

BY-LAW NO. 6894
OF
THE CORPORATION OF THE COUNTY OF SIMCOE

A By-law to promote Sustainable Forest Management Practices and to prohibit or regulate the harvest, injuring or destruction of trees in woodlands in the County of Simcoe and to Repeal By-law No. 5635.

Whereas Section 135(2) of the Municipal Act, S.O. 2001, c. 25, as amended, permits the enactment of a By-law by the Council of the County of Simcoe to prohibit or regulate the destruction or injuring of trees in woodlands; and

Whereas Section 135(7) of the Municipal Act, S.O. 2001, c. 25, as amended, permits Council to require that a permit be obtained to harvest, injure or destroy trees in woodlands specified 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 harvest, injure or destroy trees; and

Whereas Council has determined that it is desirable to enact such a By-law for the purpose of maintaining and improving the woodlands of the County.

Now therefore the Council of The County of Simcoe hereby enacts as follows:

Part 1 - DEFINITIONS

1.1 In this By-law:

“Appeal Committee” means a committee of County Council comprised of a minimum of five (5) County Councillors as appointed by the Warden.

“Basal Area” means the area of the cross-section of the stem of a tree taken at a point of measurement 1.37 metres (54 inches) above the point on the tree where the ground meets the stump.

“Building permit” means a building permit issued under the *Building Code Act*, S.O. 1992, c. 23, as amended.

“Business day” means any day falling on or between Monday and Friday of each week but does not include a statutory holiday.

“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 or trunk.

“County Clerk” means the Clerk of the County of Simcoe and his or her designate.

“Conifer Plantation” means an artificially reforested area established by planting or by direct seeding of trees belonging to the order Coniferae, usually evergreen with cones, needle-shaped leaves and producing wood known commercially as softwood.

“Coppice Growth” means more than one tree stem grows from a single tree stump.

“Council” means the Council of the County of Simcoe.

“County” means the Corporation of the County of Simcoe or the land within the geographic limits of the Corporation of the County of Simcoe as the context requires.

“Diameter” means the diameter of the stem or trunk of a tree measured outside the bark at a specified point of measurement.

“DBH or dbh” means the diameter of the stem or trunk of a tree measured at a point that is 1.37 metres (54 inches) above the ground.

“Destroy” means the removal, ruin or harm of a tree by cutting, burning, girdling of the tree or its roots, interfering with roots or uprooting, interfering with water supply, chemical application, compaction or regrading within the drip line of a tree, or by other means including irreversible injury to a tree, which may result from accident or design, and “destroyed”, “destruction”, “destroying”, and similar words have the same meaning.

“Forest Stand” means that part of a woodlands that is a continuous group of trees sufficiently uniform in species composition, arrangement of age classes and condition to be a homogeneous and distinguishable unit.

“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. Good Forestry Practices also includes 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, as amended. 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.

“Harvest” means to fell or cut a tree.

“Injure” means irrevocable and lasting damage done to a tree which has the effect of inhibiting or terminating its growth, but does not include pruning or removing branches for maintenance purposes. This may include the destruction or elimination of a tree by cutting, burning, bulldozing or other means.

“Municipality” means a local municipality within the County of Simcoe or a local board thereof.

“Officer” means a County By-Law Officer, County Forester, a police officer or other person appointed by Council to administer and enforce this By-law.

“Owner” means a person having any right, title, interest or equity in land and includes the person for the time being managing or receiving the rent of the land and includes a lessee or occupant of the land.

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

“Permit” means a permit issued pursuant to this By-law by the County.

“Person” includes an individual, a corporation, and their respective heirs, executors, administrators, or other duly appointed representatives.

“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 (54 inches) from where the ground meets the stump.

“Qualified Tree Marker” means:

- (a) an individual who is certified through the Ontario Ministry of Natural Resources Certified Tree Marker Program; or
- (b) a Registered Professional Forester qualified to do tree marking; or
- (c) a forest technician qualified to do tree marking.

“Registered Professional Forester” means a licenced, practicing member of the Ontario Professional Foresters Association under the *Professional Foresters Act*, S.O. 2000, c.18, as amended.

“Sensitive Natural Area” includes:

- (a) provincially or regionally identified Significant Wetlands; or
- (b) any portion of woodlands located within 30.5 metres (100 feet) of the water's edge of a lake, river, stream, or provincially or regionally identified significant

- wetland; or
- (c) Provincially designated Life Science Areas of Natural and Scientific Interest.

“Silviculture” means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of forest management.

“Silvicultural Prescription” means a site specific operational plan that describes the existing forest conditions and the forest management objectives for an area, and which prescribes the methods for harvesting the existing forest stand and a series of silvicultural treatments that will be carried out to establish a free-growing stand in a manner that accommodates other resource values as identified.

“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 (15 feet) at physiological maturity.

“Woodlands” means lands with at least:

- (a) 1000 trees per hectare (400 trees per acre) of any diameter at DBH; or
- (b) 750 trees per hectare (300 per acre) measuring over 5 centimetres (2 inches) in diameter at DBH; or
- (c) 500 trees per hectare (200 per acre) measuring over 12 centimetres (5 inches) in diameter at DBH; or
- (d) 250 trees per hectare (100 per acre) measuring over 20 centimetres (8 inches) in diameter at DBH;

but does not include a cultivated fruit or nut orchard, or a plantation established for the purpose of producing Christmas trees unless said plantation has not been managed for its intended purpose for a period of 15 years or more.

Part 2 - APPLICATION OF BY-LAW

- 2.1 This By-law shall apply to all Woodlands within the County and within one (1) property having an area of one (1) hectare (2.47 acres) or more.

Part 3 - GENERAL PROHIBITION

- 3.1 No person shall harvest, cause or permit to be harvested or injure, cause or permit to be injured, or destroy, cause or permit to be destroyed any tree located in Woodlands or Sensitive Natural Area:
- (1) unless exempted under the provisions of this By-law; or
 - (2) except in accordance with a valid permit issued by the County pursuant to the provisions of this By-law.
- 3.2 No person shall contravene, cause or permit the contravention of the provisions of this

By-law or of the terms or conditions of a permit issued under this By-law.

- 3.3 No person shall 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 or a Sensitive Natural Area.
- 3.4 No person shall operate a vehicle, machinery or equipment or conduct operations in a manner or a time, that results in the leaving of any part of a tree in a watercourse and this includes a tree that has been cut, pushed, knocked over or otherwise ended up in a watercourse, unless such operation is part of an approved water course restoration project.
- 3.5 No person shall fail to comply with an Order issued under this By-law.
- 3.6 No person shall remove or deface an Order that has been posted pursuant to this By-law.
- 3.7 No person shall fail to notify the County twenty-four (24) hours prior to the commencement of cutting.

Part 4 - APPLICATION FOR A PERMIT

- 4.1 The County hereby delegates to an Officer the power to issue a permit under this By-law, and to impose such terms and conditions in accordance with Good Forestry Practices.
- 4.2 An application to the County for a Good Forestry Practices permit to allow for the harvesting of trees is subject to the following:
 - (1) submission of a completed application form as provided by the County at least ten (10) business days prior to harvesting; and
 - (2) submission of a Silvicultural Prescription prepared by a Registered Professional Forester for the Woodlands or Sensitive Natural Area in which the trees are to be harvested; and
 - (3) the Woodlands or Sensitive Natural Area being marked by a Qualified Tree Marker in accordance with the Silvicultural Prescription as submitted.
- 4.3 An application to the County for a Conifer Plantation permit to allow for the harvesting of trees is subject to the following:
 - (1) submission of a completed application form as provided by the County at least ten (10) business days prior to harvesting; and
 - (2) The Officer is satisfied that the harvesting of trees is consistent with Good

Forestry Practices.

- 4.4 An application to the County for a Harvest permit to allow for the harvesting of trees is subject to the following:
- (1) submission of a completed application form as provided by the County at least ten (10) business days prior to harvesting; and
 - (2) the trees subject to this permit have attained, at the specified Point of Measurement, the circumference measurement which is equal to or greater than the minimum circumference prescribed for the species as outlined in Schedule "A" attached to and forming part of this By-law; and
 - (3) the trees subject to this permit are marked with paint to the satisfaction of the Officer; and
 - (4) the harvesting of trees subject to this permit shall not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered Woodlands; and
 - (5) the harvesting of trees subject to this permit shall not reduce the Basal Area in the Forest Stand below an average of $20\text{m}^2/\text{ha}$, and at no point below $15\text{m}^2/\text{ha}$, measuring 10 centimeters (4 inches) or more at DBH when sampled using recognized forest sampling procedures.
- 4.5 Despite subsection 4.4 of this By-law, the County may issue a Harvest permit provided that an Officer is satisfied that the harvesting of trees is consistent with Good Forestry Practices.
- 4.6 A permit issued by the County is valid for up to two (2) years.
- 4.7 An Officer may impose such terms and conditions on a permit that relate to the manner in which the harvesting, destruction or injury is to occur.
- 4.8 An application which is not complete will be returned to the applicant within thirty (30) days.
- 4.9 An application for a permit shall be deemed incomplete if:
- (1) the application has not been completed in full; or
 - (2) the owner of the lands has not signed the application; or
 - (3) the party who will be undertaking or responsible for the harvesting, injuring or destruction of trees has not signed the application; or

(4) other application requirements have not be met.

4.10 An applicant will be notified by an Officer within thirty (30) days of filing an application, when an application is denied.

Part 5 – GRANTING OF AN EXEMPTION BY COUNCIL

5.1 Notwithstanding any provision contained in this By-law, an Owner may request an exemption to this By-law from Council.

5.2 An Owner requesting an exemption to this By-law shall submit to the County a complete, signed request form as provided by the County.

5.3 Council when evaluating a request for an exemption shall consider if the activity proposed is consistent with the appropriate development or use of the land.

5.4 Circulation

(1) Notice that the exemption request will be considered by Council shall be circulated at least thirty (30) days prior to the Council meeting.

(2) Notice shall be circulated to the applicant and all assessed Owners of land that abut the lands subject to the exemption request.

(3) Notice shall be deemed to have been given five (5) days after the date as it first appears on the notice.

5.5 Decision

(1) In deciding whether to grant an exemption, Council shall give the Owner and any person opposed to or in favour of the request an opportunity to be heard and may consider such other matters including the Officer's comments as it deems appropriate.

(2) Council may:

- (a) grant an exemption request; or
- (b) grant an exemption request with terms and conditions; or
- (c) refuse an exemption request.

(3) The County shall notify the Owner in writing of Council's decision.

5.6 Exemptions granted by Council are valid for a period of three (3) years.

Part 6 - EXEMPTIONS

6.1 This By-law does not apply to:

- (1) activities or matters undertaken or authorized by a municipality.
- (2) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act*, 1994, as amended.
- (3) 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.
- (4) the injuring or destruction of trees imposed after December 31, 2002 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*, as amended, or as a requirement of a site plan agreement or subdivision agreement entered into under those sections.
- (5) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act*, as amended, or as a requirement of an agreement entered into under the regulation.
- (6) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act*, 1998, as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms as defined in that section.
- (7) 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*.
- (8) the injuring 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*, as amended.
- (9) the injuring or destruction of trees that is required in order to erect a building or structure in respect of which a building permit has been issued, provided that the total area within which trees are injured or destroyed is within 25 metres (82 feet) of the outer edge of the building or structure or proposed building or structure.

- (10) the injuring or destruction of trees that is reasonably required in order to install and provide utilities to the construction or use of a building or structure in respect of which a building permit has been issued.
- (11) the injuring or destruction of trees that is reasonably required in order to install and provide utilities to a driveway for vehicular access to a building or structure in respect of which a building permit has been issued.
- (12) the harvesting, injury or destruction of trees by the owner of Woodlands for the owner's own use, provided the harvesting, injuring or destruction does not reduce the density of trees below that which is defined as Woodlands.
- (13) the harvesting or injury or destruction of trees where the trees are harvested, injured or destroyed pursuant to a legally binding contract if:
 - (a) the owner of the Woodlands has made application and obtained a permit or will obtain a permit under By-law 5635; and
 - (b) the contract for the work was signed within one year immediately preceding the date on which this By-law was passed; and
 - (c) proof of the signed contract has been submitted to the Officer; and
 - (d) the trees are injured, destroyed or harvested in accordance with the terms and conditions of By-law 5635 and in compliance with the permit issued

Part 7 – APPEAL

- 7.1 An applicant for a Permit may appeal to the Appeal Committee by filing a notice of appeal personally or by registered mail to the County Clerk if:
- (1) An Officer refuses to issue a Permit; or
 - (2) An Officer fails to make a decision on the application for a Permit within 45 days after receipt of a complete application; or
 - (3) The applicant objects to a term or condition of the Permit.
- 7.2 A person may appeal to the Appeal Committee by filing a notice of appeal personally or by registered mail to the County Clerk if they object to an Order under Section 8 of this By-law.
- 7.3 An appeal made under this section does not act as a stay of any Orders issued, which shall take effect on the day it is served or deemed served and shall continue to be effective until Appeal Committee renders a decision indicating otherwise.

7.4 Circulation of Notice of Hearing

- (1) The County Clerk shall circulate a Notice of Hearing at least thirty (30) days prior to the Appeal Committee meeting.
- (2) Notice shall be circulated to the applicant and all assessed Owners of land that abut the lands subject to the hearing.
- (3) Notice shall be deemed to have been given to all prescribed persons five (5) days after the date as it first appears on the notice.

7.5 Decision

- (1) In hearing the matter, the Appeal Committee shall give the Owner and any person opposed to or in favour of the application an opportunity to be heard and may consider such other matters including the Officer's comments as it deems appropriate.
- (2) The Appeal Committee may:
 - (a) Issue a Permit; or
 - (b) Issue a Permit with terms and conditions; or
 - (c) Refuse to issue a Permit.
- (3) The County Clerk shall notify the Owner in writing of the Appeal Committee's decision.

7.6 The proceedings at the hearing held by the Appeal Committee shall be in accordance with the provisions of the *Statutory Powers Procedures Act*, R.S.O. 1990, c.22, as amended. The decision of the Appeal Committee is final and binding.

Part 8 – ORDER TO DISCONTINUE ACTIVITY

8.1 Where an Officer is satisfied that a contravention of this By-law has occurred, the Officer may issue an Order requiring the person who contravened the By-law or who caused or permitted the harvesting, injuring or destruction of trees in contravention of the By-law to stop the harvesting, injuring or destruction of trees.

8.2 An Order issued under this By-law may be served in the following manner:

- (1) personally; or
- (2) by posting it on the property; or
- (3) by sending it by mail to the last known address of the listed property owner(s).

8.3 An Order issued under this By-law may be served on:

- (1) the owner of the woodlands; and/or

(2) the person identified as harvesting, injuring or destroying a tree or trees.

8.4 Where service of an Order is made by mail, service shall be deemed to have been made five (5) days after the order is mailed.

Part 9 - ENFORCEMENT & PENALTY

9.1 An Officer may enforce the provisions of this By-law.

9.2 Any person who contravenes any provision of this By-law, or an Order issued under of this By-law, is guilty of an offence and upon conviction is liable:

- (1) on first conviction, to a fine of not more than \$10,000 or \$1,000 per tree to a maximum of 10 trees, whichever is greater; and
- (2) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree to a maximum of 10 trees, whichever is greater.

9.3 Despite Section 9.2, where the person is a corporation or the director or officer of a corporation, who knowingly concurs in the contravention by a corporation the maximum fines are:

- (1) on first conviction, to a fine of not more than \$50,000 or \$5,000 per tree to a maximum of 10 trees, whichever is greater; and
- (2) on any subsequent conviction, to a fine of not more than \$100,000 or \$10,000 per tree to a maximum of 10 trees, whichever is greater.

9.4 If a Person is convicted of an offence for contravening this By-law or an Order issued under this By-law, 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.

9.5 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer in the enforcement of this By-law.

9.6 Any person who is alleged to have contravened any section of this By-law shall identify themselves to the Officer upon request, failure to do so shall be deemed to have hindered or obstructed the Officer in the execution of their duties.

9.7 Any person who provides false information to an Officer shall be deemed to have hindered or obstructed the Officer in the execution of their duties.

9.8 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the By-law is complied with or whether an

order issued under this By-law is complied with.

- 9.9 If a person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 9.10 Every person who is issued a Part 1 offence notice or summons upon conviction is guilty of an offence under the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended, and this By-law and shall be subject to a fine, to a maximum as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.
- 9.11 Upon conviction any penalty imposed under this By-law may be collected under the authority of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended.

Part 10 - SEVERABILITY

- 10.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue in force.

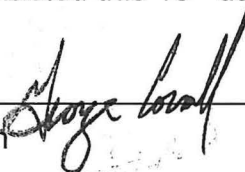
Part 11 - SINGULAR AND PLURAL USE


- 11.1 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

Part 12 - ADMINISTRATION

- 12.1 The short title of this By-law is the "Forest Conservation By-law".
- 12.2 By-law 5635 is hereby repealed.
- 12.3 Despite Section 12.2 By-law 5635 shall continue to apply to proceedings in respect of offences that occurred before its repeal and for the purposes of Section 6.1(13).

By-law enacted this 13th day of April, 2021.

Warden 

County Clerk 

SCHEDULE A

CIRCUMFERENCE LIMITS BY CATEGORY OF TREE SPECIES

<u>Category 1:</u> Large Circumference Tree Species	<u>Category 2:</u> Medium Circumference Tree Species	<u>Category 3:</u> Small Circumference Tree Species
<u>Acer saccharum</u> (Sugar Maple) <u>Acer nigrum</u> (Black Maple) <u>Acer rubrum</u> (Red Maple) <u>Acer saccharinum</u> (Silver Maple) <u>Quercus spp</u> (Oak species) <u>Juglans nigra</u> (Black Walnut) <u>Fraxinus americana</u> (White Ash) <u>Tilia americana</u> (Basswood) <u>Pinus strobus</u> (White Pine) <u>Betula alleghaniensis</u> (Yellow Birch)	<u>Pinus resinosa</u> (Red Pine) <u>Larix spp</u> (Larch) <u>Picea spp</u> (Spruce) <u>Fraxinus pennsylvanica</u> (Red & Green Ash) <u>Fagus grandifolia</u> (Beech) <u>Tsuga canadensis</u> (E. Hemlock) <u>Prunus serotina</u> (Black Cherry) <u>Carya spp</u> (Hickory species)	<u>Abies balsamea</u> (Balsam Fir) <u>Thuja occidentalis</u> (White Cedar) <u>Betula papyrifera</u> (White Birch) <u>Populus spp</u> (Native Poplar species) <u>Juniperus virginiana</u> (Red Cedar) <u>Fraxinus nigra</u> (Black Ash) <u>Ulmus spp</u> (Native Elm species)

<u>Height above ground</u>	<u>Category 1 Species</u>	<u>Category 2 Species</u>	<u>Category 3 Species</u>
4 inches (10 cm)	85 inches (216 cm)	69 inches (175 cm)	50 inches (127cm)
8 inches (20 cm)	75 inches (191 cm)	59 inches (145 cm)	37 inches (94 cm)
12 inches (30 cm)	66 inches (168 cm)	50 inches (127 cm)	31 inches (79 cm)
54 inches (137 cm)	50 inches (127 cm)	38 inches (96 cm)	25 inches (64 cm)