interest, Council shall refuse to issue a permit.
- 5.6 Council may revoke a right of way occupancy permit if it determines that revocation is in the public interest and upon reasonable notice to the permit holder.

## **6.0 OFFENCE AND PENALTY PROVISIONS**

- 6.1 Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Municipal Act, 2001* or the *Provincial Offences Act*, R.S.O. 1990, c. P.33, and to any other applicable penalties.
- 6.2 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction pursuant to Part III of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended, shall be subject to the following penalties:
  - 6.2.1 upon a first conviction, to a minimum fine of \$500 and a maximum fine of \$100,000
  - 6.2.2 in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$100,000 and the total of all daily fines for the offence is not limited to \$100,000; and
  - 6.2.3 in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000
- 6.3 If this By-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 6.4 If this By-law is contravened and a conviction entered, the court may also order that any alteration or modification to the road allowance to which that conviction relates shall be removed and/or restored.

## **7.0 ENFORCEMENT**

7.1 This By-law may be enforced by a Municipal By-law Enforcement Officer.

## **8.0 DELEGATION**

8.1 For the purposes of subsection 23.2(4) of the *Municipal Act, 2001* it is the opinion of Council that any powers delegated pursuant to this By-law are minor.

## **9.0 NOTICE**

9.1 Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:

9.1.1 on the date a copy is personally delivered to the person to whom it is addressed;

9.1.2 on the third (3<sup>rd</sup>) day after a copy is sent by regular mail or by registered mail to the person's last known address;

9.1.3 upon confirmation of the successful transmission of a copy by facsimile transmission to the person's last known facsimile transmission number;

9.1.4 upon sending a copy by email transmission to the person's last known email address; or

9.1.5 upon a copy being posted on the door of any building or structure on the person's last known premises or, where no building or structure exists, on a stake erected by a Municipal Law Enforcement Officer on the Person's last known Premises.

## **10.0 VALIDITY**

10.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every provision of this By-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

## **11.0 EFFECTIVE DATE**

11.1 This By-law shall come into is in force on the day it is passed.

Read a first and second time this 12th day of June 2024.

Read a third time and finally passed this 12th day of June 2024.



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Mayor – Sue Carleton

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Clerk – Carly Craig

**Schedule A**

**Township of Georgian Bluffs**

**Part 1 Provincial Offences Act**

**By-law 2024-034: Road Allowance Alteration By-law**

<b>Item</b>	<b>Short Form Wording</b>	<b>Provision Creating or Defining Offence</b>	<b>Set Fine</b>
1.	Remove tree or shrub	4.1	\$500.00
2.	Remove vegetation	4.2	\$250.00
3.	Plant tree, shrub or other vegetation	4.3	\$150.00
4.	Place fill	4.4	\$500.00
5.	Remove material	4.5	\$500.00
6.	Erect a structure	4.6	\$500.00
7.	Alter or modify the road allowance	4.7	\$250.00
8.	Block or hinder passage	4.8	\$150.00
9.	Install or replace a shore well without permission	4.9	\$500.00
10.	Obstruct stormwater infrastructure	4.10	\$500.00
11.	Replace driveway culvert without permission	4.11	\$150.00
12.	Discharge water to allowance	4.12	\$150.00
13.	Discharge water to stormwater infrastructure	4.13	\$150.00
14.	Erect a fence or barrier	4.15	\$250.00
15.	Interfere with an investigation	4.16	\$150.00
16.	Undertake work without a Right of Way Occupancy Permit	4.18	\$500.00

Note: The general penalty provision for the offences listed above is section 6.1 of the By-law 2024-034, a certified copy of which has been filed.

Fines are subject to approval by the Chief Justice prior to coming into force and effect.