

Niagara Region Tree and Forest Conservation Bylaw



By-law No. 30-2008





**NIAGARA PENINSULA
CONSERVATION
AUTHORITY**

250 Thorold Road West,
3rd Floor Welland, ON L3C 3W2
Phone: 905.788.3135 Fax: 905.788.1121
www.npca.ca

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Contacts

Forest Conservation By-Law Administration & Enforcement:

Niagara Peninsula Conservation Authority (905) 788-3135
www.npca.ca

Upper-Tier Municipal By-law Authority:

The Regional Municipality of Niagara (905) 685-1571
www.niagararegion.ca Toll Free 1-800-263-7215

Local Municipal Contacts:

Town of Fort Erie (905) 871-1600
www.town.forterie.ca

Town of Grimsby (905) 945-9634
www.town.grimsby.on.ca

Town of Lincoln (905) 563-8205
www.lincoln.ca

City of Niagara Falls (905) 356-7521
www.niagarafalls.ca

Town of Niagara-On-The-Lake (905) 468-3266
www.notl.org

Town of Pelham (905) 892-2607
www.pelham.ca

City of Port Colborne (905) 835-2900
www.city.portcolborne.on.ca

City of St. Catharines (905) 688-5601
www.stcatharines.ca

City of Thorold (905) 227-6613
www.thorold.com

Township of Wainfleet (905) 899-3463
www.township.wainfleet.on.ca

City of Welland (905) 735-1700
www.city.welland.on.ca

Township of West Lincoln (905) 957-3346
www.westlincoln.com



Common questions about the By-law

1. What is the purpose of the By-law?

The Region of Niagara Tree and Forest Conservation By-law is concerned with conserving and improving woodlands in Niagara. The Niagara Peninsula Conservation Authority (NPCA) is responsible for administering and enforcing the By-law on behalf of the Region as of August 1, 2008.

The By-law prohibits the clearing of woodland except under certain specified circumstances. Selection cutting or removal of individual trees within woodlands is provided for but in most cases a permit is required, although the By-law does contain certain exemptions. The intent is to insure that, where tree cutting occurs, it is carried out in accordance with Good Forestry Practices. In the past logging operations often employed the diameter or size limit approach, removing the larger, more valuable trees. Research has demonstrated that this practice adversely affects the health of woodlands and reduces the economic return to the owner over the long term. Proper woodland management using Good Forestry Practices as recommended by qualified forestry professionals will improve the health, vigour and economic value of woodlands over time.

2. When do I need a permit to cut trees on my property?

A permit, referred to as a Good Forestry Practices permit, is required when there is a commercial harvest of trees within a woodland, or the cutting of trees for non-commercial purposes (e.g., firewood) will occur within a Sensitive Natural Area. These are areas designated as Natural Areas in the Niagara Escarpment Plan, or Environmental Protection Areas that include significant wetlands, areas of natural and scientific interest, and areas with significant habitat of threatened and endangered species. Contact the NPCA to determine if your property is within a Sensitive Natural Area or other regulated areas if you are planning to cut trees.

A permit is not required for general residential tree removal or maintenance. Landscaping or gardening involving trees that are not part of a woodland are not protected by this bylaw unless they have been designated as Heritage Trees by the council of a local municipality and have been delegated to the Niagara Region for protection.

3. How do I attain a permit to harvest trees on my woodland?

A Good Forestry Practices permit may be approved by the NPCA where:

- the owner submits the permit application form along with a Prescription or Forest Management Plan prepared by a Registered Professional Forester or member of the Ontario Professional Foresters Association and the trees have been marked by a Certified Tree Marker

The harvest can not reduce the number of trees per hectare below the minimum number to be considered a woodland. See question 6.



4. What is the cost of a permit?

There is no fee when applying for a Good Forestry Practices permit.

5. What are the exemptions from needing a permit?

A Good Forestry Practices permit is not required if the cutting of trees meets one of the Exemptions detailed in Section 4 of the By-law and summarized below:

- For an owner's own use subject to meeting several criteria (e.g., owned it for two years; 'Good Forestry Practices' are used; no commercial sale of trees; a Woodland and minimum basal area are maintained).
- Land owned for 3 years by a registered farmer clearing for agricultural purposes, provided it is in accordance with good agricultural and forestry practices, the land is used for agricultural purposes within three years and the land is not in a Sensitive Natural Area as defined in the By-law.
- To remove dead or hazard trees.
- To remove diseased trees as identified in a Prescription or Forest Management Plan prepared by a Registered Professional Forester or member of the Ontario Professional Foresters Association.
- For surveying purposes.
- Where a building permit has been issued by a local municipality.
- In accordance with a tree saving plan approved as part of a development project.
- By a municipality for activities or matters undertaken for municipal purposes.
- By a transmitter or distributor as defined in the Electricity Act.
- On an approved waste disposal site.
- On land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry.
- For construction of drainage works under the Drainage Act.
- On Christmas tree plantations, orchards and tree nurseries.



6. What is considered a 'Woodland' in the By-law?

Woodland is forested area at least 1 hectare (2.47 ac) in size with the following density of trees:

- 1,000 trees, of any size, per hectare;
- 750 trees, measuring over five (5) centimetres in diameter, per hectare;
- 500 trees, measuring over twelve (12) centimetres, in diameter, per hectare; or
- 250 trees, measuring over twenty (20) centimetres, in diameter, per hectare.

Woodlands are not limited by property boundaries. Fruit and nut orchards, Christmas tree and tree nursery plantations are not included.

Woodlands measuring less than 1 hectare are covered by this bylaw in the municipalities of Niagara Falls, Niagara on the Lake, Grimsby and West Lincoln. Other municipalities may have decided to delegate the authority of woodlands less than 1 hectare to the NPCA since this document was printed. It is recommended you contact the NPCA to verify the status your local municipality.

7. What is meant by 'destruction or injuring' of trees?

Destruction of trees recognizes the 'cutting, burning or other means' of eliminating living trees. Examples of this could include cutting down trees with chainsaws or axes, changing grades around trees, compacting soil over root areas, bulldozing trees, or removal of bark from trees.

8. Can trees that pose a risk or hazard to human safety or property be removed?

Yes, trees considered a safety hazard can be removed without a permit only on private property. Contact the local municipality if the tree is on public land.

9. Can a landowner remove trees that appear 'unhealthy' or 'diseased' in a woodland?

Unhealthy trees may be removed from a woodland without a permit. However, if the number of unhealthy trees removed decreases the number of total trees per hectare to be classified as a woodland then a report prepared by a Registered Professional Forester (R.P.F.) or a person in good standing with the OPFA will be required prior to removing the trees. The trees removed must be used for own use.



10. Is a permit required to cut trees for own use such as firewood?

A permit may be required by the owner of a woodland if the trees are for their own use. A permit is required if a harvest includes a sale, exchange or other disposition of the trees harvested. This will require a Good Forestry Practices permit. There are conditions the land owner must follow. They include; advising the NPCA when trees are to be cut, being the owner of the woodland for at least two (2) years prior to cutting the trees, must use 'Good Forestry Practices', the woodland is not located in a sensitive natural area (see question 2), and must not reduce the number of trees in the woodland below the minimum level to be classified a woodland. Tree marking is not required.

11. Can woodlands be cleared on a farm to increase the amount of farmland?

Woodlands not located in a sensitive natural area (see question 2) can be cleared from a farm for agricultural use without a permit provided that the property has been used for a farm operation for three or more years prior to clearing and is owned by a registered farmer. In addition, the land cleared must be put into agricultural use as defined in the Farming and Food Production Protection Act 1998, within three (3) years after clearing is completed. The land must be outside the Urban Areas as defined in the Regional Policy Plan, and is designated and zoned for agricultural use. Call the NPCA or your local municipal office to confirm the designation, zoning and location of the urban area in relation to your farmland. The NPCA requests the farmer verbally advise forestry staff of clearing operations prior to starting. No Prescriptions or tree marking is required.

12. Is additional approval required if a stream will require a water crossing?

Yes, the approval of a Good Forestry Practices permit for harvesting does not cover planning requirements for the installation of water crossing structures. If there is a stream or other watercourse that will need to be crossed, additional approval from the NPCA is required prior to construction. Structures include culverts and bridges.

13. Can woodland property I own be developed?

Any proposed changes in the land use for your property would be considered under the normal municipal planning process. Changes to your municipality's Official Plan, zoning by-laws are all governed by the Planning Act and building permits are issued under the Building Code Act. The Tree and Forest Conservation By-law passed under the Municipal Act restricts a landowner only from clearing trees before receiving approval.



Good Forestry Practices

Good Forestry Practices refers to forest activities that enable the forest to grow healthy plants, maintain ecological processes and wildlife habitats as well as products. Good Forestry Practices represent what the forestry professional, forest workers including loggers, and society have come to expect from forest management operations. Good Forestry Practices:

- Minimize environmental damage to the site (such as soil, water and young vegetation),
- Protect forest components including species diversity,
- Minimize damage to or enhance wildlife habitats,
- Encourage sustainable forest management (improving forest health and continuous and improved forest products over time),
- Provide for worker safety,
- Provide continual and increased economic benefits to landowners,
- Should be consistent with long-term forest management planning.

‘Good Forestry Practices Permits’ issued under this by-law are supported by Forest Management Plans or Silvicultural Prescriptions developed by professionals (OPFA members) licensed to practice forestry in Ontario. NPCA’s own forestry professionals review each application and harvest operation to verify the use of good forestry practices.

Good Forestry Practice requires adherence to some fundamental rules that are necessary to help meet landowner objectives while minimizing environmental damage, maintaining species diversity, and retaining significant wildlife habitats and other important features. Under no circumstances is Diameter-Limit Cutting permitted. Listed below are some of the more widely accepted rules to encourage Good Forestry Practices.

Timing

- To reduce the impact on forest soils and vegetation, try to harvest only during winter months when the ground is still frozen and preferably snow-covered. If this is not possible, harvest in the fall when the ground is dry. Do not harvest in early spring when the ground is thawing or soft and the bark is easily torn from trees. Where possible, avoid harvesting from March 20th to June 30th while sensitive wildlife species are nesting and/or breeding.



Wildlife Habitat Protection

- Time harvesting to avoid critical nesting and breeding periods.
- Retain recommended levels of canopy closure and buffer protection for pertinent wildlife habitats (e.g., deeryards, raptor nesting areas, riparian habitats).
- Retain nest, cavity, and den trees as well as future snags and mast trees.

Protection of other Forest Values

- Do not implement Silvicultural Prescriptions and activities unless they can be conducted without destroying other important forest values such as the provision of significant wildlife habitat or vegetation cover.

Tree Marking

- A Certified Tree Marker must do all tree marking in a woodland.

Buffers / Reserves

- Where possible, retain a 30 meter buffer of uncut densely growing trees beside open fields or other hard edges to reduce windthrow and other damage to the forest interior and minimize invasion by non-native species.
- Maintain buffers of natural vegetation between cut areas and waterbodies, rare vegetation communities, and significant wildlife habitats. Consult the NPCA for information about appropriate buffer sizes for specific natural features.

Where to Harvest?

- Do not cut in areas with locally or regionally significant habitat features (e.g., fish spawning habitat; seepage areas; clusters of supercanopy trees; abundant downed woody debris; habitats of species of conservation concern such as warblers, raptors, grouse; areas of dense conifer cover) unless advised to do so or where such cutting is necessary for maintenance of that habitat.
- Avoid cutting along lake and stream shorelines, in wet areas, and around springs and seeps.
- To prevent erosion, cut only on dry slopes less than 35%.

Cutting and Felling

- Use careful directional felling to minimize damage to the residual stand, regeneration, and to the tree that is being felled and to reduce skidding damage (i.e., fell trees so that they can be pulled out of the area as cleanly as possible).



Roads, Skid Trails, and Landings

- Wherever possible, skid trails and roads should avoid steep slopes (e.g., greater than 12% for roads; greater than 20% for skid trails), wet spots, seepage and poorly-drained areas, and intermittent streams.
- Minimize the number and width of skid trails and roads and follow the land contours whenever possible unless seedbed scarification is part of the regeneration prescription.
- Never skid directly up or down a slope.
- Where possible, without lowering product value, skid shorter log lengths.
- Locate landings on well-drained sites away from waterbodies and watercourses.

Crossing Streams

- Skid trails and roads should approach and cross streams at right angles to minimize impacts on stream banks and to prevent water from flowing down skid trails.
- Minimize the number of stream crossings, cross at only one location and where the stream is narrow and preferably has a rocky bottom. Remember that it is illegal to destroy any fish habitat.
- Approval from the NPCA is required for the construction of structures for crossing streams and other watercourses.

Invasive Non-Native Species

- Hose down forestry equipment between work sites to prevent the introduction of non-native species.
- Remove non-native species to help ensure long-term health of the forest stand.



Managed Forest Tax Incentive Program

The Managed Forest Tax Incentive Program (MFTIP) offers a reduction in property taxes to landowners of forested land who prepare a plan and agree to be good stewards of their property. The Ontario Forestry Association and the Ontario Woodlot Association help the Ministry of Natural Resources (MNR) deliver the MFTIP. Program guides and information are available from either association. The MFTIP guide explains how to prepare a plan that is eligible for the program.

Qualifications:

- Greater than 4 hectares (9.9 acres) of forested land and owned by a Canadian citizen or permanent resident,
- A commitment to good stewardship,
- A managed forest plan approved by a Managed Forest Plan Approver.

For information on the MFTIP, contact:

Ministry of Natural Resources
Managed Forest Tax Incentive Program
300 Water Street, 5th S
Peterborough ON K9J 8M5
Toll free: 1-855-866-3847
Email: MFTIP@ontario.ca
Website: ontario.ca/MFTIP

Advisory Committee

The Niagara Peninsula Conservation Authority is advised by an outside committee which meets periodically on matters regarding administration of the By-Law. The Committee is comprised of representatives from each municipality as well as, stakeholder groups such as the Federation of Agriculture and the Niagara Woodlot Association.

The Committee will make recommendations in the following areas:

- a) Matters related to the development and dissemination of educational material and information in support of Good Forestry Practices;
- b) Matters related to issues, not specifically addressed in the By-Law, but which may result in proposals for changes to the By-Law; and
- c) Matters related to changes in Provincial, regional or local policy which could impact tree and forest conservation.

For information regarding the Committee please contact the Niagara Peninsula Conservation Authority.



Glossary Of Forestry Terms

Canopy

- An almost continuous layer of foliage formed by the crowns of larger trees.
- Shades the layers of vegetation below.

Cavity Tree

- A standing tree, dead or live, that has a hole or holes where wildlife can make nests or dens or escape predators.

Conifer

- A tree which is “evergreen.” It has cones and needles or scale-like leaves that are usually retained throughout the winter.
- Examples include spruce, fir, pine, cedar and larch.
- The wood of conifers is referred to as “softwood”.

Coppice Growth

- New shoots that grow at the base of a tree in response to stresses, such as the cutting of the tree.
- A form of natural regeneration that allows some species to reproduce without seeds.

Cord

- A unit of measurement for stacked round or split wood.
- One bush cord has the outer dimensions of four by four by eight feet.
- One face cord has the outer dimensions of 16 inches by four by eight feet and is one-third of a bush cord.

Crop Tree

- A tree that is selected to grow until the final harvest.
- Usually selected for its stem quality, rate of growth, species, and vigour.

Crown

- A tree’s live branches and foliage.
- When the crowns of neighbouring trees touch, they form a canopy.



Deciduous

- A tree or shrub that sheds its leaves every fall.
- Examples include maple, oak, birch, poplar and beech.
- The wood of deciduous trees is referred to as “hardwood”.

Merchantable Wood

- The part of a tree or a stand that is of commercial value for products such as lumber and veneer.
- Determined by tree size and quality.
- Usually a tree must be at least 10 cm in diameter to be considered merchantable.

Organic Litter

- The layer of decomposing leaves, bark, twigs and other organic debris that lies on the forest floor.

Habitat

- Food, water, shelter, cover and other elements of the environment that living organisms need to survive.

Harvesting

- The process of cutting trees to make wood products or fuelwood.

Hazard Tree

- A hazard tree has a structural defect that may cause the tree or portion of the tree to fail. A defective tree in the middle of the woods or an open field, away from paths or public use areas does not necessarily have to be considered a hazard.

Hectare

- An area of land equal to 10,000 square metres (100 metres by 100 metres).
- An area of land equal to 2.47 acres.

High-Grading

- A form of logging that removes the most valuable trees and leaves the less valuable species to grow and regenerate the forest.
- Changes the species composition in a forest.
- Can reduce the future commercial value and health of the forest.



Group Selection System

- An adaptation of the selection system, a silviculture system that removes some mature and/or unhealthy trees and leaves most trees to grow and regenerate the forest.
- By removing groups of trees, creates canopy gaps where young trees can grow.
- Favours mid-tolerant species that need some direct sunlight to thrive (see tolerance).

Ground Cover

- The layer of life that carpets the forest floor, includes plants, mosses and fungi.

Pruning

- Removing dead and living branches from trees.
- Reduces the size of the knots in the wood and increases a tree's value for wood products such as lumber and veneer.

Regeneration

- Young trees (noun) or the process of growing young trees (verb).
- The growth of young trees can be promoted through natural or artificial means.
- Trees naturally regenerate by producing seeds or by coppice growth.
- People artificially regenerate forests by dispersing seeds, planting trees or stimulating coppice growth.

Silvicultural Systems

- Methods for growing, harvesting and regenerating trees.
- Three main systems are used in Ontario: clear cutting, selection and shelterwood.

1. Clear Cutting

- All trees in a stand are removed at the same time.
- The clear cut area can be planted with seedlings after the harvest or left to regenerate naturally.

2. Selection System

- Individual trees or groups of mature and/or unhealthy trees are harvested.
- Leaves most of the trees and a variety of age classes to grow and regenerate the forest.



3. Shelterwood System

- An even-aged silvicultural system where in order to provide a source of seed and/or protection for regeneration, the old crop is removed in two or more successive cuts.
- Encourages natural regeneration in the shelter and shade of remaining trees.
- The four-cut shelterwood system incorporates preparatory, regeneration, first and final removal cuttings.
- The removal cuts are initiated when regeneration is well-established and the new stand is provided with adequate sunlight and space to grow.

Snag

- A standing dead tree that is decaying.
- Can provide habitat for many species.
- Can be a safety hazard during logging operations.

Stand

- A group of trees that can be distinguished from other vegetation by its composition, age, arrangement or condition.

Stocking

- A relative measure of the quantity of trees in a stand.
- Can be expressed in terms of crown closure, and number of trees, basal area or volume per hectare.

Succession

- The process of change that occurs naturally in a forest over time as one community of living organisms replaces another.
- In southern Ontario, open fields and meadows often succeed to forests of intolerant species (see tolerance), which later evolve into mixed forests.

Tending

- Can include thinning, pruning and other measures to reduce competition.
- Increases survival rate, growth rate and commercial value of trees.

Thinning

- Removing some trees from a stand.
- Decreases the density of a forest, reduces competition and gives the remaining trees room to grow larger and faster.

Tolerance

- The ability of a plant to germinate and grow in shade.
- Tolerant species, such as maple, hemlock and beech, can grow in shade.
- Mid-tolerant species, such as oak, ash and white pine, need some sunlight to survive.
- Intolerant species, such as white birch, poplar and black cherry, need full sunlight, also referred to as pioneer species.
- The growth rate of all species, including tolerant species, increases when the plants are exposed to more sunlight.

Tree Marking

- Selecting and marking trees harvested and trees left to grow.
- Trees are marked with paint on the trunk and butt.
- In Ontario, yellow or orange paint indicates trees that are to be cut and blue paint indicates trees that are not to be cut.

Underplanting

- Planting young trees under a canopy of mature trees

Uneven-Aged Forest

- A forest with trees of all ages and sizes, usually with at least three age classes.

Niagara Region Tree and Forest Conservation By-law

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 30-2008

A BY-LAW TO PROHIBIT OR REGULATE THE HARVESTING, DESTRUCTION OR INJURING OF TREES IN WOODLANDS IN THE REGIONAL MUNICIPALITY OF NIAGARA AND TO REPEAL BY-LAW 47-2006, AS AMENDED

WHEREAS Section 135(2) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits the enactment of a by-law by the Council of The Regional Municipality of Niagara to prohibit or regulate the destruction or injuring of trees in Woodlands;

AND WHEREAS pursuant to Section 135(7) of the Municipal Act, a municipality may require that a permit be obtained to injure or destroy trees in Woodlands designated in the by-law and impose conditions on a permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy trees;

AND WHEREAS Regional Council deems it desirable to enact a Tree and Forest Conservation By-law for the purposes of:

- preserving and improving the Woodlands in the Regional Municipality of Niagara through Good Forestry Practices;
- promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
- helping to achieve the goal of 30% forest cover in the Niagara Region;
- minimizing the destruction or injuring of trees in Woodlands;
- regulating and controlling the removal, maintenance and protection of trees in Woodlands;
- minimizing and guarding against dangerous conditions which may result in injury;
- protecting, promoting and enhancing the aesthetic values of Woodlands;
- contributing to human health, recreation, enjoyment and quality of life through the maintenance of woodland cover;
- providing for the production of wood and other products derived from trees;
- supporting the objective of the Regional Policy Plan to maintain, restore and, enhance the ecological health, integrity and biodiversity of the Core Natural Heritage System and its contributions to a Healthy Landscape as defined in the Regional Policy Plan; and
- enhancing and implementing processes and decisions made with respect to applications made under the Planning Act, R.S.O. 1990, c. P.13, as amended.



AND WHEREAS Section 447.4(1) of the Municipal Act permits a municipality to enter into agreements with a person or body in relation to matters of mutual interest for the purpose of coordinating the enforcement of by-laws;

AND WHEREAS Regional Council has approved entering into an agreement with the Niagara Peninsula Conservation Authority (the “NPCA”) wherein the NPCA will administer and enforce this Tree and Forest Conservation By-law;

NOW, THEREFORE, the Council of the Regional Municipality of Niagara hereby enacts as follows:

1. DEFINITIONS

In this By-law:

- 1.1 “Agricultural Use” means the commercial production of crops and/or raising of livestock for human use and includes ploughing, seeding, harvesting, leaving land fallow as part of a conventional rotational cycle, production of tree fruits and grapes, grazing, animal husbandry, and buildings and structures associated with these activities;
- 1.2 “Area Municipality” means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and the Township of West Lincoln;
- 1.3 “Basal Area” means the area of the cross-section of the stem or trunk of a tree taken at a point of measurement 1.37 metres above the highest point on the tree where the ground meets the stump;
- 1.4 “Board” means the Board of Directors for the Niagara Peninsula Conservation Authority
- 1.5 “Building Permit” means a building permit issued by an Area Municipality under the Building Code Act, 1992, S.O. 1992, c.23, as amended;
- 1.6 “Bumper Tree” means a poor quality, low value tree that grows in close proximity to higher value trees and is located along skid roads to protect residual trees from damage during logging and skidding operations;
- 1.7 “Business Day” means any day falling on or between Monday and Friday of each week but does not include statutory holidays;
- 1.8 “Circumference” means the measurement of the perimeter or outer boundary of a stem or trunk of a tree at a specified point of measurement with such measurement including the bark;



- 1.9 “Coppice Growth” means clump growth where more than one tree stem grows from a single tree stump and the point of measurement for such growth means that point on each stem measured immediately above the point of fusion, provided such point of fusion is less than 1.37 metres above the highest point of undisturbed ground at the base of the coppice or clump growth;
- 1.10 “Damage” means lasting injury to trees remaining after the completion of the injuring or destroying of trees and caused by the harvesting, injuring or destroying of any trees, that has the effect of inhibiting or terminating growth and may include but is not limited to:
- (a) broken branches in the crown of a tree;
 - (b) the breaking off or splitting of the stem of any tree and the noticeable tipping of any tree;
 - (c) the splitting of, removal of or damage to the bark of a tree; or
 - (d) damage to the root structure of a tree;
except that damage does not include injury to Bumper Trees;
- 1.11 “DBH” or “Diameter at Breast Height” means the diameter of the stem of a tree measured at a point that is 1.37 metres above the ground;
- 1.12 “Diameter” means the diameter of the stem of a tree measured at a specified point of measurement with such measurement including the bark of the stem;
- 1.13 “Ecological Functions” means the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes, including hydrological functions and biological, physical, chemical and socio-economic interactions;
- 1.14 “Farmer” means a person who has a current and valid farm registration number under the Farm Registration and Farm Organizations Funding Act, 1993, S.O. 1993, c. 21, as amended;
- 1.15 “Forest Management Plan” means a course of forest management action prescribed for a particular woodland area after specific assessments and evaluations have been made by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association in accordance with the Ministry of Natural Resources document “A Silvicultural Guide to Managing Southern Ontario Forests”, as amended from time to time;

1.16 Good Forestry Practices means:

- (a) 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; vulnerable, threatened and endangered species as regulated by Provincial or Federal statute and the aesthetic and recreational opportunities of the landscape;
- (b) the cutting and removal of hazardous, severely damaged, diseased and insect-infested trees which must be removed in order to prevent contamination or infestation of other trees or because they no longer contribute to the achievement of forest values;
- (c) in the case of hazardous, damaged, diseased or insect-infested trees, the maintenance of a Woodland after the cutting and removal is completed unless it is determined through a report prepared by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association that trees must be removed and a Woodland would not be maintained but in no case shall clearcutting be allowed; and,
- (d) the forestry management practices as set out in the Ministry of Natural Resources document “A Silvicultural Guide to Managing Southern Ontario Forests”;

1.17 “Heritage Tree” means a tree identified and designated by the Council of an Area Municipality as having heritage significance;

1.18 “NPCA” means the Niagara Peninsula Conservation Authority;

1.19 “Negative Impact” means any impairment, disruption, destruction or harmful alteration to any living plant or animal or to their habitat or Ecological Functions;

1.20 “Officer” means an individual appointed by the NPCA for the administration and enforcement of this By-law;

1.21 “Owner” means a person having any right, title, interest or equity in land or any such person’s authorized representative;

1.22 “Own Use” means use that does not include a commercial sale, exchange or other disposition of trees destroyed or injured;

1.23 “Permit” means a permit to injure or destroy trees issued under Sections 5 and 6 of this By-law;

1.24 “Person” means an individual or a corporation and their respective heirs,



- executors, administrators or other duly appointed representatives;
- 1.25 “Point of Measurement” means the point on a tree trunk measured above the highest point at which the ground meets the tree. 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 from where the ground meets the tree;
- 1.26 “Prescription” means a written course of forest management action prescribed for a particular woodland area by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association after specific assessments and evaluations have been made by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association;
- 1.27 “Region” means the Regional Municipality of Niagara;
- 1.28 “Regional Council” means the Council of the Region;
- 1.29 “Registered Professional Forester” refers to that term as defined in the Professional Foresters Act, 2000, S.O. 2000, c.18, as amended;
- 1.30 “Sensitive Natural Area” means lands that are in a Woodland and:
- (a) within the Environmental Protection designation of the Natural Heritage System and adjacent lands, as defined in the Regional Policy Plan; or
 - (b) within a Natural Area as designated in the Niagara Escarpment Plan;
- 1.31 “Significant Community Tree” means a tree identified and designated by the Council of an Area Municipality as having community significance;
- 1.32 “Silviculture” means the theory and practice of controlling forest establishment, and the composition, growth and quality of forests to achieve the objectives of forest management;
- 1.33 “Total Basal Area” means the sum of the Basal Areas of individual trees;
- 1.34 “Tree” or “Trees” means any living 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;
- 1.35 “Tree Marker” means a person certified to mark trees as a result of successfully completing the Ministry of Natural Resources Tree Marker course; or a Registered Professional Forester; or a member in good standing of the Ontario Professional Foresters Association;
- 1.36 “Tree Saving Plan” means a plan, prepared for the purpose of protecting and

preserving trees on properties where development or disturbance of the natural forest cover is to occur. Such plans shall attempt to retain as many trees as possible and as a minimum shall include all of the following:

- (a) an inventory and graphic display of trees on the property including location, size, species, general age distribution health and any individual trees or grouping of trees with particular significance such as but not limited to age, species and size;
- (b) identification of natural features and functions present, whether they should be protected, and if not, why;
- (c) a statement identifying whether any threatened or endangered species are present and if so, how they are to be protected;
- (d) a description and a map of the trees to be removed and retained including written reasons why the trees are to be removed or retained;
- (e) an indication as to how the trees to be retained will be marked or otherwise identified as trees to be protected;
- (f) the layout of the proposed development superimposed on the woodland area, including existing and proposed grades, services/utilities, roads, surface drainage and building envelopes;
- (g) the specific measures to be used during and after construction or site disturbance to protect and preserve individual trees or clumps of trees identified for retention, including but not limited to fencing around the dripline, the avoidance of storage or dumping of materials over root zones and operation of equipment over root zones;
- (h) a tree replanting program using native species;
- (i) a statement indicating that the plan conforms to the Region's Tree and Forest Conservation By-law; and
- (j) consideration of the relationship between an Environmental Impact Study, prepared as part of a development application, and requirements of the Regional Policy Plan;

1.37 "Wildlife" means all wild mammals, birds, reptiles, amphibians, fishes, invertebrates, plants, fungi, algae, bacteria and other wild organisms;

1.38 "Woodland" or "Woodlands" means land on one or more properties with a density



of at least:

- (a) 1,000 trees, of any size, per hectare;
- (b) 750 trees, measuring over five (5) centimetres in diameter at DBH, per hectare;
- (c) 500 trees, measuring over twelve (12) centimetres, in diameter at DBH, per hectare; or
- (d) 250 trees, measuring over twenty (20) centimetres, in diameter at DBH, per hectare;

but does not include:

- (f) a cultivated fruit or nut orchard;
- (g) a plantation established for the purpose of producing Christmas trees and which is being actively managed and harvested for the purposes for which it was planted, except that this does not refer to plantations that have ceased being managed or harvested for their intended purpose for a period of 15 years or more; or
- (h) a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted.

2. APPLICATION OF THE BY-LAW

This By-law shall apply to:

- 2.1 all Woodlands having an area of one (1) hectare or more;
- 2.2 all Woodlands having an area of less than one (1) hectare, upon delegation of such authority by an Area Municipality to the Region; and
- 2.3 Heritage Trees and Significant Community Trees identified and designated by the Council of an Area Municipality, upon delegation of such authority by an Area Municipality to the Region.

3. GENERAL PROHIBITIONS



- 3.1 No person through their own actions or through any other person shall injure or destroy any Tree located in Woodlands:
- (a) Unless exempted by Section 4; or
 - (b) Unless in possession of a valid Permit issued by the NPCA under Sections 5 and 6 of this By-law and in accordance with its terms or conditions.
- 3.2 No person through their own actions or through any other person shall:
- (a) Contravene the terms or conditions of a Permit issued under this By-law;
 - (b) Fail to comply with an order issued under Section 8 of this By-law; or
 - (c) Remove or deface any order that has been posted pursuant to Section 8 of this By-law.
- 3.3 No person through their own actions or through any other person shall injure or destroy any Tree that has been designated by the Council of an Area Municipality as a Heritage Tree or a Significant Community Tree, provided that the authority to regulate such trees has been delegated to the Region by the Area Municipality.

4. EXEMPTIONS

Despite Section 3 of this By-law, this By-law does not apply to:

- 4.1 activities or matters undertaken by a municipality or a local board of a municipality;
- 4.2 activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994, S.O. 1994, c.25, as amended;
- 4.3 the injury or destruction of trees by a person licensed under the Surveyors Act, R.S.O. 1990, c. s.29, as amended, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- 4.4 the injury or destruction of trees imposed after December 31, 2002:
 - (a) as part of a Tree Saving Plan required as a condition of approval in a plan of subdivision that has received draft approval under Section 51 of the Planning Act;
 - (b) as part of a Tree Saving Plan required as a condition on a consent approved under Section 53 of the Planning Act;
 - (c) as a requirement in a Tree Saving Plan approved and included in an site plan



- control agreement or a subdivision agreement entered into under Sections 41 and 51 respectively of the Planning Act;
- (d) in a development agreement between an Owner and an Area Municipality;
 - (e) as a condition to a development permit authorized by regulation made under Section 23(b) of the Niagara Escarpment Planning and Development Act, R.S.O 1990, c. N.2, as amended; or
 - (f) 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;
- 4.5 the injury or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, S.O. 1998, c.15, Sched. A, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- 4.6 the injury 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; R.S.O 1990, c. A.8, as amended;
- 4.7 the injury or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:
- (a) that has not been designated under the Aggregate Resources Act or a predecessor of that Act; and
 - (b) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act;
- 4.8 the injury or destruction of trees that is required in order to erect any building, structure or thing, including yard areas, 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, provided that only those trees necessary to accommodate the building structure or thing, including yard areas, are removed;
- 4.9 the injury or destruction of trees that is required in order to install and provide utilities, including a private waste disposal system, to the construction or use of the building, structure or thing in respect of which a Building Permit has been issued;
- 4.10 the injury or destruction of trees that is required in order to install, provide or maintain a driveway of sufficient width for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued;
- 4.11 the injury or destruction of trees on lands, including buffer lands, used for

the purpose of a licenced waste disposal site that has been approved, where applicable, under the Environmental Protection Act, R.S.O. 1990, c. E.19, as amended, the Ontario Water Resources Act, R.S.O. 1990, c. O.40, as amended, the Environmental Assessment Act, R.S.O. 1990, c. E.18, as amended, the Planning Act, and/or the Niagara Escarpment Planning and Development Act;

4.12 the injury or destruction of trees for the construction of drainage works under the Drainage Act, R.S.O. 1990, c. D.17, as amended;

4.13 the injury or destruction of trees that:

- (a) are dead;
- (b) are diseased, as identified in a Prescription or Forest Management Plan; or
- (c) pose a hazard to human safety or property;

4.14 the injury or destruction of trees by an Owner of a Woodland who may harvest, destroy or injure trees for his or her Own Use on his or her property provided that:

- (a) the Owner, prior to the cutting, has advised the Officer of the proposed cutting;
- (b) the Owner has been the registered owner of the Woodlands for at least two (2) years prior to the date of the commencement of the destruction or injury of the trees;
- (c) Good Forestry Practices are employed in accordance with the Ministry of Natural Resources document "A Silvicultural Guide to Managing Southern Ontario Forests";
- (d) the destruction or injuring, in that part of the Woodland where trees have been destroyed or injured, does not reduce:
 - (i) the number of trees per hectare below that necessary to constitute a Woodland; and
 - (ii) the total basal area to below 20 square metres per hectare; and
- (e) the harvesting, injury or destruction of trees does not involve a Sensitive Natural Area, in which case a Permit under this By-law is required, except that for the purposes of this section no fee is required; or

4.15 the harvesting, injury or destruction of trees by a Farmer that involves the clearing of all or part of a Woodland for agricultural use on land that is owned by the Farmer doing the clearing and is part of a farm operation or farm corporation that has existed for at least three (3) years prior to such clearing.

The clearing shall be carried out in accordance with Normal Farm Practices as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended, provided that:

- (a) the land that is cleared is put into agricultural use within three (3) years of the date on which such clearing commences;
- (b) prior to the clearing, the Farmer advises the Officer of the proposed clearing. For the purposes of this section the marking of trees, a Forest Management Plan or a Prescription, a fee and a Permit are not required; and
- (c) the land being cleared for agricultural use is outside the Urban Areas as defined in the Regional Policy Plan, and is designated and zoned for agricultural use in the Official Plan and Zoning By-law of the Area Municipality and, where applicable, in the Niagara Escarpment Plan;

except where the injuring or destruction of trees involves a Sensitive Natural Area in which case a Permit is required pursuant to the provisions of Sections 5 and 6 of this By-law, but no fee shall be required.

5. PERMITS

5.1 GOOD FORESTRY PRACTICES PERMITS

- (a) Upon application by an Owner, the NPCA may issue a Good Forestry Practices Permit to permit the harvesting, injuring or destruction of trees in accordance with Good Forestry Practices provided that:
 - (i) a Prescription or Forest Management Plan, identifying accepted silviculture techniques and environmental protection measures where a Sensitive Natural Area is involved, has been authored by a Registered Professional Forester or a member in good standing of the Ontario Professional Foresters Association who is authorized to prepare Prescriptions or Forest Management Plans and the Prescription or Forest Management Plan has been submitted with the application for a Permit as per Section 6;
 - (ii) the trees to be cut are marked by a certified Tree Marker in accordance with a Prescription or Forest Management Plan and only such trees are cut; and
 - (iii) the injuring or destruction of trees will not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered a Woodland;

or provided that:



- (iv) a plan, using Good Forestry Practices and including the identification of the trees to be cut, has been prepared to the satisfaction of the Officer by a certified Tree Marker with previous experience marking trees in Niagara Region and the plan has been submitted with the application for a Permit as per Section 6;
- (v) the trees to be cut are marked by a certified Tree Marker in accordance with the plan under paragraph 5.1.a.iv and only such trees are cut; and
- (vi) the injuring or destruction of trees will not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered a Woodland.

6. PERMIT APPLICATION PROCESS

- 6.1 Every person who intends to injure or destroy trees personally or through another person, where a Permit to do so is required under this By-law, shall first complete and submit an application for a Permit in the form approved by the NPCA from time to time.
- 6.2 Any person who submits an application under Section 6 shall post and display a copy of the Permit as issued pursuant to this By-law, in the immediate area where the destruction or injury of the trees is to occur, in a position that is clear and visible to all persons.
- 6.3 Applications for Permits will be processed only if:
 - (a) the appropriate application form, approved by the NPCA from time to time, has been completed in full, duly signed and submitted to the NPCA;
 - (b) the requirements that must be submitted with an application have been included;
 - (c) applications are in keeping with the general purpose and intent of this By-law; and
 - (d) except as otherwise stated in this By-law, the prescribed application fee, as set forth in Schedule "A" has been paid in full.
- 6.4 A Permit Application that does not meet the requirements of clauses 6.3.a, 6.3.b and 6.3.c will be returned to the applicant with the prescribed fee within 30 days.
- 6.5 A Permit may be:



- (a) issued by the NPCA to the Owner for a term of up to one (1) year from the date of issue and shall not be transferable; or
- (b) renewed one time only by the NPCA for one term of up to one (1) year contiguous with the expiry date of the original Permit and after a written request from the Owner for renewal is made to the NPCA who must be satisfied that there are reasonable grounds for the renewal.

6.6 NPCA may impose conditions to a Permit that relate to, but which are not restricted to:

- (a) the manner and timing in which harvesting, injury or destruction is to occur;
- (b) the species, size, number and location of trees to be injured or destroyed or to be planted;
- (c) the marking of trees to be cut with paint;
- (d) the qualifications of persons authorized to injure or destroy trees;
- (e) the submission of additional information required before the Permit becomes effective;
- (f) measures to be implemented to mitigate the direct and indirect effects of the injuring or destruction on Sensitive Natural Areas; and
- (g) a follow-up fuelwood (firewood) harvest.

6.7 When denying a Permit, the NPCA will notify the applicant in writing by registered mail. The Board shall provide written reasons for its decision to the applicant.

7. APPEALS TO REGIONAL COUNCIL

7.1 An applicant for a Permit under Section 6 may appeal to Regional Council if the NPCA refuses to issue a Permit, within 30 days after the refusal.

8. ORDERS TO DISCONTINUE ACTIVITY

- 8.1 Where an Officer is satisfied that a contravention of this By-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:
- (a) the municipal address or the legal description of the land;
 - (b) reasonable particulars of the contravention; and
 - (c) the period within which there must be compliance with the order.
- 8.2 An Order issued under this section may be served personally or by registered mail to the last known address of:
- (a) the Owner of the Woodland; and
 - (b) the person identified as injuring or destroying trees.
- 8.3 Where service of an Order is made by registered mail, service shall be deemed to have been served on the fifth day after the order is mailed.
- 8.4 Where service cannot be carried out under subsection 8.2, it is deemed sufficient if the Officer places a placard containing the terms of the Order in a conspicuous place on the affected lands. The placing of the placard shall be deemed to be sufficient service of the Order on the person to whom the Order is directed. The placard shall not be removed without the approval of the Officer.
- 8.5 If the person to whom the Order is directed is not satisfied with the terms of the Order, the person may appeal to the Board by filing a notice of appeal by personal service or registered mail to NPCA within 30 days of the date of the Order.
- 8.6 Where an appeal has been filed, the Board shall, at a public hearing, consider the appeal and a report from the Officer concerning the appeal.
- 8.7 Before conducting a hearing under this section, the NPCA shall give notice to the applicant and to such persons as the NPCA considers should receive notice and in the manner directed by the NPCA.
- 8.8 After hearing an appeal, the Board may confirm or revoke any Order issued under this By-law or may issue a Permit with conditions, provided that in the opinion of the Board, the general intent and purpose of this By-law has been maintained.
- 8.9 The proceedings at the hearing held by the Board shall be in accordance with the provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended. The decision of the Board under this section shall be final.

9. PENALTY



- 9.1 Any person who contravenes any provision of this By-law, or an Order issued under section 8 is guilty of an offence and is liable:
- (a) on first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
 - (b) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- 9.2 Despite subsection 9.1, where the person convicted is a corporation:
- (a) the maximum fines in clause 9.1.a are \$50,000 or \$5,000 per tree; and
 - (b) the maximum fines in clause 9.1.b are \$100,000 or \$10,000 per tree.
- 9.3 If a person is convicted of an offence for contravening this By-law or an Order issued under section 8, 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.

10. ENFORCEMENT

- 10.1 Regional Council hereby delegates to the NPCA the authority to enforce this By-law, to issue Permits under this By-law and to impose conditions to such Permits.
- 10.2 The Board may appoint from time to time by resolution, persons it deems qualified and necessary to act as Officers to administer and enforce the provisions of this By-law.
- 10.3 An Officer, appointed by resolution of the Board, or any person authorized by an Officer, may at all reasonable times enter upon and inspect any land and Woodland for the purposes of enforcing this By-law, determining compliance with this By-law, determining compliance with terms and conditions of a Permit issued under this By-law, determining compliance with an Order issued under Section 8 of this By-law or laying charges under this By-law.
- 10.4 Any person who obstructs or interferes with an Officer or any person or agent authorized by an Officer, in the discharge of his or her duties under this By-law, shall be considered in violation of this By-law.

11. TREE FOREST CONSERVATION BY-LAW ADVISORY COMMITTEE



- 11.1 The NPCA will establish a Tree and Forest Conservation By-law Advisory Committee, which shall be a technical advisory committee to the NPCA. Representation on the committee shall include, at a minimum, representatives from the Area Municipalities, Niagara North Federation of Agriculture, Niagara South Federation of Agriculture, the Niagara Woodlot Association, and logging industry.
- 11.2 The Tree and Forest Conservation By-law advisory Committee shall review and provide advice on matters of tree and forest conservation as requested by the NPCA.

12. ADMINISTRATION

- 12.1 Schedule “A” shall form part of this By-law.
- 12.2 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent there from and to be enacted as such.
- 12.3 The short title of this By-law is the “Tree and Forest Conservation By-law”.
- 12.4 By-law 47-2006 of the Regional Municipality of Niagara and all amendments thereto, are hereby repealed.
- 12.5 Despite subsection 11.4, By-law 47-2006, as amended, shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- 12.6 This by-law shall come into force on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA
Passed: April 10, 2008



REGIONAL MUNICIPALITY OF NIAGARA
TREE AND FOREST CONSERVATION BY-LAW
SCHEDULE A – FEES

Application for a Good Forestry Practices Permit \$0.00

References

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**NIAGARA PENINSULA
CONSERVATION**
AUTHORITY

250 Thorold Road West, 3rd Floor Welland, ON L3C 3W2

Phone: 905.788.3135 Fax: 905.788.1121

www.npca.ca