

THE CORPORATION OF THE MUNICIPALITY OF CALVIN**BY-LAW NUMBER 2024-064****BEING A BY-LAW TO ADOPT A POLICY RESPECTING THE MANAGEMENT OF BEAVERS AND
BEAVER DAMS IN THE MUNICIPALITY OF CALVIN**

WHEREAS pursuant to Section 10(1) and 10(2) of the Municipal Act, S.O. 2001, c.25, as amended, the "Municipal Act" authorizes a single-tiered municipality to provide any service or thing that the municipality considers necessary or desirable for the public, and a single tiered municipality may pass by-laws respecting the following matters; Public Assets of the municipality acquired for the purpose of exercising its authority under this act or any other act, the health and safety and well being of persons, protection of property including consumer protection and animals;

AND WHEREAS Sections 8(3)(4) and 31(1) of the Fish and Wildlife Conservation Act, 1997, S.O. 1997,c.41, as amended, authorizes a person or the agent of a person, to damage or destroy a beaver dam to protect the person's property, and if a person believes on reasonable grounds that wildlife is damaging or is about to damage the person's property, the person may, on the person's land, (a) harass the wildlife for the purpose of deterring it from damaging the person's property; or (b) capture or kill the wildlife. 1997, c.41, s.31(1);

AND WHEREAS Section 80(1)(2) of the Drainage Act, TR.S.O. 1990, cD.17 as amended from time to time, beaver dams constructed on private property and the damage they may cause due to flooding, breaches and related hazards to drainage are the responsibility of the private property owner;

AND WHEREAS Part XIV, Sections 425 to 447.9 of the Municipal Act, S.O. 2001, c.25 as amended, gives the authority to a municipality to enforce its by-laws including the issuance and enforcement orders, rights of entry, rights of remedial action and the right to recover its costs; and further Section 446 (3) The municipality may recover the costs of doing a matter or thing under subsection (1) 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 the Council of the Corporation of the Municipality of Calvin believes it to be in the public interest to regulate and control flooding that may be caused by beaver dams in order to protect public infrastructure and the health and safety of the public;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF CALVIN
ENACTS AS FOLLOWS;**

1.0 Definitions

- 1.1 **“Beaver”** means a large semiaquatic broad-tailed rodent that is native to North America. It is noted for its habit of gnawing through tree trunks to fell the trees in order to feed on the bark and build “dams”;
- 1.2 **“Beaver Dam”** means a structure constructed by a Beaver to create a pond to protect against predators and to store food during the winter;
- 1.3 **“By-Law”** means Corporation of the Municipality of Calvin By-Law 2024-064 , short title “Management of Beavers and Beaver Dams By-Law”;
- 1.4 **“By-Law Enforcement Officer”** means a person who is appointed by Council as a Municipal Law Enforcement Officer to enforce by-laws enacted and passed by Council;
- 1.5 **“Council”** means the Council of the Corporation of the Municipality of Calvin;
- 1.6 **“Municipality”** means the Corporation of the Municipality of Calvin;
- 1.7 **“Owner”** means the registered Owner of the land and also includes the Owner of the animal and also includes a trustee acting on behalf of the registered Owner, the estate of a registered Owner and a Person with a leasehold interest in the land;
- 1.8 **“Person”** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a Person to whom the context can apply, according to law, and that wherever this By-Law refers to an Owner or Person that the reference to gender or the gender neutral, the intention is to read the By-Law with the gender applicable to the circumstances;
- 1.9 **“Director”** means a person or designate, who is employed by the Municipality and is responsible for overseeing the maintenance of municipal roads and infrastructure (Public Works Superintendent) or their designate;

- 1.10 **“Drainage Works”** includes a drain constructed by any means, including the improving of a natural watercourse, and includes works necessary to regulate the water table or water level within or on any lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof.

2.0 General Prohibitions-Flood Risks

- 2.1 For the purposes of this By-Law, a flood risk is created where a Beaver Dam or other obstruction allows water to collect in a manner that might reasonably be expected to cause flooding or other damage to private property, highways, culverts, bridges, drainage works or other municipal property, if the water collected were to rise or to escape.
- 2.2 No Person or Owner shall permit a Beaver Dam or other obstruction on their property that may create a flood risk or threaten health and safety of the public, or which may cause damage to municipal property or private property.

3.0 Administration

- 3.1 If an inspection of a property reveals that the prohibition set out in 2.2 of this By-Law has been or will be breached due to the presence of a Beaver Dam and damage to Municipal property is likely to occur or has occurred, the Director may issue an order to have the Beaver Dam removed and shall forward copies of the same addressed to each Owner of the property so identified by the municipal tax rolls which the Beaver Dam is located, and to any occupier of the property to whom the Director considers the order should also be issued. The order shall also be posted in a conspicuous place on the property. Where damage to a municipal property has already occurred, the order shall also require the repair of that damage at the cost to the Owner(s).
- 3.2 If it appears to the Director that damage to Municipal property is presently occurring or, on reasonable grounds, that protection of Municipal and private property requires immediate action, the order shall require immediate compliance on the date of issuance of the order.
- 3.3 If an inspection of a property reveals that the prohibition set out in section 2.2 of this By-Law has been or will be breached due to the presence of a Beaver Dam

on the property and the Director is in the reasonable opinion that the presence of the Beaver Dam creates a risk to public health and safety that must be remedied immediately, the Municipality may enter onto the property with such employees, agents or contractors and equipment and take all reasonable measures necessary to correct this situation creating the risk to public health and safety. Under such circumstances, notice shall be given to the Owner and the Owner will have (30) thirty days to pay the invoice. If payment has not been received after (30) days, the invoice will be collected in the same manner as real property taxes.

- 3.4 If an inspection of the property reveals that the property does not conform to the standards prescribed in section 2.2 of this By-Law and the circumstances in section 3.2 are not present, the Director may issue a written order to the Owner or occupant of the property or both, setting out that the Person to whom an order has been issued are jointly or severally liable for all the costs to the Municipality of locating and removing the Beaver Dam in compliance with all the applicable legislation, and for the costs associated with any other remedial work to rectify damage caused to Municipal property, as described in the order.
- 3.5 Any order issued by the Municipality in accordance with this By-Law shall be served personally or by registered mail sent to the last known address of the Person to whom the order is to be given, in which event the service shall be deemed to have been made on the seventh day of mailing.
- 3.6 Every Owner shall comply with an order issued under the authority of this By-Law. If the Owner of the property to whom an order has been given in accordance with this By-Law does not comply with the order within the time prescribed in the order, the Municipality may, in addition to all other remedies, cause the property to be brought into a condition that conforms to this By-Law at the Owner's expense and, for this purpose, the Municipality's employees or agents shall enter onto the property at any reasonable time without further notice to the Owner or occupant in order to do such work and remedy any contravention of this By-Law.
- 3.7 The Municipality shall collect any costs incurred by it to remedy any non-compliance with section 2.2 of this By-Law by adding the costs, plus a 10% (ten percent) administration fee. Any outstanding amounts on which the work was performed will be added to the tax roll of the property.

3.8 Despite any actions taken in respect to this By-Law, the Municipality shall not be liable to compensate the Owner, occupant or any other Person by reason of anything done by or behalf of the Municipality in the reasonable exercise of its - powers under this By-Law.

4.0 Entry and Inspection

4.1 A Director or By-Law Enforcement Officer or their designate shall at any time reasonable to determine whether this By-Law is being complied with. The use of a drone may be used for the inspection of a property.

4.2 Every Person shall permit a Director or By-Law Enforcement Officer or their designate to inspect any land for the purposes of determining compliance with this By-Law.

5.0 Obstruction

5.1 No Person who shall hinder or obstruct, or attempt to hinder or obstruct, any Director or By-Law Enforcement Officer or their designate from exercising a power or performing a duty under this By-Law.

6.0 Offences and Penalties

6.1 Any Person who contravenes any provision of this By-Law is guilty of an offence and upon conviction, is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.

6.2 Any Person who fails to comply with an order or any part thereof issued pursuant to this By-Law is guilty of an offence.

6.3 Upon conviction, an individual found guilty of an offence is liable to a fine not to exceed the maximum provided under the Provincial Offences Act, exclusive of costs, and every such fine shall be recoverable under the Provincial Offences Act.

7.0 Severability

7.1 If any provision of this By-Law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in certain circumstances, the balance of the By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

7.2 If a provision of this By-Law conflicts with an Act or regulation or another by-law, the provisions that are most restrictive shall prevail.

7.3 If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, such section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-Law and it is hereby declared that the remainder of the By-Law shall be valid and shall remain in force.

8.0 Schedules

8.1 Schedules "A", "B" and "C" shall form part of this By-Law.

9.0 Short Title

9.1 This By-Law shall be known as the "Management of Beaver and Beaver Dams By-Law."

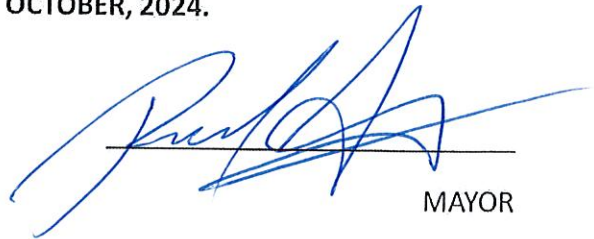
10.0 Municipality Not Liable

10.1 The Municipality assumes no liability for property damage or personal injury resulting from remedial action or remedial work or lack thereof of the Owner of private property.

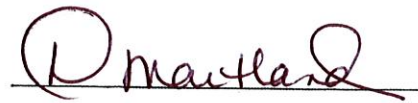
11.0 Passage

11.0 This By-Law shall come into force and effect on the day it is passed by Council.

TO BE READ, ENACTED AND PASSED THIS 29th DAY OF OCTOBER, 2024.



MAYOR



CAO, CLERK

SCHEDULE "A" TO BY-LAW 2024-064

Policy and Procedure for the Management of Beavers and Beaver Dams

The Council of the Corporation of the Municipality of Calvin deems it expedient to adopt a policy and procedure to deal with potential flooding threats caused by Beaver Dams. These structures, with associated head ponds, often do adversely impact public roads, and the health and safety of the public.

Where Dams occur on Municipal property, the Municipality has clear authority to remove or alter the dams to ensure negative impacts of flooding on a public road(s) to minimize or control flooding.

Where Dams occur on private lands, the Township will encourage landowners to manage these nuisance animals and structures in an effort to help and protect public assets from the negative impacts of flooding, which may occur when Dams are suddenly breached as well as oversee any potential damage caused and ensure health and safety of the general public.

The Municipality will require corrective action as necessary to prevent damage to public infrastructure, in accordance with this By-Law.

1.0 Situations and Circumstances

- 1.1 On performing road patrols or in receiving comments or complaints from the public, the Director or designate, may become aware of Beaver activities that represent potential problems for municipal infrastructure. In such instance, the Director or designate will make an assessment as to whether municipal property is or soon will be damaged because of beaver activities and identify the safest and most effective method to address problems associated with these activities and the health and safety associated for the general public and will contact the landowner to educate the landowner of the By-Law.
- 1.2 If the Beaver Dam or blockage is located on municipal property, the Director or designate will remove the Dam or blockage if risks to public safety or property damage so warrant and may contact a licensed trapper to trap or dispatch the Beaver(s). The trapper shall be licensed by the Ministry of Natural Resources and Forestry (MNR) and comply with all applicable legislation.
- 1.3 If the Beaver Dam is located on private property, the landowner will be asked, in writing by the Director or designate, to have the Dam removed or altered in such a manner as to

prevent flooding damage to municipal property. The contact information for a licensed trapper will be provided to the landowner. Alternatively, the landowner's permission will be obtained in writing, using the form attached as Schedule "B" to this By-Law, for municipal staff to enter onto the property to remove or alter the Dam and or to allow the licensed trapper to enter on the private lands. In obtaining consent for municipal involvement, the Owner will be asked to acknowledge and agree, in writing, the Municipality will not be held responsible for damages that may occur when altering or removing a Dam by Municipal or contracted resources and/or trapper being assigned to commence trapping on said private lands.

- 1.4 If the landowner refuses access to the property or to population control of the Beaver, the landowner will be sent a registered letter from the Director or designate informing them that they will be held liable for any damages caused to municipal property or harm caused to the public because of the Beaver Dam suddenly being breached or washed out.

2.0 Emergency Situations

- 2.1 There may be an emergency that may arise where water levels and the volume of retained water created by a Beaver Dam(s) represent an imminent flood threat to a public asset (road, bridge, culvert, etc.) which in turn could impact public safety. In such instances, the Director or designate, shall assess the threat, determine the risk of damage to the public asset and take action to alter or remove the Dam to lower the threat of flooding to an acceptable level.

- 2.2 Authority to take such emergency action is referenced in the Fish and Wildlife Conservation Act as follows:

Beaver Dams- Section 8(3) states: A person shall not damage or destroy a Beaver Dam unless the person holds a license to trap fear bearing animals.

Protection of Property-Section 8(4) states: Subsection (3) shown above, does not apply to a person, or agent of a person, who damages or destroys a Beaver Dam to protect the person's property.

- 2.3 In accordance with 2.2 above, under an emergency situation, as determined by the Director or designate, Municipal staff or an appointed contractor or agent may enter onto private property to alter or remove a Beaver Dam with the objective of "protecting property" such as a public road.

3.0 Risk Assessment Procedure

- 3.1 A risk assessment will be conducted by the Director or designate to determine if an emergency response is required.
- 3.2 Where, as a result of excessive water associated with a Beaver Dam(s), water is being held against a road to the extent that the road is deemed unsafe for public travel and/or it is apparent that road failure is possible then emergency actions will be initiated including entry to private land to remedy the problem.
- 3.3 Where there is a sufficient head of water being held behind a Beaver Dam that if released quickly would overwhelm the road and related drainage system, thereby representing a serious threat to infrastructure and/or public safety, then emergency actions will be initiated including entry onto private lands to remedy the problem.
- 3.4 In either of the above situations (3.2 or 3.3), the threat of damage may be heightened if weather conditions and predictions call for greater rain or run-off that would increase water volumes and increase washout possibilities.



SCHEDULE "B" TO BY-LAW 2024-064

Property Access Form

Date: _____

Landowner Name: _____

Location of Property: _____

Mailing Address: _____

Select an Option Below:

___ Option A:

I will provide the Municipality of Calvin staff, agent and or licensed trapper permission to access the above-mentioned property for the purpose of dealing with beaver dams and or nuisance beaver, and to be invoiced for such works.

In obtaining consent, the Municipality will not be held responsible for any damage that may occur as a result of altering or removing a beaver dam on the above-mentioned property.

___ Option B:

Refuse to give the Municipality of Calvin's staff, agent or licensed trapper permission to access the above-mentioned property to deal with the nuisance beaver or beaver dams.

NOTE:

- (1) Failure to provide a response to the Municipality in 7 business days of receipt of the Form by Registered Mail will be considered a refusal of access and shall be recorded as such (Option B).
- (2) Refusal of access will result in legal action(s) in the event of any damage caused to municipal property or harm caused to the public because of the breach of a beaver dam and or wash out. Costs incurred shall be added to the tax roll of the property for the damage incurred.
- (3) The Municipality may collect any costs incurred by adding the locating, removal and trapping costs, plus a 10% administration fee, to the tax roll of the property on which the work will be performed in accordance with this By-law.

_____ Option C:

Thank you for the notification of the beaver dam on the property. The above-mentioned property owner will take care of the beaver dam and or nuisance beaver and do not require the assistance of the Municipality's staff, agent or contracted licensed trapper.

It is noted that failure to comply with statement of choosing Option C within 7 business days after receipt of the order, that the Municipality shall hold the landowner responsible as if refusal of access and will result in legal action(s) in the event of any damage caused to municipal property or harm caused to the public because of the breach of a beaver dam and or wash out. Costs incurred shall be added to the tax roll of the property for the damage incurred.

Name of Landowner

Signature of Landowner

Name of Witness

Signature of Witness



SCHEDULE "C" TO BY-LAW 2024-064

SET FINES

The Management of Beavers and Beaver Dams

Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions Creating or Defining an Offence	COLUMN 3 Set Fines
1	Permit a Beaver Dam or other obstruction on property	Sec.2.2	\$500.00
2	Fails to Comply with an Order	Sec. 3.6	\$500.00
3	Hinders or obstructs any Director or By-Law Enforcement Officer or their designate from exercising a power or performing duty under this By-Law	Sec. 5.1	\$500.00

NOTE: The penalty provision for the offences indicated above is Section 6.0 of By-Law 2024-064 and section 6.1 of the Provincial Offences Act, R.S.O. 1990, c.P.33

_____ Option C:

Thank you for the notification of the beaver dam on the property. The above-mentioned property owner will take care of the beaver dam and or nuisance beaver and do not require the assistance of the Municipality's staff, agent or contracted licensed trapper.

It is noted that failure to comply with statement of choosing Option C within 7 business days after receipt of the order, that the Municipality shall hold the landowner responsible as if refusal of access and will result in legal action(s) in the event of any damage caused to municipal property or harm caused to the public because of the breach of a beaver dam and or wash out. Costs incurred shall be added to the tax roll of the property for the damage incurred.

Name of Landowner

Signature of Landowner

Name of Witness

Signature of Witness



SCHEDULE "C" TO BY-LAW 2024-064

SET FINES

The Management of Beavers and Beaver Dams

Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions Creating or Defining an Offence	COLUMN 3 Set Fines
1	Permit a Beaver Dam or other obstruction on property	Sec.2.2	\$500.00
2	Fails to Comply with an Order	Sec. 3.6	\$500.00
3	Hinders or obstructs any Director or By-Law Enforcement Officer or their designate from exercising a power or performing duty under this By-Law	Sec. 5.1	\$500.00

NOTE: The penalty provision for the offences indicated above is Section 6.0 of By-Law 2024-064 and section 6.1 of the Provincial Offences Act, R.S.O. 1990, c.P.33

7.3 If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, such section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-Law and it is hereby declared that the remainder of the By-Law shall be valid and shall remain in force.

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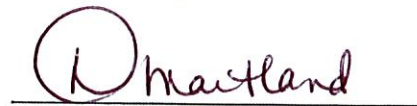
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MAYOR



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