



BY-LAW NO. 2006-170

OF

The Corporation of Norfolk County

BEING A BY-LAW TO PROHIBIT OR REGULATE THE DESTRUCTION OR INJURING OF TREES IN WOODLANDS IN NORFOLK COUNTY.

WHEREAS s.135(2) of the *Municipal Act*, 2001, S.O. 2001, c.25 (the "Act"), as amended, provides that the Council of Norfolk County may by By-law prohibit or regulate the destruction or injuring of trees in Woodlands designated in the By-law;

AND WHEREAS Subsection 135(7) of the Act provides that the By-law may require that a permit be obtained to 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 injure or destroy trees.

AND WHEREAS subject to the Act, Council may amend from time to time Schedules A and I and those forms prescribed.

AND WHEREAS Council has determined that it is desirable to enact such a By-law for the purpose(s) of conserving and improving the Woodlands in Norfolk County for the purposes of the production of wood and wood products, provisions of proper environmental conditions to maintain and enhance forest integrity and wildlife habitat, protection against floods and soil erosion, recreation, and the protection of water supplies.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF NORFOLK COUNTY HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

In this By-law:

- a) "Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended;
- b) "Agricultural Use" means the commercial production of crops or raising of livestock for human use and includes cultivating, seeding, harvesting as part of a conventional rotational cycle;

- c) "AGS" or "Acceptable Growing Stock" means trees suitable for retention in a Woodlands or Woodlot for at least one cutting cycle. They include trees of commercial species and of such form and quality as to be saleable for sawlog products at some future date;
- d) "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 of undisturbed ground from the base of the stem or trunk of the tree;
- e) "Basal area of a forest stand" means the sum of the basal areas of those individual trees which comprise a forest stand as calculated in Schedule B.
- f) "Building permit" means a building permit issued under the *Building Code Act*, 1992, S.O. 1992, c23, as amended;
- g) "Business day" means any day falling on or between Monday and Friday of each week but does not include New Year's Day, Good Friday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving, Remembrance Day, Christmas Day and Boxing Day;
- h) "By-Law Appeals Committee" consists of three members appointed by Council for a term concurrent with the term of Council and shall hear the appeal and may modify, confirm or quash the original Notice or may extend the original time frame given for compliance, provided that any modifications to the original Notice satisfy the intent of the by-law.
- i) "By-Law Officer" means an individual or individuals appointed by Council of the Corporation of Norfolk County for the administration and enforcement of this By-law and such individual is hereby designated as a By-law Officer pursuant to Subsection 135 (11) of the Act;
- j) "Clerk" means the Clerk of the Corporation of Norfolk County or designate;
- k) "Certified Tree Marker" means:
- (i) an individual who has successfully completed the Ontario Ministry of Natural Resources Certified Tree Marker program, who has maintained proper accreditation, and has demonstrated experience marking in accordance with Good Forestry Practices within Norfolk County; or
 - (ii) a Registered Professional Forester; or
 - (iii) a member in good standing of the Ontario Professional Foresters Association;
- l) "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;
- m) "Conifer Plantation" is a Woodlands or Woodlot where coniferous trees have been planted or seeded in a pre-determined pattern;

- n) "Cord" means a pile of fuelwood 1.21 metres by 1.21 metres by 2.43 metres;
- o) "Coppice growth" means where more than one tree stem grows from a single tree stump;
- p) "Council" means the Council of Norfolk County;
- q) "DBH" (Diameter at Breast Height) means the diameter of the stem of a tree measured at a point that is 1.37 metres above the highest point of undisturbed ground from the base of the stem or trunk of the tree;
- r) "Diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement;
- s) "Drip Line" means an imaginary line running directly beneath the outermost branches of the trees forming the perimeter of the Woodlands or Woodlot;
- t) "Forest Stand" means that part of the Woodlands or Woodlot 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 forest management purposes;
- u) "Fuelwood" means trees or parts thereof that are sufficient size and quality to yield firewood;
- v) "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; which includes the destruction or injury of trees that:
 - (i) have been damaged by disease, insects, wind, ice, fire, lightning or other natural causes to an extent that the health of such trees will deteriorate and can be assessed as such; and,
 - (ii) have been assessed and identified for removal to prevent disease or insects from spreading to other trees; and,
 - (iii) that without limiting the generality of the foregoing, meets or exceeds the recommendations of those publications set out in Schedule C within this By-law;
- w) "Harvest" means the destruction of a tree through cutting or other mechanized means which results in the irreversible death of a tree by design;
- x) "Log" means a portion of a tree of a prescribed species reduced to a size suitable for loading on a vehicle for transport to a processing mill for the production of lumber or other products;
- y) "Owner" means a person having any right, title, interest or equity in land or any such person's authorized representative;

- z) "Own Use" means use that does not include a sale, exchange or other disposition of trees harvested, destroyed or injured;
- aa) "Permit means a permit to harvest, injure or destroy trees issued under Section 4 or 5 of this By-law;
- bb) "Person" includes, an individual, a corporation, and their respective heirs, executors, administrators, or duly appointed representatives;
- cc) "Point of Measurement" means that point on the tree trunk measured above the highest point on the tree where the undisturbed ground meets the base of the stem or trunk of the tree. For coppice growth, where the point of separation is less than or equal to 30 cm, the point of measurement shall be assessed for each individual stem or trunk.
- dd) "Prescribed Species" means the species of trees as listed in Schedule "A" of this By-law;
- ee) "Registered Professional Forester" as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c.18
- ff) "Significant Biotic Areas" are Woodlands as listed in Schedule D.
- gg) "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.
- hh) "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 accomodates other resource values as identified;
- ii) "Stand Improvement" means the destruction or harvesting of:
 - (i) trees that have been damaged by disease, insects, wind, ice, fire, lightning, or other natural causes to an extent that the health of such trees is likely to further deteriorate; or,
 - (ii) diseased or insect infested trees that should be cut or removed to prevent disease or insects from spreading to other trees; or,
 - (iii) exotic species, or trees not indigenous to the municipality, if such destruction is carried out in such a manner as to encourage replacement of exotics by indigenous species. Excluding *Pinus* and *Picea* species;

- jj) "Tree" means, for the purposes of the definition of a Woodland or Woodlot, any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity, provided that where multiple stems grow from the same root system, the number of trees shall be the number of stems that can be counted at a point of measurement at a point that is 1.37 metres above the highest point of undisturbed ground from the base of the stem or trunk of the tree;
- kk) "UGS" or "Unacceptable Growing Stock" means trees that have a high risk of drying and are expected to decline over the next cutting cycle.
- ll) "Watercourse" means a natural or man-made watercourse containing flowing water at least part of the year;
- mm) "Woodlands" for the purpose of this By-law, means land at least 1.0 hectares and more in area with at least:
- (i) 1000 trees, of any size, per hectare;
 - (ii) 750 trees, measuring over five (5) centimetres in diameter at DBH, per hectare;
 - (iii) 500 trees, measuring over twelve (12) centimetres, in diameter at DBH, per hectare; or,
 - (iv) 250 trees, measuring over twenty (20) centimetres, in diameter at DBH, per hectare;

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

Woodlands shall include the area up to the drip line of the Woodlands and any corridors measuring up to and including 30 metres in width.

- nn) "Woodlot" for the purpose of this By-law, means land at least 0.2 hectares in area and no greater than 1 hectare in area, with at least:
- (i) 200 trees, of any size, per 0.2 hectare;
 - (ii) 150 trees, measuring over five (5) centimetres in diameter at DBH, per 0.2 hectare;
 - (iii) 100 trees, measuring over twelve (12) centimetres, in diameter at DBH, per 0.2 hectare; or,
 - (iv) 50 trees, measuring over twenty (20) centimetres, in diameter at DBH, per 0.2 hectare;

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

Woodlots shall include the area up to the drip line of the Woodlots and any corridors measuring up to and including 30 metres in width.

2. GENERAL PROHIBITION

- a) Except as provided in Section 3, no person through their own actions or through any other person shall harvest, destroy, or injure any living tree unless the person:
 - (i) who is harvesting, destroying or injuring trees is or has done so in accordance with;
 - a) Provincial legislation and regulations; or,
 - b) Federal legislation and regulations; or,
 - c) A Good Forestry Practice prescription, which has been applied by;
 - (i) a Registered Professional Forester in good standing with the Ontario Professional Foresters Association, or,
 - (ii) an associate member in good standing of the Ontario Professional Foresters Association; or,
 - (iii) a Certified Tree Marker; and,
 - (iv) the person has marked those trees which are to be harvested or destroyed with paint visibly on at least two (2) opposite sides as well as the base of the tree; and,
 - (v) the person who is harvesting, destroying or injuring trees has abided by the requirements of Section 5; or,
- b) Except as provided in Section 2 (a), no person through their own actions or through any other person shall harvest, destroy or injure a tree located in an identified Significant Biotic Area;
- c) Except as provided in Section 2 (a), no person through their own actions or through any other person shall harvest, destroy or injure a tree of a prescribed species which has been deemed as a regulated species in Schedule A;
- d) Except as provided in Section 2 (a), no person through their own actions or through any other person shall harvest, destroy or injure a tree located in a Conifer Plantation;
- e) Except as provided in Section 3, no person through their own actions or through any other person shall harvest, destroy or injure any living tree unless the person who is harvesting, destroying or injuring trees, has only harvested, destroyed or injured those trees:
 - i) which have meet the defintion of stand improvement which can be proven before and after the tree has been harvested or destroyed; or,
 - ii) which have attained, at the specified point of measurement, the circumference measurement which equals or is greater than the minimum circumference prescribed for the species in Schedule "A";and,
- f) the person has marked those trees which are to be harvested or destroyed with paint visibly on at least two (2) opposite sides as well as the base of the tree; and,

- g) the person has been the owner of the land for at least two years prior to the date of the harvest or destruction; and,
- h) the harvest, destruction or injuring of trees will not reduce the number of trees per hectare below the minimum number of trees per hectare required to be considered Woodlands; and,
- i) the harvest, injuring or destruction of trees has not reduced the basal area in that part of the forest stand, where trees, which measure 26 centimeters or more in DBH, have been destroyed or injured below 16 m²/ha, as assessed using the criteria in Schedule B; and,
- j) the harvest, injuring or destruction of trees has abided by the requirements of Section 5;
- k) with the exception of work on municipal drains, if any tree removal is necessary due to the undertaking of any drainage work, notification of the By-law Officer is necessary and every person intending to destroy or injure trees for the purpose of drainage work must abide by the applicable requirements of Section 4 or 5; and,
- l) any tile drainage work through or adjacent to a Woodland or Woodlot which shall result in the destruction or injury to a tree or trees within a Woodlands or Woodlots shall be constructed of closed tile in the part of the drainage work that goes through or adjacent to the Woodland or Woodlot;
- (m) No person through their own actions or through any other person shall:
 - (i) fail to comply with an Order issued by this By-law;
 - (ii) contravene the terms or conditions of a Permit issued under this By-law;
 - (iii) remove or deface any Order issued under this By-law;
- (n) A person shall not:
 - (i) harvest, destroy or injure a tree without a valid permit;
 - (ii) harvest, destroy or injure a tree below the lowest point of measurement, unless authorized by a By-law Officer;
 - (iii) harvest, destroy or injure any tree that is to remain standing after the harvesting, injuring or destruction of trees is completed;
 - (iv) operate a vehicle, equipment or machinery or conduct their operations in such a manner or at such a time that results in excessive damage to the soil, wetlands, natural areas or other portions of the Woodlands, as set forth in publications listed in Schedule C;
 - (v) operate a vehicle, machinery or equipment or conduct operations in a manner or at a time, that results in the leaving of any part of a tree in a watercourse including any trees that have not been cut, but have been pushed, knocked over or otherwise ended up in a watercourse.
 - (vi) leave a tree top, which can be safely trimmed and is not scheduled for fuelwood processing, higher than 3.5 metres from the ground to the highest branch.

- (vii) harvest, destroy or injure a tree or remove parts thereof from a property which is not identified as that of the owner and to which a permit has been issued.
- (viii) harvest, destroy or injure a tree which shall result in any part thereof crossing a property boundary, without the written permission of the adjoining property owner.
- (ix) harvest, destroy or injure a tree which is on the property boundary, without the written permission of the adjoining property owner.

3. EXEMPTIONS

This By-law does not apply to:

- a) activities or matters undertaken by a municipality or a local board of a municipality; or,
- b) activities or matters undertaken under a licence issued under *the Crown Forestry Sustainability Act, 1994*; or
- 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; or,
- d) the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under Section 41, 51, or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections; or,
- e) the injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under Section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation; or,
- 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 construction and maintaining a transmission system or a distribution system, as those terms as defined in that Section ; or,
- 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*; or,
- 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*; or,

- i) the injuring or destruction of trees where the owner of the Woodlands has been granted an exemption pursuant to Section 4; or,
- j) the injuring or destruction of trees that is required in order to erect a building or structure in respect of which a building permit is issued, provided that:
 - (i) the trees are located within 15 metres of the outer edge of the building or structure, or proposed building or structure; and
 - (ii) the By-law Officer has been notified in the form approved by the County from time to time; and
 - (iii) the prescribed fee as set forth in Schedule E has been submitted; or,
- k) the injuring or destruction of trees that is required in order to install and provide utilities to the construction or use of the building or structure in respect of which a building permit has been issued, including the installation of a primary septic bed; or,
- l) the injuring or destruction of trees that is required in order to install and provide utilities to a single lane driveway for vehicular access to the building or structure in respect of which a building permit has been issued; or,
- m) the owner of the Woodlands who has destroyed trees for his or her own use, providing such destruction has not reduced the number of trees per hectare below the minimum number of trees per hectare required to be considered Woodlands or Woodlot; or,
- n) the owner of the Woodlands or Woodlot who has harvested trees which results in the production of less than 20 logs or 20 cords of fuelwood per year, providing such harvest has not reduced the number of trees per hectare below the minimum number of trees per hectare required to be considered Woodlands or a Woodlot; or,
- o) the harvest, destruction or injury of trees where the trees are harvested, destroyed or injured pursuant to a legally binding contract if:
 - (i) the owner of the Woodlands or Woodlots has given notice under Section 4 of By-law 15-00 of the Regional Municipality of Haldimand-Norfolk and its' successors; and,
 - (ii) a contract was signed immediately preceding the date on which By-law 216-05 was passed; and,
 - (iii) proof of the signed contract and payment in full has been submitted to the By-law Officer; and,
 - (iv) the trees are harvested, destroyed or injured By January 1st, 2008 and in such a manner consistent with this by-law excluding the basal area requirements and circumference limits as defined and substituted for this instance in Schedule H.

4. COUNCIL EXEMPTION

- a) In order to be considered for an exemption to Section 2 the owner of the Woodlands must apply to the Clerk for an exemption permit at least 30 business days prior to the anticipated commencement of harvest, destruction or injury of trees by submitting:
 - (i) a completed application in the form approved by the County; and,
 - (ii) the applicable fee as set out in Schedule E.
- b) At least 15 business days prior to consideration of the application for an exemption the Clerk shall send, by regular mail, written notice in the form approved by the County to the applicant and all assessed owners of each parcel of land that abuts the applicant's Woodlands for which an exemption is being sought and to such other persons as prescribed by Council.
- c) The applicant shall erect and display a public notice regarding the exemption application at the entrance to the Woodlands in a position that ensures that it is clear and visible to all persons, and the notice shall be in the format prescribed by the County.
- d) The notice shall be posted at least 15 business days prior to consideration of the application.
- e) The County delegates to a By-law Officer the power to issue an exemption permit under Section 4 and to impose conditions to such permit provided that the total area of tree harvest, destruction or injury does not exceed 0.2 hectare, and provided that the By-law Officer is satisfied that the general purpose and intent of this By-law is maintained.
- f) The County delegates to the Clerk the power to issue an exemption permit under Section 4 provided that there have been no objections filed with the Clerk and the By-law Officer agrees that the general purpose and intent of this By-law is maintained.
- g) When granting a Permit for an exemption, the Clerk may include terms or conditions, including recognizing those activities designated under Schedule I.
- h) The Permit for the exemption shall be in the form prescribed by the County.
- i) When denying an exemption, the Clerk must notify the applicant.
- j) The applicant may object to the terms and conditions on the Permit for the exemption.
- k) Where there have been objections filed with the Clerk or where the applicant objects to the terms and conditions on the permit for the exemption, the By-law Appeals Committee will consider the application for exemption, any conditions to the permit and make a decision whether to grant the exemption and therefore a Permit.

- l) The By-law Appeals Committee shall hear any person who wishes to speak to the exemption for which objections have been filed.
- m) When granting an exemption the By-Law Appeals Committee may include terms or conditions on the Permit, including recognizing those activities designated under Schedule I.

5. APPLICATION FOR A PERMIT

- a) Every owner of Woodlands who intends to harvest, destroy or injure trees personally or through another person, under Section 2 of this By-law shall complete and make application for a Permit by submitting all of the information required in the form approved by the County with the appropriate fee as outlined in Schedule E.
- b) The County delegates to a By-law Officer the power to issue a permit and to impose conditions to such permit provided the general purpose and intent of this By-law is maintained.
- c) Any person who has received a permit shall also erect and display a sign at the entrance at the adjoining roadway to the land where the harvest, destruction, or injury of the trees is to occur, in a position that is clear and visible to all persons, the sign shall be required to be posted upon commencement of the harvest and remain posted until 10 days after the conclusion of the harvesting or destruction and removal of the logs and such sign shall be in the format as outlined in Schedule F.
- d) Any person who has obtained a Permit shall notify the By-law Officer 24 hours prior to the start of harvest or destruction of trees.
- e) Any person who has obtained a Permit under the provisions set forth in Section 2 (a) shall notify the By-law Officer 24 hours prior to the completion of the harvest or destruction of trees.

6. PERMIT APPLICATION PROCESS

- a) Applications for Permits will not be processed and returned to the applicant with the prescribed fee within 30 days, if:
 - i) applications have not been received by the By-law Officer as prescribed in Schedule E prior to commencement of harvest, destruction or injury of trees; and,
 - ii) applications have not been completed in full; and
 - iii) the substantive requirements that must be submitted with an application have not been included; and,
 - iv) applications are not in keeping with the general purpose and intent of this By-law; and,

- v) the prescribed application fee, as set forth in Schedule E has not been paid in full.
- b) The County delegates to a By-law Officer the power to issue a permit in the form prescribed by Council for a period up to 1 year.
- c) The County delegates to a By-law Officer the power to renew a permit in the form prescribed by Council for a period up to 1 year.
- d) The County delegates to a By-law Officer the power to impose conditions to a Permit that relate to:
 - (i) the manner in which destruction, injury or harvesting is to occur; and
 - (ii) the qualifications of persons authorized to destroy, injure or harvest trees.
- e) When denying a Permit, the Clerk must notify the applicant.

7. APPEALS TO THE MUNICIPAL BOARD

- a) An applicant for a Permit under Section 6 may appeal to the Municipal Board if:
 - (i) the municipality refuses to issue a Permit, within 30 days after the refusal; or,
 - (ii) the municipality fails to make a decision on the application, within 45 days after the application is received by the Clerk; or,
 - (iii) the applicant objects to a condition of the Permit, within 30 days after the issuance of the Permit.

8. ORDERS TO DISCONTINUE ACTIVITY

- a) Where a By-law Officer is satisfied that a contravention of this By-law has occurred, the By-law Officer may make an Order requiring the person who contravened the By-law or who caused or permitted the injuring or destruction of trees in contravention of the By-law to stop the injuring or destruction of trees. The order shall set out the information contained in Schedule G;
- b) An Order issued under this Section may be served personally or served by sending it by mail to the last known address of:
 - (i) the owner of the Woodlands; and,
 - (ii) the person identified as injuring, destroying or harvesting a tree or trees.
- c) Where service of an Order is made by mail, service shall be deemed to have been served on the fifth day after the order is mailed.
- (d) Where service cannot be carried under Section 8, Subsection (b), it is deemed sufficient if the By-law Officer places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placing of the placard shall be deemed to be sufficient service of the Order on the person to whom the Order is directed.

- (e) If the person to whom the Order is directed is not satisfied with the terms of the Order, the person may appeal to the By-Law Appeals Committee by filing Notice of Appeal by personal service or certified mail to the Clerk of Norfolk County within 30 days of the date of the Order.
- (f) Where an appeal has been filed, the By-Law Appeals Committee shall hear the appeal and have all the powers and the functions of the By-law Officer.
- (g) Before conducting a hearing under this Section, the Clerk shall give notice to such persons or direct that notice be given to such persons as the Clerk considers should receive notice and in the manner directed by the Clerk.
- (h) After hearing an appeal, the By-Law Appeals Committee 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 By-law Appeals Committee, the general intent and purpose of this By-law has been maintained.
- (i) The proceedings at the hearing held by the By-Law Appeals Committee shall be in accordance with the provisions of the Statutory Powers Procedures Act, R.S.O. 1990, c.22. The decision of the By-Law Appeals Committee under this Section is final.

9. PENALTY

- a) Any person who contravenes any provision of this By-law, or an Order issued under Section 8 is is guilty of an offence and is liable:
 - (i) on first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and,
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- b) Despite Subsection 9 (a) of this By-law, where the person convicted is a corporation:
 - (i) the maximum fines in Subsection 9 (a) (i) are \$50,000 or \$5,000 per tree, whichever is greater; and
 - (ii) the maximum fines in Subsection 9 (a) (ii) are \$100,000 or \$10,000 per tree, whichever is greater.
- c) 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


- a) The provisions of this By-law may be enforced by a By-law Officer appointed by Norfolk County for the administration and enforcement of this By-law.
- b) Pursuant to Subsection 137(1) of the Act, a By-law Officer may at any reasonable time enter and inspect any land to determine whether this By-law, a condition to a permit, a stop work order, or a court order under Subsection 138(2) of the Act is being complied with.
- c) Any person, who obstructs or interferes with a By-law Officer in the discharge of his or her duties under this By-law, shall be considered in violation of this By-law.

11. ADMINISTRATION


- (a) Schedules A through I shall form part of this By-law.
- (b) Forms and applications prescribed by Council shall form part of this By-law.
- (c) 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.
- (d) The short title of this By-law is the "Forest Conservation By-law".
- (e) By-law 2005-216 of the Corporation of Norfolk County and its successors shall be repealed effective on the coming into force and effect of this By-law.
- (f) Despite Subsection (e) of this Section, By-law 2005 – 216 of the Corporation of Norfolk County and its successors shall continue to apply to proceedings in respect of offences that occurred before its repeal.
- (g) This By-law shall come into effect on August 1st, 2006.

ENACTED AND PASSED THIS 11TH DAY OF JULY, 2006.

First Reading: July 11, 2006
Second Reading: July 11, 2006
Third Reading: July 11, 2006



Mayor



Clerk/Manager of Council Services

BY-LAW 2006-170

SCHEDULE A

CIRCUMFERENCE LIMITS BY CATEGORY OF TREE SPECIES

Schedule A

<i>Species</i>	<i>Latin</i>	
Cucumber Tree	<i>Magnolia acuminata</i>	Regulated
Butternut	<i>Juglans cinerea</i>	Regulated
American Chestnut	<i>Castanea dentata</i>	Regulated
Red Mulberry	<i>Morus rubra</i>	Regulated
Eastern Flowering Dogwood	<i>Cornus florida</i>	Regulated

Conifer Plantation Species

<i>Species</i>	<i>Latin</i>	
White Pine	<i>Pinus strobus</i>	Regulated within a conifer plantation
Red Pine	<i>Pinus resinosa</i>	Regulated within a conifer plantation
Jack Pine	<i>Pinus banksiana</i>	Regulated within a conifer plantation
Scots Pine	<i>Pinus sylvestris</i>	Regulated within a conifer plantation
Larch	<i>Larix deciduas</i>	Regulated within a conifer plantation
Tamarack	<i>Larix laricina</i>	Regulated within a conifer plantation
Norway Spruce	<i>Picea abies</i>	Regulated within a conifer plantation
White Spruce	<i>Picea glauca</i>	Regulated within a conifer plantation

PRESCRIBED SPECIES GROUP A		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
<i>Species</i>	<i>Latin</i>			
Kentucky Coffee tree	<i>Gymnocladus dioicus</i>	240	215	200
Tulip tree	<i>Liriodendron tulipifera</i>			
Honey Locust	<i>Gleditsia triacanthos</i>			
Sycamore	<i>Platanus occidentalis</i>			
Hackberry	<i>Celtis occidentalis</i>			
Pignut Hickory	<i>Carya glabra</i>			
Big Shellbark Hickory	<i>Carya laciniosa</i>			
Black Gum	<i>Nyssa sylvatica</i>			

Schedule A to By-Law 2006-170(Cont'd)

PRESCRIBED SPECIES GROUP B		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
Species	Latin	220	190	170
Red Oak	<i>Quercus rubra</i>			
Black Oak	<i>Quercus velutina</i>			
White Oak	<i>Quercus alba</i>			
Swamp White Oak	<i>Quercus bicolor</i>			
Bur Oak	<i>Quercus macrocarpa</i>			
Hills Oak	<i>Quercus ellipsoidalis</i>			
Chinquapin Oak	<i>Quercus muehlenbergii</i>			
Sugar Maple	<i>Acer saccharum</i>			
Black Maple	<i>Acer nigrum</i>			
Red Maple	<i>Acer rubrum</i>			
Silver Maple	<i>Acer saccharinum</i>			
White Elm	<i>Ulmus americana</i>			
Red Elm	<i>Ulmus thomasii</i>			
Rock Elm	<i>Ulmus rubra</i>			

PRESCRIBED SPECIES GROUP C		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
Species	Latin	210	190	175
White Ash	<i>Fraxinus americana</i>			
Red (Green) Ash	<i>Fraxinus pennsylvanica</i>			
Blue Ash	<i>Fraxinus quadrangulata</i>			
Black Ash	<i>Fraxinus nigra</i>			
Pumpkin Ash	<i>Fraxinus profunda</i>			
Shagbark Hickory	<i>Carya ovata</i>			
Bitternut Hickory	<i>Carya cordiformis</i>			
Black Walnut	<i>Juglans nigra</i>			
Black Cherry	<i>Prunus serotina</i>			
Basswood	<i>Tilia americana</i>			
Hemlock	<i>Tsuga canadensis</i>			
Excluding Trees located in Conifer Plantations				
White Pine	<i>Pinus strobus</i>			
European Larch	<i>Larix decidua</i>			
White Spruce	<i>Picea glauca</i>			
Norway Spruce	<i>Picea abies</i>			

Schedule A to By-Law 2006-170(Cont'd)

PRESCRIBED SPECIES GROUP D		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
Species	Latin	180	155	140
Eastern Cottonwood	<i>Populus deltoides</i>			
Sassafras	<i>Sassafras albidum</i>			
Yellow Birch	<i>Betula alleghaniensis</i>			
American Beech	<i>Fagus americana</i>			
Excluding Trees located in Conifer Plantations				
Red Pine	<i>Pinus resinosa</i>			
Jack Pine	<i>Pinus banksiana</i>			
Scots Pine	<i>Pinus sylvestris</i>			
Tamarack	<i>Larix laricina</i>			

PRESCRIBED SPECIES GROUP E		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
Species	Latin	95	85	80
Balsam Poplar	<i>Populus balsamifera</i>			
Trembling Aspen	<i>Populus tremuloides</i>			
Largetooth Aspen	<i>Populus grandidentata</i>			
White Birch	<i>Betula papyrifera</i>			
Ironwood	<i>Ostrya virginiana</i>			
Willow Species	<i>Salix sp.</i>			

PRESCRIBED SPECIES GROUP F		10 cm Point of Measurement Minimum Circumference	20 cm Point of Measurement Minimum Circumference	30 cm Point of Measurement Minimum Circumference
Species	Latin	70	68	65
Pin Cherry	<i>Prunus pensylvanica</i>			
White Cedar	<i>Thuja occidentalis</i>			
Red Cedar	<i>Juniperus virginiana</i>			

BY-LAW 2006-170 - SCHEDULE B - BASAL AREA CALCULATION AND ASSESSMENT

1. Basal Area will be assessed using the **Point Sampling** technique which is defined as a method of selecting trees for measurement and for estimating stand basal area using tree size rather than frequency as the main parameter trees are tallied at a sample location or point sample, with the selection probability being proportional to the basal area of the trees. In point sampling, a 360-degree sweep is made with an angle gauge about a fixed point, and the stems whose breast height diameter appear larger than the fixed angle subtended by the angle gauge are included in the sample.
2. Point samples will be taken using a factor 2 prism.
3. The centre of the point sample will be marked, physically or electronically, for future reference.
4. The first point sample will be placed 50 metres from:
 - the edge of the forest stand, or
 - the drip line of the Woodland.
5. Minimum Sample:
 - no less than 10 point samples
 - > 20 hectares an additional point for every 5 hectares
6. Where the width of a forest stand is 150m or greater and at least 300m in length, two parallel lines (50m apart) will be established along a fixed compass bearing down the centre of the forest stand where harvesting has occurred. Using the appropriate edge buffers, point samples will be established along these lines at a 50m spacing.
7. Where the width of a forest stand is under the 130m, one line will be established along a fixed compass bearing down the centre of the forest stand where harvesting has occurred. Using the appropriate edge buffers, point samples will be established along this line at a 50m spacing. Where possible where the forest stand widens along the fixed line, additional points maybe established at 90 degrees to this line, provided that there is 50m between all sample plots.
8. Where the width, length or overall configuration of a forest stand does not allow for the placement of the minimum point samples within the configuration of the placement of the point samples as defined in Sections 4, 6 or 7, the following techniques will be used to establish sample points:
 - the first and last sample point will be placed at the edge of the forest stand, and be a half point sample, rotating 180 degrees towards the inside of the stand, and/or
 - the random placement of point samples will be used to assess basal area, provided that there is 50m between all sample plots.

The following format will be used in calculating average basal area per hectare;

Stations Tallied

BASAL AREA FACTOR - 2

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40

Plot#	SMALL 26-40 CM		MEDIUM 42-48 CM		LARGE 50 - 60 CM		X-LARGE 62+ CM		TOTAL ALL SIZES		TOTAL **
	AGS	UGS	AGS	UGS	AGS	UGS	AGS	UGS	AGS	UGS	
Number of Trees											

** Total Trees (_____) x Basal Area Factor (_____) = (_____) Actual BA / Ha
of Stations (_____)

BY-LAW 2006-170 - SCHEDULE C

Application of Good Forestry Practice under this By-law must meet or exceed the recommendations of the following publications:

A Silviculture Guide to Managing Southern Ontario Forests
- Ontario Ministry of Natural Resources, 2000

A Silviculture Guide for the Tolerant Hardwood Forest
- Ontario Ministry of Natural Resources, 1998

A Tree Marking Guide for the Tolerant Hardwoods Working Group
- Ontario Ministry of Natural Resources, 1993

A Silviculture Guide for the Great Lakes-St. Lawrence Conifer Forest in Ontario
- Ontario Ministry of Natural Resources, 1993

Managing Red Pine Plantations
- Ontario Ministry of Natural Resources, 1985

BY-LAW 2006-170 - SCHEDULE D

Significant Biotic Areas shall include:

- (a) Woodlands or Woodlots which are enrolled in:
 - (i) the Managed Forest Tax Incentive Program; or
 - (ii) the Conservation Land Tax Incentive Program

BY-LAW 2006-170 - SCHEDULE E

Prescribed fees

Section 4 - Council Exemption Permit \$200.00

Section 5 - Harvest or Destruction Permit

Good Forestry

- Section 2 (a) - 7 business days prior to harvest/destruction \$ 0.00
- Section 2 (a) - 5 business days prior to harvest/destruction \$ 25.00
- Section 2 (a) - 3 business days prior to harvest/destruction \$100.00
- Section 2 (a) - 1 business days prior to harvest/destruction \$200.00

Circumference

- Section 2 (e) - 7 business days prior to harvest/destruction \$ 0.00
- Section 2 (e) - 5 business days prior to harvest/destruction \$ 50.00
- Section 2 (e) - 3 business days prior to harvest/destruction \$150.00
- Section 2 (e) - 1 business days prior to harvest/destruction \$200.00

Circumference Pre-harvest Audit

- 0.2 to 10 hectares – per hectare (minimum 2 hectare charge) \$ 15.00
- greater than 10 hectares – per hectare \$ 10.00

Notification of Harvest Signs \$ 5.00

BY-LAW 2006-170 - SCHEDULE F

Sign dimensions shall be at minimum 30 cm by 50 cm and include 2.0 cm lettering in permanent, visible ink which includes the information below

- Wording: NOTICE OF TIMBER HARVESTING
 Do not enter during operations for your safety
- Reference to By-law
- Property Location Description
- Municipal Contact name and number
- Contractor name, phone number
- Owners name
- Name of marker and phone number

STOP WORK ORDER

YOU ARE HEREBY DIRECTED AND ORDERED TO forthwith stop, halt, cease, and desist from any and all works associated with the destruction of trees or removal thereof from those lands comprising;

MUNICIPAL ADDRESS / LEGAL DESCRIPTION OF THE PROPERTY:

LOT: _____ CONCESSION: _____ MUNICIPALITY: _____

OWNER / INDIVIDUAL RESPONSIBLE FOR HARVEST / DESTRUCTION / INJURY OF TREES:

DESCRIPTION OF INFRACTION:

Date of Inspection: _____

Effective Order Date: _____ **TO** _____

Signature of By-law Officer: _____ **Date:** _____

Pursuant to By-law 2005-216, Section 8, Subsection (e) Where the person to whom the Order is directed has been served in accordance with this By-law is not satisfied with the terms of the Order, the person may appeal to the By-Law Appeals Committee by filing Notice of Appeal by personal service or certified mail to the Clerk within 30 days after the date of the Order.

BY-LAW 2006-170 - Schedule H

CIRCUMFERENCE REQUIREMENTS

- 1) That the provisions of the By-law, with the exception of the requirements of below, are met.
- 2) The person destroys or harvests the tree of a prescribed species located in a conifer plantation in accordance with good forestry practice
- 3) The destruction or harvest of the tree of the prescribed species will not reduce the basal area of all prescribed species in the forest stand, which measure 24 centimeters or more in DBH, to below 14 square meters per hectare, as assessed using the criteria in Table A.

TABLE A		Point of Measurement	Circumference	Point of Measurement	Circumference
GROUP A SPECIES					
Cucumber Tree	(<i>Magnolia acuminata</i>)	15 cm	225 cm	30 cm	196 cm
Kentucky Coffeetree	(<i>Gymnocladus dioicus</i>)				
American Chestnut	(<i>Castanea dentata</i>)				
Tulip Tree	(<i>Liriodendron tulipifera</i>)				
Honey Locust	(<i>Gleditsia triacanthos</i>)				
Sycamore	(<i>Platanus occidentalis</i>)				
Hackberry	(<i>Celtis occidentalis</i>)				
Black Gum	(<i>Nyssa sylvatica</i>)				
Butternut	(<i>Juglans cinerea</i>)				
Red Mulberry	(<i>Morus rubra</i>)				
GROUP B SPECIES					
Oak - Red	(<i>Quercus rubra</i>)	15 cm	209 cm	30 cm	171 cm
- Black	(<i>Quercus velutina</i>)				
- White	(<i>Quercus alba</i>)				
- Swamp White	(<i>Quercus bicolor</i>)				
- Bur	(<i>Quercus macrocarpa</i>)				
- Hills	(<i>Quercus ellipsoidalis</i>)				
- Chinquapin	(<i>Quercus muehlenbergii</i>)				
Maple - Sugar	(<i>Acer saccharum</i>)				
- Black	(<i>Acer nigrum</i>)				
- Red	(<i>Acer rubrum</i>)				
- Silver	(<i>Acer saccharinum</i>)				
Elm - White	(<i>Ulmus americana</i>)				
- Red	(<i>Ulmus thomasii</i>)				
- Rock	(<i>Ulmus rubra</i>)				
GROUP C SPECIES					
Ash - White	(<i>Fraxinus americana</i>)	15 cm	199 cm	30 cm	173 cm
- Red (Green)	(<i>Fraxinus pennsylvanica</i>)				
- Blue	(<i>Fraxinus quadrangulata</i>)				
- Black	(<i>Fraxinus nigra</i>)				
- Pumpkin	(<i>Fraxinus profunda</i>)				
Hickory - Shagbark	(<i>Carya ovata</i>)				
- Big Shellbark	(<i>Carya laciniosa</i>)				
- Pignut	(<i>Carya glabra</i>)				
- Bitternut	(<i>Carya cordiformis</i>)				
Black Walnut	(<i>Juglans nigra</i>)				
Black Cherry	(<i>Prunus serotina</i>)				
Basswood	(<i>Tilia americana</i>)				
Hemlock	(<i>Tsuga canadensis</i>)				
<u>Excluding plantations</u>	(<i>Pinus strobus</i>)				
White Pine	(<i>Larix decidua</i>)				
Larch	(<i>Picea abies</i>)				
Spruce - Norway	(<i>Picea glauca</i>)				
- White					

BY-LAW 2006-170 - Schedule H (Cont'd)

GROUP D SPECIES					
Eastern Cottonwood	(<i>Populus deltoides</i>)	15 cm	165 cm	30 cm	136 cm
Sassafras	(<i>Sassafras albidum</i>)				
Yellow Birch	(<i>Betula alleghaniensis</i>)				
American Beech	(<i>Fagus americana</i>)				
Excluding plantations					
Pine					
- Red	(<i>Pinus resinosa</i>)				
- Jack	(<i>Pinus banksiana</i>)				
- Scots	(<i>Pinus sylvestris</i>)				
Tamarack	(<i>Larix laricina</i>)				
GROUP E SPECIES					
Poplar		15 cm	91 cm	30 cm	80 cm
- Balsam	(<i>Populus balsamifera</i>)				
- Trembling Aspen	(<i>Populus tremuloides</i>)				
- Largetooth Aspen	(<i>Populus grandidentata</i>)				
White Birch	(<i>Betula papyrifera</i>)				
Ironwood	(<i>Ostrya virginiana</i>)				
Willow sp.	(<i>Salix sp.</i>)				
GROUP F SPECIES					
Eastern Flowering Dogwood	(<i>Cornus florida</i>)	15 cm	72 cm	30 cm	63 cm
Pin Cherry	(<i>Prunus pensylvanica</i>)				
Cedar					
- White	(<i>Thuja occidentalis</i>)				
- Red	(<i>Juniperus virginiana</i>)				

BY-LAW 2006-170 - Schedule I

1. The issuance of a Council Exemption Permit will take into account those efforts of landowners to temporarily restore lands using trees under existing and proposed programs which involve the delivery of ecological goods and services on agricultural lands. Such efforts are to be documented with Norfolk County – Forestry Division as prescribed by staff. Exception to this consideration includes:
 - (a) documentation of a species or feature which is protected under Provincial or Federal legislation on the subject lands, and;
 - (b) an agreement to which the trees were replanted under which precludes the removal of the trees.

2. The issuance of a Council Exemption will take into account those efforts of landowners to restore lands, prior to the Council Exemption application being submitted, providing
 - (a) The reforestation efforts have been documented with Norfolk County – Forestry Division in the form prescribed by staff, within six months of the planting.
 - (b) The lands restored are within Norfolk County and held by the same owner as the applicant.
 - (c) The lands have not been restored through a reforestation program that would preclude the use of the reforestation or afforestation as a credit to destroy forested lands.