



The Corporation of the Town of Fort Erie By-law 53-2025

Being a By-law to Amend Tree By-law 33-2024 (Clarification on Enforcement and Implementation)

Whereas By-law 33-2024 was passed by the Municipal Council of the Town of Fort Erie on March 24, 2024, to regulate the destruction and injury of trees within the Town of Fort Erie; and

Whereas Report PBBS-32-2025 was considered and approved at the Council-in-Committee meeting held April 14, 2025, which recommended amendments to the Town's tree protection regulations in response to ongoing concerns regarding the clear-cutting of mature native trees, to preserve the ecological value, biodiversity, and natural heritage character of the Town of Fort Erie; and

Whereas the proposed amendments to By-law 33-2024 include the addition of tree compensation requirements to help ensure the economic viability of development projects, by adding maximum cash-in-lieu amounts and additional assessed amounts based on the size of a site; and

Whereas the proposed amendments to By-law 33-2024 includes the addition of the terms "Draft Plan of Subdivision" and "Draft Plan of Condominium" to the list of development applications referenced on page 25, which currently includes Official Plan Amendments, Zoning By-law Amendments, Site Plan Control, and Commercial or Industrial Developments; and

Whereas the proposed amendments to By-law 33-2024 introduce a requirement that, where a tree is removed from an urban area or a natural heritage area and there is sufficient planting capacity at or near the site, the replacement tree shall be planted within the same urban or natural heritage area; and

Whereas it is deemed desirable to amend By-law 33-2024 to incorporate these changes, including the addition of new definitions, and to clarify provisions related to the enforcement and implementation;

Now, therefore, the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** Section 2.0 of By-law 33-2024 is amended by adding the following definitions, to be inserted in alphabetical order in accordance with the existing sequence of definitions in the By-law:

"Arborist" means a person who is:

- a) qualified as an arborist under the Ontario Ministry of Training, Colleges and Universities;
- b) certified by the International Society of Arboriculture;
- c) a consulting arborist registered with the American Society of Consulting Arborists;
- d) a Registered Professional Forester; or
- e) otherwise qualified to the satisfaction of the Director of Planning.

"Cash-in-lieu" means a monetary contribution required in place of replanting trees, where physical replanting on-site or nearby is not feasible due to site constraints or insufficient planting capacity.

"Consent Application" is a term used in Provincial Planning Legislation to describe the approval process to sub-divide land.

“Developer” is a term for an applicant who may be a land owner, corporation or individual who is applying for a Planning Act Application to develop land.

“Exemption Letter” means a letter issued by the Town confirming that a specific instance of Tree Injury or Destruction is exempt from the requirements of this By-law.

“Imminent Threat” means a condition or circumstance posing an immediate and substantial risk of serious harm to persons or significant damage to property.

“Landscape Plan or Planting Plan” means a plan prepared by or under the direction of a Landscape Architect who is a full member in good standing with the Ontario Association of Landscape Architects (or equivalent), which illustrates proposed and existing vegetation, planting details, and landscape features as required by this by-law and associated development applications.

“Natural Heritage System” means a system of natural features and areas, including wetlands, woodlands, valleylands, watercourses, wildlife habitat, and associated components such as linkages, buffers, supporting features and enhancement areas, as identified in the Town’s Official Plan or other applicable planning document. For clarity, where trees are located on lands identified as part of the Town’s Natural Heritage System in the Official Plan or other applicable planning documents, such trees shall be deemed to be part of the Natural Heritage System and are subject to the applicable provisions of this by-law, regardless of whether the lands are in the Urban or Rural Area.

“Tree Preservation and Replacement Guide” means a non-binding reference document prepared by the Town of Fort Erie that provides plain-language guidance on the interpretation and application of By-law 33-2024, including the tree permit application process, preservation measures, and replacement requirements.

“Tree Protection Zone,” means the area around a tree that must be protected from disturbance to preserve the tree’s health and structural stability, measured as a minimum radial distance from the outside edge of the trunk in accordance with the requirements set out in Schedule “F”.

“Tree Stump” means the remaining base portion of a tree trunk and its roots that is left in the ground after the main stem and canopy have been removed or have fallen.

2. That Section 3.1 a) of By-law 33-2024 is hereby deleted and replaced with the following:

a) To trees over 10cm DBH within the Natural Heritage System.

3. That Section 5.1 of By-law 33-2024 is hereby deleted and replaced with the following:

5.1 Subject to Section 8.0, and notwithstanding Section 4.0, no person shall injure or destroy a tree, or cause or permit the injury or destruction of a tree, without a permit or exemption letter.

4. That Section 5 of By-law 33-2024 is amended by adding the following clauses:

5.11 No person shall fail to replant a replacement tree or pay cash-in-lieu as directed in a permit condition.

5.12 No person shall injure, destroy or remove a tree stump of a regulated tree without a permit.

5.13 a) where a tree stump has been injured, destroyed or removed the measurements will be based on the maximum size requirements for compensation.

5. That Section 6 of By-law 33-2024 is amended by adding the following clauses:

6.1 b) There may be some circumstances where invasive species trees within a wood lot may require compensation, invasive species can provide a large canopy cover and habitat to bird and bat species. Invasive species as listed in

6.1.c) will be evaluated on a site-specific basis for Planning Act applications including Zoning By-law Amendments, Official Plan Amendments, Site Plan Control, Consent Applications, Minor Variances or Draft Plan of Subdivision/Condominiums.

6. That Section 6.1 a) of By-law 33-2024 is hereby deleted and replaced with the following:

The Injuring or Destruction of the following invasive species including the following Tree species:

- i. *Morus alba* (White Mulberry)
- ii. *Rhamnus cathartica* (Common Buckthorn) *Rhamnus frangula* (Glossy Buckthorn)
Black Alder (*Alnus glutinosa*) *Ailanthus altissima* (Tree of Heaven)
- iii. *Acer platanoides* (Norway Maple)
- iv. *Acer negundo* (Manitoba Maple)
- v. *Aesculus hippocastanum* (Horse Chestnut)
- vi. *Betula pendula* (Silver birch or European White birch)
- vii. *Elaeagnus angustifolia* (Russian Olive)
- viii. *Elaeagnus umbellata* (Autumn Olive)
- ix. *Picea abies* (Norway Spruce)
- x. *Pinus sylvestris* (Scots or Scotch Pine)
- xi. *Populus alba* (White Poplar)
- xii. *Robinia pseudoacacia* (Black Locust)
- xiii. *Ulmus pumila* (Siberian Elm)

7. That Section 8.1 of By-law 33-2024 is hereby deleted and replaced with the following:

8.1 A permit shall be issued to remove or injure a tree including the removal of the stump when all of the following are satisfied:

- a) the Application is complete;
- b) the Town is satisfied that one or more of the following grounds for permit issuance apply:
 - i. the Tree is a Dead Tree or Hazardous Tree;
 - ii. based upon the opinion of an Arborist, it is necessary to remove unsafe Trees;
 - iii. based on the opinion of the Director, the Tree or Trees are causing or are likely to cause structural damage to load-bearing structures or roof structures;
 - iv. based upon the opinion of a 'qualified person' (as defined in the Environmental Protection Act), the Tree Injury or Destruction is required to remediate contaminated soil;
 - v. the Tree Injury or Destruction is required pursuant to a Building Permit where there are no reasonable alternatives to locating those utilities or infrastructure;
 - vi. based on the opinion of an Arborist and/or a Registered Professional Forester, the Tree Injury or Destruction represents Good Arboricultural Practices and/or Good Forestry Practices;
 - vii. the Application Fee has been paid to the Town.

8. That Section 8.2 of By-law 33-2024 is amended by removing mention of "4.1(k) and (o)".

9. That Section 8 of By-law 33-2024 is amended by adding the following clauses:

8.3 Following the receipt of a complete application, the Director of Planning shall consider the following criteria in approving or refusing a Tree Permit:

- a. Condition of the Tree (such as, but not limited to diameter, height, health as assessed by an Arborist, and structural integrity)
- b. Location of the Tree
- c. Species of the Tree
- d. Crown Coverage of the ground

- e. The protection of ecological systems and their functions, including the protection of native flora and fauna
- f. Erosion and sedimentation of watercourses and flood control
- g. Impacts on surrounding properties including loss of shade, vistas or privacy

10. That Section 11 of By-law 33-2024 is amended by adding the following clauses:

- q) When a tree has been determined to be a Town tree and it has not been determined to be dead, a hazard or part of an approved Planning Act application or Building Permit, a removal permit will not be approved.
- r) Staff determine that none of the criteria provided in Section 8 applies to the permit.
- s) When a permit has been inactive for a period of 6 months
- t) When a Planning Application is applied for concurrently with the Tree Permit, the Tree Permit will be cancelled.

11. That Section 12.2 of By-law 33-2024 is hereby deleted and replaced with the following:

12.2 An Order issued under this By-law may be served personally, by regular mail to the last known address or by electronic mail to the last known email address of the person to whom the Order is directed. Service shall be deemed to have been effected on the date of personal delivery, five (5) days after the date of mailing, or on the date the email is sent, unless evidence to the contrary is provided.

12. That Section 13.2 of By-law 33-2025 is hereby deleted and replaced with the following:

13.2 The Order may be served in accordance with the service provisions contained in Section 12.2, 12.3, and 12.4, The Order to Comply shall include:

- a) the name of the property Owner and the municipal address or the legal description of the land;
- b) the particulars of the contravention;
- c) the work to be done and the date by which the work must be done;
- d) a statement that if the work is not done to bring the property into compliance within a specified time period, the Town may have the work done at the expense of the Owner; and
- e) contact information of the Officer

13. That Section 16.9 of By-law 33-2024 is hereby deleted and replaced with the following:

16.9 This by-law does not apply to trees that have been previously approved to be removed with building permits, site plans, minor variances, consents, approved subdivisions, approved plan of condominiums, zoning by-law amendments, official plan amendments, or development agreements approved on or before May 26, 2024.

14. That By-law 53-2025 to amend Tree By-law 33-2024 be amended by deleting the reference to "\$200,000" as the maximum cash in lieu amount per 5.5 Hectare Site and replacing it with "\$150,000" and "40,000" be reduced to "30,000".

15. That Schedule "A" to By-law 33-2024 is amended by adding the following:

Column 1	Column 2	Column 3	Column 4	Column 5
Offense	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Injur, destroy or remove tree	5.1	\$4500.00	\$9000.00	\$10000.00

stump(s) without a permit.				
----------------------------	--	--	--	--

- 16. **That** Schedule “B” Replacement and Replanting of By-law 33-2024 is hereby deleted and replaced with Schedule “B” entitled “Tree Replacement and Planting”, attached hereto and forming part of this by-law.
- 17. **That** By-law 33-2024 is amended by adding a new Schedule “F” entitled “Minimum Tree Protection Zone, attached hereto and forming part of this by-law.
- 18. **That** the Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 26th day of May 2025.

Mayor

Clerk

SCHEDULE "A" to By-law 53-2025

SCHEDULE "F" to By-law 33-2024, as amended

Minimum Tree Protection Zone

Trunk Diameter (DBH)	Minimum Tree Protection Zone
Less than 10cm	1.8m (5'11")
11cm- 40cm	2.4m
41cm – 50cm	3.0m
51cm – 60cm	3.6m
61cm - 70cm	4.2m
71cm – 80cm	4.8m
81cm – 90cm	5.4m
91cm – 100cm	6.0m
Greater than 100cm	6.0m (19'8") + 10cm (4") per 1 cm DBH

SCHEDULE “B” to By-law 53-2025

SCHEDULE “B” to By-law 33-2024, as amended

Tree Replacement and Planting

As a Condition to a Permit that has been issued for a Tree located on a residential property where there is an occupied dwelling, or a single detached dwelling that has been approved by a building permit, or a Minor Variance, the permit holder will be required to replace the tree at a 1:1 ratio.

Any other permit holder will be applying for a Consent or any other relevant Planning Act application will be subject to the replacement ratios depicted in Table B.1.

Developers who are applying for an Official Plan Amendment, Zoning By-Law Amendment, Site Plan Control or a Commercial or Industrial Development will be subject to the requirement set forth in Table B.2.

Table B.1 - Replacement Tree Ratios by DBH

Diameter at Breast Height (DBH) in Centimetres	Number of Replacement Trees
12.5-24	2
25-34	3
35-44	4
45-54	5
55-64	6
65-74	7
75-84	8
84-95	9
95-104	10
105-114	11
>115	12

Should it be determined by an Arborist that a tree is dead, diseased or hazardous, the tree replacement ratios outlined above do not apply. Should an Officer determine a contravention of the By-law has occurred, an Order to Comply may be issued and in such case the planting of Replacement Trees is required at a ratio depicted within Table B.1.

Table B.2. Replacement Tree Ratios by DBH (Major Developments)

Diameter at Breast Height (DBh) in Centimeters	Number of Replacement Trees
12.5-24	1
25-34	1
35-44	2
45-54	2
55-64	2
65-74	3
75-84	3

84-95	3
95-104	4
105-114	4
>115	5

OPA/ZBA/Site Plan Control, Draft Plan of Subdivision and Condominium and Industrial and Commercial Building Permits

A maximum of \$150,000.00 cash in lieu per 5.5 Hectare Site. Any sites over 5.5 Hectares. Any site over 5.5 Hectares will be assessed on a graduated scale - \$30,000.00 per additional hectare. Enhancements will be factored into the tree calculation.

Should it be determined by an Arborist that a tree is dead, diseased or hazardous, the tree replacement ratios outlined above do not apply. Should an Officer determine a contravention of the By-law has occurred, an Order to Comply may be issued and in such case the planting of Replacement Trees is required at a ratio depicted within Table B.1.

Table B.3 List of Preferred Trees for Replanting

American Beech	Blue Beech	Pawpaw
Trembling Aspen	Chokecherry	Pin Cherry
Balsalm Poplar	Tulip Tree	Red Maple
Basswood	Eastern White Cedar	Serviceberries
Bitternut Hickory	Eastern White Pine	Shagbark Hickory
Black Cherry	Ironwood	Red Oak
Black Walnut	Largetooth Aspen	Sycamore
Black Willow	Northern Hackaberry	Tamarack

A security deposit is required per Replacement Tree.

A security deposit per tree (for owners who are individuals) required for each Replacement Tree to be planted and can be found in the Town of Fort Erie Consolidated Fee Schedule. The security deposit will be refunded once a final inspection of the replacement plantings is complete. The deposit will be held for a two-year maintenance period.

A security deposit per tree (for owners who are corporations) is required for each Replacement Tree to be planted and can be found in the Town of Fort Erie Consolidated User Schedule. The security deposit will be refunded once a final inspection of the replacement plantings is complete. The deposit is to be held for a two-year maintenance period. A secured line of credit can be used.