

COUNTY OF BRUCE BY-LAW NO. 4071

Being the Forestry Conservation By-law for the County of Bruce to prohibit or regulate the destruction or injuring of trees in woodlands in the County of Bruce

WHEREAS s.135(2) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, permits the enactment of a By-law by the Corporation of the County of Bruce to prohibit or regulate the destruction or injuring of trees in woodlands;

AND WHEREAS Council may require that an Permit Application to Cut be filed and a permit be obtained to injure or destroy trees in woodlands specified in the By-law.

AND WHEREAS Council has determined that it is desirable to enact such a By-law for the purposes of:

preserving and improving the woodlands in the County of Bruce through Good Forestry Practices;

- a) promoting Good Forestry Practices that sustain healthy woodlands;
- b) minimizing the destruction or injuring of trees;
- c) regulating and controlling the removal, maintenance and protection of trees;
- d) minimizing and guarding against dangerous conditions which may result in injury;
- e) protecting, promoting and enhancing the aesthetic values of woodlands;
- f) contributing to human health and quality of life through the maintenance of woodland cover; and
- g) providing wildlife habitat.

Now, therefore, the Corporation of the County of Bruce HEREBY ENACTS as follows:

1. DEFINITIONS

- a) In this By-law:
- b) "AGS" (Acceptable Growing Stock) means good quality trees suitable for retention in a woodlot for at least one cutting cycle of 15 to 25 years.
- c) "Basal area" means the area of the cross-section of the stem of a tree taken at a point of measurement 1.37 metres (4.5 feet) above the highest point of ground at the base of the tree where the ground meets the stump.

- d) "Building Permit" means a building Permit issued under the Building Code Act, 1992, S.O. 1992, c23, as amended.
- e) "Business Day" means any day falling on or between Monday and Friday of each week and not including holidays.
- f) "Circumference" means the measurement of the perimeter or outer boundary of a stem or trunk of a tree with such measurement including the bark of the stem.
- g) "Coppice growth" means where more than one tree stem grows from a single tree stump.
- h) "Council" means the Council of the Corporation of the County of Bruce.
- i) "Diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement.
- j) "DBH" means the diameter of the stem of a tree measured at a point that is 1.37 metres (4.5 feet) above the highest point of ground at the base of the tree where the ground meets the stump.
- k) "Good Forestry Practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to 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, and also includes, but is not limited to the forestry management practices set out in the Provincial Silvicultural Guidelines as referred to in the Forest Operations and Silviculture Manual and its revisions prepared under the authority of the Crown Forest Sustainability Act, S.O. -1994, c. 25. These Provincial Silvicultural Guidelines include, but are not limited, to: A Silvicultural Guide to Managing Southern Ontario Forests, Silvicultural Guide for the Tolerant Hardwood Forest in Ontario, A Tree Marking Guide for the Tolerant Hardwood Working Group in Ontario, A Silvicultural Guide for the Great Lakes -St. Lawrence Conifer Forest in Ontario;

and Good Forestry Practices permits the destruction or injuring of trees that:

- I. have been damaged by disease, insects, wind, ice, fire, lightning, or other natural causes to an extent that the health of such trees is likely to further deteriorate;
- II. should be cut or removed to prevent disease or insects from spreading to other trees;

III. and with regard to Eastern White Cedar, are cut in accordance with "Silviculture Guidelines for Eastern White Cedar, Southern Region Science and Technology Transfer Unit, Technical Report TR-006".

- l) "Officer" means an individual appointed by Council for the administration and enforcement of this By-law who shall be the Forestry Technician/Weeds Inspector or such other person or persons so appointed.
- m) "Owner" means a person having any right, title, interest or equity in land affected by this By-law.
- n) "Permit" means a permit issued pursuant to the provisions of this By-law.
- o) "Point of Measurement" means that point on the tree trunk measured above the point on the tree where the ground meets the stump. For coppice growth the point of measurement shall be at the point on the tree trunk where the tree stems separate provided that such point of separation is less than 1.37 metres (4.5 feet) from where the ground meets the stump.
- p) "Registered Professional Forester" is a person who holds a certificate of registration issued by the Ontario Professional Foresters Association pursuant to the Professional Foresters Act, 2000, S.O. 2000, c.18.
- q) "Silviculture" means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of management.
- r) "Tree" means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity.
- s) "Woodlands" means land at least one hectare and more in area with at least:
 - I. 1000 trees, of any size, per hectare;
 - II. 750 trees, measuring over five (5) centimetres in diameter at DBH, per hectare;
 - III. 500 trees, measuring over twelve (12) centimetres, in diameter at DBH, per hectare; or
 - IV. 250 trees, measuring over twenty (20) centimetres, in diameter at DBH, per hectare;

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees, nor trees growing in a hedge row.

2. GENERAL PROHIBITION

a) Except as provided in section 3, no person through their own actions or through any other person shall destroy or injure any living trees located within any Woodlands unless:

- I. the person who is destroying or injuring trees does so in accordance with Good Forestry Practices and has submitted to the County an application required under Schedule C, "Permit Application to Cut in Accordance with Good Forestry Practices", which achieves a Minimum Basal Area after cutting as follows:

Tree DBH (cm)	Minimum Residual Basal Area
10-24	5
26-40	5
42-48	4
50-60	4
62 +	2
Total	20

and is holding a valid Permit; or

- II. the person who is destroying or injuring trees, has only destroyed or injured those trees which have attained, at the specified point of measurement, the Circumference measurement which equals or is greater than the minimum Circumference prescribed for the species in Schedule A and has submitted to the County an application required under Schedule D, "Permit Application to Cut for Circumference Harvest", and is holding a valid Permit; or
- III. with regard to strip or patch cutting of Eastern White Cedar, the person who is destroying or injuring trees does so in accordance with Good Forestry Practices as outlined in the "Silviculture Guidelines for Eastern White Cedar, Southern Region Science and Technology Transfer Unit Technical Report TR-

006", and has submitted to the County an application required under Schedule E, "Permit Application to Cut Eastern White Cedar", and is holding a valid Permit; and

- IV. the destruction or injuring of trees will not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered Woodlands as defined by this By-law;

b) A person shall not:

- I. fail to comply with an Order issued under this By-law;
- II. remove or deface any Order that has been posted pursuant to this By-law; and
- III. contravene the terms or conditions of a Permit.

c) A person shall not:

- I. destroy or injure any tree that is to remain standing after the destruction or injuring of trees is completed in accordance with this By-law;
- II. operate a vehicle, machinery or equipment or conduct their operations in such a manner or at such a time that results in excessive damage to the soil, wetlands or other portions of the Woodlands; and
- III. operate a vehicle, machinery or equipment or conduct operations in a manner or at a time, that results in the leaving of any part of a tree in a watercourse including any trees that have not been cut, but have been pushed, knocked over or otherwise ended up in a watercourse;

d) A person cutting trees pursuant to a Permit issued pursuant to this By-law has given two Business Days prior verbal or written notice to an Officer.

3. OUTRIGHT EXEMPTIONS

a) This By-law does not apply to:

b) activities or matters undertaken by a municipality or a local board of a municipality;

c) activities or matters undertaken under a licence issued under the Crown Forestry Sustainability Act, 1994;

d) the injuring or destruction of trees 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;

- e) the injuring or destruction of trees imposed 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 or subdivision agreement entered into under those sections;
- f) the injuring or destruction of trees imposed 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;
- g) the injuring or destruction of trees 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;
- h) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a Permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- i) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - I. that has not been designated under the Aggregate Resources Act or a predecessor of that Act; and
 - II. on which a pit or quarry is a permitted land use under a By-law passed under section 34 of the Planning Act.
- a) the injuring or destruction of trees where the Owner of the Woodlands has been granted an exemption pursuant to section 4;
- b) the injuring or destruction of trees that is required in order to erect any building, structure or thing in respect of which a Building Permit has been issued and has taken into consideration the protection of trees surrounding the structure or work within the building envelope;
- c) the injuring or destruction of trees 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; the injuring or destruction of trees that is required in order to install and provide utilities to a single lane driveway for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued;
- d) the Owner of the Woodlands has destroyed or injured trees for the Owner's own use on the Owner's property, or for the Owner's own consumption, and not for sale, resale, exchange or other commercial purposes; and

- e) the destruction or injury of trees where the trees are destroyed or injured pursuant to a legally binding written contract for the sale of trees between the Owner and a third party if:
 - I. the contract was signed on or after May 8, 2002 and on or before May 8, 2003;
 - II. proof of the signed contract and payment in full has been submitted to the Officer;
 - III. the Owner and third party are holding a valid Permit; and
 - IV. the trees are injured or destroyed in a manner consistent with the former Forestry By-law No. 2871 and in compliance with the Permit.

4. EXEMPTIONS REQUIRING A PERMIT

- a) In order to be considered for an exemption to Section 2 the Owner of the Woodlands must apply to the Officer for an exemption Permit at least 3 months prior to the anticipated commencement of injury or destruction of trees by submitting a completed application form as described in Schedule B;
- b) Upon submission of a complete~ application form, the Officer may provide the requested exemption if in the opinion of the Officer the Woodlot is not a healthy or sustainable Woodlot by reason of size, location, biodiversity or such other reason as is deemed appropriate by the Officer. When exemptions are approved by the Officer, a Permit shall be issued and notice of an approved exemption shall be given to Council by the Officer.

5. PERMITS

- a) Every Owner of Woodlands who intends to destroy or injure trees located in such Woodlands, whether personally or through another person, shall complete and submit to the Officer no less than 5 Business Days prior to the start of destruction or injury, all the information as prescribed in the Permit applications attached as Schedules B, C, D, or E as the case may be pursuant to s. 2 of this By-law.
- b) Where the Permit application meets all of the requirements of this By-law and other applicable law, a Permit shall be issued by the Officer.
- c) A Permit issued pursuant to this By-law shall expire one year after the date of issuance unless the Permit has been renewed or extended by the Officer before its expiry date for a further period of one year. If the Permit is not renewed or extended before its expiry, a new Permit application shall be submitted in accordance with the provisions of this By-law.
- d) An Officer may impose conditions in the Permit relating to:

- I. a particular practice or requirement pertaining to Good Forestry Practices as defined in this By-law;
- II. a requirement that the work proceed in stages and is subject to inspection by an Officer at the completion of each stage before the next stage can be proceeded with;
- III. the submission of additional information reasonably required to the satisfaction of the Officer before the Permit becomes effective; and
- IV. a requirement to comply with other applicable law.

6. MINIMUM REQUIREMENTS ON PERMIT APPLICATIONS

- a) A Permit application shall be deemed not complete, and no Permit shall be issued if:
 - I. the Owner of the Woodlot has not signed the application;
 - II. the party who will be undertaking or responsible for the cutting of the trees has not signed the application;
 - III. the Permit application has not been completed in full; or
 - IV. the Permit application is not in keeping with the general purpose and intent of this By-law.

7. ORDERS TO DISCONTINUE ACTIVITY

- a) Where an Officer is satisfied that a contravention of this By-law or other applicable law has occurred, the Officer may make an Order requiring the person who contravened the By-law or who caused or permitted the injuring or destruction of trees in contravention of the By-law to stop the injuring or destruction of trees. The Order shall set out the information contained in Schedule F, "Order to Discontinue Activity".
- b) An Order issued under this section may be served personally or served by sending it by mail to the last known address of;
- c) the Owner of the Woodlands; and
- d) the corporation, company, person or persons identified as injuring, destroying or harvesting a tree or trees.
- e) Where service of an Order is made by mail, service shall be deemed to have been effected on the fifth day after the order is mailed.

- f) Where service cannot be carried out under section 7, subsection (b), the Officer shall place a placard containing the terms of the Order in a conspicuous place on the Owner's lands, and the placing of the placard shall be deemed to be sufficient service of the Order on the person or persons to whom the Order is directed.

8. PENALTY

- a) Any person who contravenes any provision of this By-law, or an Order issued under section 7 is guilty of an offence and is liable:
 - I. on first conviction, to a fine of not more than \$10,000 or \$1 000 per tree, whichever is greater; and
 - II. on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- b) If a person is convicted of an offence for contravening this By-law or an Order issued under section 7, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

9. ENFORCEMENT

- a) This By-law shall be enforced by -n Officer.
- b) An Officer may, at any reasonable time, enter and inspect any lands to determine whether this By-law, an Order or a condition to a Permit is being complied with, but this power of entry shall not apply to any building on such lands.
- c) Any person who obstructs or interferes with an Officer in the discharge of his or her duties under this By-law, shall be considered in contravention of this By-law.

10. ADMINISTRATION

- a) Schedules A, B, C, D, E and F shall form part of this By-law.
- b) If any section or sections of this By-law or parts thereof are found by any court to be illegal or beyond the power of the Council to enact, such-section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found illegal.
- c) The short title of this By-law is the "Forest Conservation By-law 2004".
- d) By-law 4015 of the Corporation of the County of Bruce is hereby repealed effective on the coming into force and effect of this By-law, provided that By-law 4015 shall

remain in effect for all Notices of Intent and Exemptions that are in compliance with By-law 4015.

- e) Despite subsection (d) of this section, By-law 4015 of the Corporation of the County of Bruce shall continue to apply to proceedings in respect of offences that occurred before its repeal.

READ A FIRST AND SECOND TIME THIS 1 ST DAY OF APRIL, 2004.

READ A THIRD TIME AND FINALLY PASSED, SIGNED AND SEALED THIS 1ST DAY OF APRIL, 2004.