



## THE CORPORATION OF THE COUNTY OF WELLINGTON



### BY-LAW NUMBER 5115-09

A by-law respecting the Conservation and Sustainable Use of Woodlands and to repeal by-law number 5090-09.

**WHEREAS** subsection 135(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("the Act") provides that The Corporation of the County of Wellington ("the County of Wellington") may prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law;

**AND WHEREAS** the County of Wellington may require that a Permit 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 qualifications of persons authorized to injure or destroy trees;

**AND WHEREAS** the County of Wellington has determined that it is desirable to enact such a by-law for the purpose of achieving the objectives of the County Official Plan by sustaining a healthy natural environment and by promoting good forestry practices;

**NOW THEREFORE**, the Council of The Corporation of the County of Wellington hereby enacts as follows:

#### SECTION 1. DEFINITIONS

In this by-law:

- (a) "basal area" means the sum of the basal areas of the individual trees of a dbh greater than 10 cm (3.94 in) which comprise woodlands (expressed in square metres per hectare or square feet per acre). The basal area of an individual tree is the cross-sectional area of the tree stem or trunk taken at the point of measurement of dbh. For purposes of enforcing this by-law, basal area shall be determined by using a 4% strip cruise (where trees are measured on 2-metre (6.56 foot- wide parallel strips) regularly spaced across the woodlands;
- (b) "building permit" means a building permit as issued under the *Building Code Act, 1992*, S.O. 1992, c. 23, or any successor thereof;
- (c) "bush cord" means a measure of stacked wood measuring 4 by 4 by 8 ft or 128 cubic feet (123 by 123 by 246 cm or 3.7 cubic metres) of wood and air;
- (d) "business days" means any day falling on or between Monday and Friday of each week but does not include New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day;
- (e) "Calendar Year" means January 1 through December 31 of a year;
- (f) "Certified Tree Marker" means an individual who has completed all requirements to be certified by the Ontario Ministry of Natural Resources to mark trees according to a silvicultural prescription;

- (g) "Christmas Tree Plantation" is an area planted with appropriate tree species and managed for the production of Christmas trees. This means that the trees and area is regularly tended to produce trees to be sold as Christmas trees. A Christmas tree plantation must have been tended for the production of Christmas trees within the last five (5) years. If the area has not been tended as a Christmas tree plantation within five years and meets the stocking requirements of Section 1(ai) it is considered woodlands;
- (h) "circumference" means the measurement of the outer boundary of the stem or trunk of a tree, including the bark;
- (i) "Clerk" means the Clerk of the County of Wellington or his or her designate;
- (j) "Council" means the Council of the County of Wellington;
- (k) "County" means the County of Wellington;
- (l) "County Staff" means employees of the County of Wellington and contract parties authorized to act on behalf of the County of Wellington;
- (m) "dbh" (diameter breast height) means the diameter of the stem or trunk of a tree measured at a point of measurement that is 1.37 metres (4.5 feet) above the highest point of the ground at the base of the stem or trunk of the tree;
- (n) "destroy" means any action which causes or results in the irreversible injury or death of a tree;
- (o) "diameter" means a (length of) straight line from side to side through the centre of a stem or trunk of a tree, including the bark;
- (p) "drip line" means a line running directly beneath the outermost branches of the trees forming the perimeter of woodlands;
- (q) "excess damage" is disturbance to the forest floor or waterways and/or damage to trees not specified for cutting or other vegetation in excess of prescribed levels;
- (r) "Forester" is a Registered Professional Forester or Associate Member in good standing with the Ontario Professional Forester's Association who is authorized to prepare silvicultural prescriptions that apply to the County and subject woodlands;
- (s) "forest stand" means that part of woodlands that is a contiguous group of trees sufficiently uniform in species composition, arrangement of age classes and condition to be a homogeneous and distinguishable unit for forestry management purposes;
- (t) "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;
- (u) "hazardous condition" is where a tree, due to damage, health problems or structural weakness, is in a condition that presents a significant risk of injuring persons or property;

- (v) "injury" means lasting damage to a tree which has the effect of inhibiting or terminating its growth, but does not include pruning or removing branches for maintenance purposes;
- (w) "officer" means an individual appointed by the County by by-law, for the administration and enforcement of this by-law and such individuals as hereby designated as provincial offences officer.
- (x) "own use" means use that does not include a sale, exchange or other disposition of trees destroyed or injured;
- (y) "owner" means a person having any right, title, interest or equity in land;
- (z) "permit" means a permit to injure or destroy trees issued under Sections 4 & 5 of this by-law and "permit holder" means an applicant who has been issued a permit;
- (aa) "person" means an individual or a corporation and their respective heirs, executors, administrators or other duly appointed representatives;
- (ab) "point of measurement" means the point on the stem or trunk of the tree measured above the highest point of the ground in an undisturbed state. In the case of coppice or clump growth where the point of fusion occurs at or above the point of measurement for dbh, the coppice or clump growth shall be deemed a single tree and "point of measurement" shall mean the point on the stem or trunk measured above the highest point of the ground in an undisturbed state. In the case of coppice or clump growth where the point of fusion occurs below the point of measurement for dbh, each stem or trunk in the coppice or clump growth shall be deemed a separate tree and "point of measurement" shall mean the point on each tree stem or trunk measured from the point of fusion;
- (ac) "prescribed species" means the species of trees as listed in Parts I, II and III of Schedule "A" of this by-law, titled "Protected Tree Species";
- (ad) "silvicultural prescription" means a site specific operational plan, approved by a forester that describes the existing forest conditions, the forest management objectives for an area, and prescribes the methods for marking, harvesting and regenerating the subject forest in a manner that accommodates other resource values as identified;
- (ae) "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 metres (15 ft) at physiological maturity, provided that where multiple stems grow from the same root system, the number of trees shall be the number of stems with discrete, apical tips;
- (af) "tree marker" means any person who has marked trees for cutting. This includes landowners, timber buyers, Certified Tree Markers or Foresters. Certified Tree Marker is defined in Section 1 (f);
- (ag) "unforested corridor" means a break in the forest cover or forest canopy, which includes but is not limited to, highways and roads, railway rights-of-way, drains, lanes, paths, golf course fairways, utility lines or natural open spaces;
- (ah) "watercourse" means a natural or man-made waterway containing flowing water at least part of the year;

- (ai) "woodlands" means land, one hectare (2.47 acres) or more in area measured to the drip line, and includes any unforested corridors within the area that are equal to or less than 30 metres (98.4 feet) in width, with at least:
- (i) 1,000 trees, of any size, per hectare (405 trees, of any size, per acre);
  - (ii) 750 trees, measuring over 5 centimetres in diameter, per hectare (304 trees, measuring over 2 inches in diameter, per acre);
  - (iii) 500 trees, measuring over 12 centimetres in diameter, per hectare (202 trees, measuring over 4.7 inches in diameter, per acre); or
  - (iv) 250 trees, measuring over 20 centimetres in diameter, per hectare (101 trees, measuring over 7.9 inches in diameter, per acre).

but does not include a cultivated fruit orchard, nut orchard or a plantation established for the purpose of producing Christmas trees. For the purpose of the definition of woodlands, all measurements of the trees are to be taken at 1.37 metres (4.5 feet) from the ground.

## **SECTION 2. PROHIBITION**

- 2.1 No person shall cause or permit the injuring or destruction of a tree growing in a woodlands:
- (a) unless exempted by Section 3 of this by-law; or
  - (b) except in accordance with a permit issued under Sections 4 and 5 of this by-law.
- 2.2 No person shall:
- (a) contravene the terms or conditions of a permit issued under this by-law; or
  - (b) cause or permit the contravention of the terms or conditions of a permit issued under this by-law.
- 2.3 No person shall operate a vehicle, machinery or equipment or conduct operations in a manner or at a time that:
- (a) 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; or
  - (b) results in excess damage to trees that have not been marked in accordance with Sections 4.2.3 or 4.3.3, the forest floor or soil as determined using procedures that may be prescribed by the County.
- 2.4 No person shall operate a vehicle, machinery or equipment or conduct operations in a manner or at a time that:
- (a) destroys or injures any tree that is below the minimum required circumference in woodlands for which no valid silvicultural prescription has been filed;
  - (b) destroys or injures any tree so that the basal area of the woodlands is reduced below the minimum requirement in woodlands for which no valid silvicultural prescription has been filed;
  - (c) destroys any tree so as to reduce the number of trees per hectare below the minimum number of trees per hectare required to constitute woodlands; or
  - (d) destroys any tree so as to reduce the number of trees per hectare below 12.5 trees, which have reached or exceeded the minimum diameter or circumference specified in Part 1, Schedule A.

2.5 No person shall fail to comply with an order to discontinue activity (i.e. Stop Work Order) issued under this by-law or remove or deface any order that has been posted pursuant to this by-law.

### **SECTION 3. EXEMPTIONS**

3.1 Despite Section 2 of this by-law, this by-law does not apply to:

- (a) activities or matters undertaken by a municipality or a local board of a municipality;
- (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- (c) 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;
- (d) 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* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (e) 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* or as a requirement of an agreement entered into under the regulation;
- (f) 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;
- (g) 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*;
- (h) 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*;
- (i) the injuring or destruction of trees required in order to erect a building or structure or to construct a septic system (including weeping tile bed), in respect of which a building permit has been issued, provided that the total area within which trees are injured or destroyed is within 15 metres of the outer edge of the building, structure or septic system or proposed building, structure or septic system;
- (j) 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, including the installation of a primary septic bed;

- (k) the injuring or destruction of trees that is reasonably required in order to install a single lane driveway for vehicular access to a building or structure in respect of which a building permit has been issued;
- (l) the injuring or destruction of trees provided that no more than 20 trees, or up to the equivalent of 15 cubic metres of wood (six (6) bush cords or 3,000 board feet) plus associated fuel wood from the tops of the aforementioned trees, are injured or destroyed in a calendar year from an owner's land, provided that the injury or destruction of trees does not reduce the density of the trees such that the area does not meet the definition of woodlands, and that the injuring or destruction of trees is consistent with good forestry practices;
- (m) the injuring or destruction of Eastern White Cedar trees provided that no more than the equivalent of three (3) bush cords of wood are injured or destroyed in a calendar year from an owner's land, and that the injuring or destruction of trees is in accordance with good forestry practices;
- (n) the injuring or destruction of trees that are in a hazardous condition;
- (o) land previously cleared and used for agricultural purposes, which has become overgrown with young (less than 10 years old) early-successional tree species (e.g. Sumac, Hawthorne, Apple, Scots Pine, Poplar, White Birch, Ash) and the land is intended to be used again as part of an agricultural operation (defined as land eligible for a Farm Business Registration Number);
- (p) woodlands affected by the creation of new Municipal Drains. However, it is expected that in determining the route of such a new drain, every reasonable effort will be made to avoid woodlands and that the Officer be consulted where woodlands are involved. Routine maintenance of such works, involving the removal of tree regrowth, shall also be exempt from this by-law, provided clearing does not exceed the original corridor width or that specified in the Engineer's Report; or
- (q) a linear windbreak or hedgerow or a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted.

## **SECTION 4. PERMITS**

### **4.1 Permits and Delegation to Officer**

4.1.1 Upon application by an owner, the County may issue the following permits:

- (a) Good Forestry Practices Permits;
- (b) Circumference Permits; and
- (c) Clearing Permits.

4.1.2 The County hereby delegates to an Officer the power to issue a permit under Subsections 4.2, 4.3 and 4.4 of this by-law and to impose conditions to such permits.

### **4.2 Good Forestry Practices Permits**

4.2.1 The County may issue a Good Forestry Practices Permit to permit the injuring or destruction of trees provided that the injuring or destruction of trees is conducted in accordance with good forestry practices as prescribed in a

silvicultural prescription prepared and stamped by a Forester, and provided further that the trees to be injured or destroyed are marked, in accordance with the prescription, by a Forester or Certified Tree Marker as specified in Section 4.2.3.

- 4.2.2 Despite Subsection 4.3 of this by-law, the County may issue a Good Forestry Practices Permit to an owner who has marked trees on their own land, provided that an Officer is satisfied that the injuring or destruction of trees is consistent with good forestry practices and the trees are marked as specified in Sections 4.2.3.
- 4.2.3 Before a Good Forestry Practice Permit Application is submitted, the trees to be injured or destroyed must be marked with paint at approximately 4.5 feet (1.3 metres) above ground on at least two sides to the Officer's satisfaction. A vertical paint line shall be placed at the tree base below the saw line and extending to the ground to the Officer's satisfaction.
- 4.2.4 The applicant shall erect and display a public notice sign regarding the Good Forestry Practices Permit at the entrance to woodlands in a position that ensures that it is clear and visible to all persons, and the notice shall be in the prescribed form.

#### 4.3 **Circumference Permits**

- 4.3.1 The County may issue a Circumference Permit to permit the injuring or destruction of trees provided that:
- (a) the trees are of a species listed in Schedule "A";
  - (b) the trees have attained the diameter or circumference measurement applicable to such tree species as set out in Schedule "A", measured at the highest point of measurement available on the tree/stump, provided in Schedule "A" or at the stump;
  - (c) the trees or area of trees to be injured or destroyed are marked with paint as specified in Sections 4.3.3;
  - (d) for the portion of the forest stand or woodlands where trees are marked for cutting, the injuring or destruction of trees shall not have the effect of:
    - (i) reducing the basal area of trees measuring at least 24.5 centimetres (9.5 inches) dbh to below 15 square metres per hectare (65 sq. ft per acre);
    - (ii) reducing the number of trees in woodlands below the number of trees necessary to constitute woodlands; or
    - (iii) reducing below 12.5 trees per hectare (5 trees per acre) in woodlands the number of trees in Part 1 of Schedule "A" which have reached or exceeded the minimum diameter or circumference measurement, measured at 137 centimetres from the ground, as set out in Schedule "A";
- 4.3.2 Notwithstanding Section 4.3.1 (a), the County may issue a permit to injure or destroy tree species not listed in Schedule "A", provided that an Officer is satisfied that the injuring or destruction of trees is consistent with good forestry practices and the trees are marked as specified in Section 4.2.3.
- 4.3.3 Before a Circumference Permit Application is submitted, the trees to be injured or destroyed must be marked with paint at approximately 4.5 feet (1.3 metres) above ground on at least two sides to the Officer's satisfaction. A

vertical paint line shall be placed at the tree base below the saw line and extending to the ground to the Officer's satisfaction.

- 4.3.4 The applicant shall erect and display a public notice sign regarding the Circumference Permit at the entrance to woodlands in a position that ensures that it is clear and visible to all persons, and the notice shall be in the prescribed form.

#### 4.4 **Clearing Permits**

- 4.4.1 Where a person intends to injure or destroy trees and the proposed activity does not meet the requirements set out in Subsections 4.2 and 4.3 of this by-law, an application may be made for a Clearing Permit.
- 4.4.2 The County may issue a Clearing Permit to permit the injuring or destruction of trees provided that Council or County Staff is satisfied that the injuring or destruction of trees will be in compliance with agricultural and natural environment policies adopted by County Council from time to time.
- 4.4.3 An Officer may issue a Clearing Permit to permit the injuring or destruction of trees provided that the total area of tree removal does not exceed 0.5 hectare (1.24 acres), and provided that the Officer is satisfied that the injuring or destruction of trees will be in compliance with agricultural and natural environment policies adopted by County Council from time to time.
- 4.4.4 Before a Clearing Permit Application is submitted, the boundaries of the area specified in the application or the trees to be removed, must be marked with paint to the Officer's satisfaction.
- 4.4.5 The applicant shall erect and display a public notice regarding the Clearing Permit at the entrance to woodlands in a position that ensures that it is clear and visible to all persons, and the notice shall be in the prescribed form.
- 4.4.6 Where an application to clear involves an area that is wetland, the County shall consult with the Conservation Authority and other agencies, prior to issuing a permit.

### **SECTION 5. APPLICATION PROCESS**

- 5.1 Every person, who intends to injure or destroy a tree where a permit to do so is required under this by-law, shall first complete and submit an application for a permit in the prescribed form.
- 5.2 An application for a permit shall:
- (a) be accompanied by the applicable fee as prescribed in Schedule "B"; and
  - (b) contain a description of the proposed activity.
- 5.3 An application for a permit shall be deemed incomplete, and no permit shall be issued if:
- (a) the application has not been completed in full;
  - (b) the owner of the woodlands has not signed the application;
  - (c) the party who will be undertaking or responsible for the injuring or destruction of trees has not signed the application; or
  - (d) the applicable fee has not been paid.
- 5.4 In addition to the requirements set out in Subsections 5.1, 5.2 and 5.3 of this by-law, an application for a Good Forestry Practices Permit shall include a silvicultural prescription prepared in accordance with Subsection 4.2 of this by-



law and the name of the Forester or Certified Tree Marker who marked the trees in accordance with the prescription; or unless otherwise directed by an Officer under Section 4.2.2 of this by-law.

- 5.5 In addition to the requirements set out in Subsections 5.1, 5.2 and 5.3 of this by-law, an application for a Circumference Permit shall include the name of the individual who marked the trees to be injured or destroyed in accordance with Subsection 4.3 of this by-law.
- 5.6 In addition to the requirements set out in Subsections 5.1, 5.2 and 5.3 of this by-law, an application for a Clearing Permit shall include:
- (a) an explanation of the necessity for the proposed activity and the rationale for selecting the area; and
  - (b) an environmental impact study if required by the County to satisfy the requirements determined by the County.
- 5.7 Upon receipt by the County of an application for a permit, the owner shall permit an Officer to enter upon his or her land and undertake such site inspections as may be required to consider the application. An Officer may undertake a site inspection prior to, during and after the proposed activity.
- 5.8 The County may issue a permit subject to those conditions that are deemed necessary, including but not limited to:
- (a) the manner and timing in which the injuring or destruction of trees is to be carried out;
  - (b) the qualifications of persons authorized to injure or destroy trees;
  - (c) the species, size, number and location of replacement trees to be planted; and
  - (d) measures to be implemented to mitigate the direct and indirect effects of the injuring or destruction of trees on the natural environment.
- 5.9 A decision regarding an application for a permit shall not be made by the County until such time as all the required documents have been filed, the applicable fee has been paid and any required inspections have been undertaken.
- 5.10 A permit issued pursuant to this by-law shall expire one year after the date of issuance, except that an Officer may, upon request, renew the permit for a further period(s) of one year and such permit is not transferable unless authorized by the County.
- 5.11 Failure to comply with any provision or condition of a permit or an order issued under this by-law or any other provisions of this by-law may result in the revocation of the permit by the County, in addition to any other enforcement proceedings against the permit holder.
- 5.12 The County may revoke a permit at any time if it was issued because of mistake, or if the permit holder provided false or incorrect information.
- 5.13 Where a permit has been revoked, the permit holder shall immediately cease or ensure the immediate cessation of all activities for which the permit was issued.
- 5.14 An application for a permit shall not be deemed to be received by the County until such time as all requirements of this by-law have been fulfilled by the applicant.

## **SECTION 6. ORDERS TO DISCONTINUE ACTIVITY**

- 6.1 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 (i.e. Stop Work Order). This includes the immediate stoppage of all work, including the movement or disposal of wood, soil or other material, and the removal, destruction, burning or burying of logs, stumps or logging debris.
- 6.2 An order issued under this section may be served personally, or served by sending it by mail to the last known address of:
- (a) the owner of the woodlands; and
  - (b) the corporation, company, person or persons identified as injuring or destroying a tree or trees.
- 6.3 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.
- 6.4 Where service cannot be carried out under Subsection 6.2 of this by-law, the Officer shall place a placard containing the terms of the order in a conspicuous place on the owner's land, 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.

## **SECTION 7. APPEALS TO COUNCIL OF THE COUNTY OF WELLINGTON**

- 7.1 An applicant for a permit under Section 4 may appeal to the Council of the County of Wellington:
- (a) if the County refuses to issue a permit, within 30 days after the refusal;
  - (b) if the County fails to make a decision on the application, within 45 days after the application is received by the County; or
  - (c) if the applicant objects to a condition in the permit, within 30 days after the issuance of the permit.
- 7.2 Where an order has been served, the owner or the person to whom the order is being served may appeal the order to Council within 30 days of being served the order.
- 7.3 The decision of the Council of The Corporation of the County of Wellington shall be final.

## **SECTION 8. ENFORCEMENT**

- 8.1 The provisions of this by-law may be enforced by a By-law Officer appointed by the County of Wellington for the administration and enforcement of this by-law.
- 8.2 An Officer or any person authorized by an Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) the provisions of this by-law;
  - (b) an order issued under this by-law; and
  - (c) a condition of a permit issued under this by-law
- 8.3 For the purpose of determining compliance with this by-law, the points of

measurement listed in Schedule "A" shall be used to determine whether a tree which has been injured or destroyed would have attained the minimum measurement required by this by-law.

- 8.4 For purpose of determining compliance with this by-law, tree density as set out in the definition of "woodlands" in Section 1 ai (i) to (iv) shall be determined by using a 4% strip cruise (where trees are measured on 2-metre (6.56 foot)-wide parallel strips) regularly spaced across the woodlands.
- 8.5 Any person who obstructs an Officer, or any person or agent authorized by an Officer, in discharge of his or her duties under this by-law, shall be considered in violation of this by-law.

## **SECTION 9. PENALTIES**

- 9.1 Any person who contravenes any provision of this by-law, the conditions of a permit, or an order issued under this by-law is guilty of an offence.
- 9.2 Any Officer or Director of a Corporation who knowingly concurs in the contravention of any provision of this by-law, the conditions of a permit or an order issued under this by-law is guilty of an offence.
- 9.3 Every person who is guilty of an offence under this by-law shall be subject to the following penalties:
- (a) on the 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.
- 9.4 Despite subsection 9.3 of this by-law, where the person convicted is a Corporation:
- (a) the maximum fines in Subsection 9.3 (a) are \$50,000 or \$5,000 per tree, whichever is greater;
  - (b) the maximum fines in Subsection 9.3 (b) are \$100,000 or \$10,000 per tree, whichever is greater.
- 9.5 In addition to any other remedy or penalty provided by law, the court in which the conviction has been entered, or any other court of competent jurisdiction may make an order requiring the person to rehabilitate the land or to plant or replant trees in such manner and within such time period as the court considers appropriate, including any silvicultural treatment necessary to reestablish the trees;

## **SECTION 10. GENERAL**

- 10.1 Schedules "A" and "B" shall form part of this by-law.
- 10.2 The short title of this by-law is the "Forest Conservation By-law".
- 10.3 Tree by-law No. 5090-09 of the County of Wellington is hereby repealed.
- 10.4 Despite Subsection 10.3 of this by-law, Tree By-law No. 3961-94 of the County of Wellington shall continue to apply to proceedings in respect of matters that were initiated prior to its repeal.
- 10.5 This by-law shall come into force and effect on the final passing thereof.

- 10.6 Words importing the singular shall include the plural, and the converse of the foregoing applies, unless the context of the by-law requires otherwise.
- 10.7 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 there from and continue in full force and effect unless and until similarly found illegal.
- 10.8 If there is a conflict between this by-law and a by-law passed under the *Forestry Act* or the *Municipal Act*, the provision that is the most restrictive regarding the injury or destruction of trees shall prevail.
- 10.9 Nothing in this by-law shall exempt any person from complying with the requirements of any other by-law in force, or obtaining any licence, permission, permit, authority or approval required under any other by-law or legislation.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 24<sup>TH</sup>,  
DAY OF SEPTEMBER, 2009**

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**JOANNE ROSS-ZUJ –WARDEN**

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**DONNA VAN WYCK - CLERK**

**SCHEDULE "A"**  
**PROTECTED TREE SPECIES**

**PART I**

1. Prescribed species:

- Ash** White (*Fraxinus americana*),  
Red (*Fraxinus pennsylvanica*),  
Green (*Fraxinus pennsylvanica* var. *subintegerrima*)
- Walnut** (*Juglans nigra*)
- Cherry** Black (*Prserotina*)
- Hickory** Bitternut (*Carya cordiformis*),
- Elm** White,  
American (*Ulmus americana*),  
Slippery, Red (*Ulmus rubra*)  
Rock (*Ulmus thomasii*)
- Basswood** (*Tilia americana*),
- Beech** *Fagus grandifolia*,
- Butternut \*** (*Juglans Cinerea*)
- Oak** White, (*Quercus alba*),  
Red, (*Quercus ruba*),  
Bur (*Quercus macrocarpa*),
- Maple** Sugar (*Acer saccharum*),  
Black (*Acer nigrum*),  
Silver (*Acer saccharinum*),  
Red (*Acer rubrum*),
- Pine** White (*Pinus strobus*),  
Red (*Pinus resinosa*),

\* Note that Butternut is an Endangered Species. A permit for the injuring or destruction of Butternut trees may only be issued by the County if there is prior written authorization from a Butternut Health Assessor.

2. Prescribed circumference or diameter for the species listed in PART 1 of this Schedule:

Column 1 <b>Point of Measurement</b>	Column 2 <b>Circumference</b>	Column 3 <b>Diameter</b>
137 cm. (4.5 ft.)	145 cm. (57 in.)	46 cm. (18 in.)
46 cm. (18 in.)	160 cm. (63 in.)	51 cm. (20 in.)
31 cm. (12 in.)	176 cm. (69 in.)	56 cm. (22 in.)
20 cm. (8 in.)	200 cm. (79 in.)	63 cm. (25 in.)
10 cm. (4 in.)	223 cm. (88 in.)	71 cm. (28 in.)
2.5 cm.(1 in.)	249 cm. (98 in.)	79 cm. (31 in.)

**PART II**

3. Prescribed species:

- Hemlock** (*Tsuga canadensis*),
- Spruce** White (*Picea glauca*),  
Black (*Picea mariana*)  
Norway Spruce (*Picea abies*)
- Pine** Scots pine (*Pinus sylvestris*)
- Tamarack** Eastern larch, (*Larix laricina*)
- Ash** Black (*Fraxinus nigra*)
- Birch** Yellow (*Betula alleghaniensis*)
- Willow** Black (*Salix nigra*) and exotic species

4. Prescribed circumference or diameter for the species listed in PART 2 of this Schedule:

Column 1 <b>Point of Measurement</b>	Column 2 <b>Circumference</b>	Column 3 <b>Diameter</b>
137 cm. (4.5 ft.)	94 cm. (57 in.)	31 cm. (12 in.)
46 cm. (18 in.)	112 cm. (44 in.)	36 cm. (14 in.)
31 cm. (12 in.)	127 cm. (50 in.)	41 cm. (16 in.)
20 cm. (8 in.)	145 cm. (57 in.)	46 cm. (18 in.)
10 cm. (4 in.)	175 cm. (69 in.)	56 cm. (22 in.)
2.5 cm (1 in.)	207 cm. (82 in.)	66 cm. (26 in.)

**PART III**

5. Prescribed species:

<b>Poplar</b>	Trembling Aspen ( <i>Populus tremuloides</i> ), Large-toothed ( <i>Populus grandidentata</i> ), Balsam ( <i>Populus balsamifera</i> ), Eastern Cottonwood ( <i>Populus deltoides</i> )
<b>Cedar</b>	White ( <i>Thuja occidentalis</i> ), Red ( <i>Juniperus virginiana</i> )
<b>Birch</b>	White ( <i>Betula papyrifera</i> )
<b>Beech</b>	Blue ( <i>Carpinus caroliniana</i> )
<b>Ironwood</b>	( <i>Ostrya virginiana</i> )
<b>Fir</b>	Balsam ( <i>Abies balsamea</i> )
<b>Cherry</b>	Pin ( <i>Prunus pensylvanica</i> ), Choke ( <i>Prunus virginiana</i> )
<b>Larch</b>	European Larch ( <i>Larix deciduas</i> )

6. Prescribed circumference or diameter for the species listed in PART 3 of this Schedule:

Column 1 <b>Point of Measurement</b>	Column 2 <b>Circumference</b>	Column 3 <b>Diameter</b>
137 cm. (4.5 ft.)	53 cm.(19 in.)	17 cm. (6 in.)
46 cm. (18 in.)	64 cm. (25 in.)	20 cm. (8 in.)
31 cm. (12 in.)	79 cm. (31 in.)	25 cm. (10 in.)
20 cm. (8 in.)	94 cm. (57 in.)	31 cm. (12 in.)
10 cm. (4 in.)	127 cm. (50 in.)	41 cm. (16 in.)
2.5cm.(1 in.)	152 cm. (60 in.)	49 cm. (19 in.)

**SCHEDULE "B"**  
**PRESCRIBED FEES**

**PART I**

1. Good Forestry Practices Permit - \$0
2. Circumference Permit - \$0
3. Clearing Permit (minor) - \$0
4. Clearing Permit (significant) - \$0