

Summary of Proposed Changes

Current Forest Conservation By-law (By-law 2006-170)

vs.

Draft Forest Conservation By-law Version_2



Date: January 7, 2022

This document is intended to assist in comparing Norfolk County's current Forest Conservation By-law (By-law 2006-170) with the proposed Draft Forest Conservation By-law V_2

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Definitions

Definitions that are unchanged:

- “Circumference”
- “DBH” or “Diameter at Breast Height”
- “Forest Stand”
- “Silviculture”
- “Silvicultural Prescription”

Removal of the following definitions:

- “Act”
- “Agricultural Use”
- “Basal Area of a Forest Stand”
- “Building Permit”
- “Business Day”
- “Clerk”
- “Certified Tree Marker”
- “Drip Line”
- “Fuelwood”
- “Log”
- “Person”
- “Point of Measurement”
- “Prescribed Species”
- “Significant Biotic Areas”
- “Woodlot”

Addition of the following definitions:

- “Agricultural Operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward.
- “Conifer Plantation” means a Forest Stand where coniferous Trees have been planted or seeded in a pre-determined pattern. For the purpose of this By-law, a Conifer Plantation is no longer be considered a Conifer Plantation once the planted conifer trees comprise 20% or less of the total Basal Area of the Forest Stand.
- “County” means the Corporation of Norfolk County, the Council of the Corporation of Norfolk County, or an Officer.
- “Exotic Species” means Trees identified in Schedule “B” of this By-law.
- “Injure” or “Injury” means any action that causes physical, biological, or chemical damage to a Tree, including any lasting damage which has the effect of inhibiting or terminating its growth.
- “Normal Farm Practice” means a practice that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar Agricultural Operations under similar circumstances; or, makes use of

innovative technology in a manner consistent with proper advanced farm management practices, as defined in the *Farming and Food Productions Protection Act, 1998*. A practice is not a Normal Farm Practice if it is inconsistent with a regulation made under the *Nutrient Management Act, 2002*.

- “Order” means an Order to Discontinue Activity.
- “Property” means a parcel of land having specific boundaries, which is capable of legal transfer.
- “Significant Woodlands” means lands designated as Significant Woodlands in the Norfolk County Official Plan.
- “Stump” means the portion of Tree that is left in the ground after a Tree is cut, and is generally comprised of the root flare, or transition zone between the roots and the stem of the Tree, and may include a portion of the stem.
- “Treed Fencerow” means an isolated, linear formation of Trees that measure twenty (20) metres or less in width, that define a laneway, boundary between fields, or boundary between properties. The measurement for the width of the formation of Trees will be taken two (2) metres from the outside of the trunk of perimeter Trees.
- “Undersized Tree” means a Tree that has a Circumference below the minimum Circumference limit at the specified point of measurement, for the species, as designated in Schedule “F” of this By-law, and does not apply to Conifer Trees located within a Conifer Plantation.

Modification of the following definitions:

Current By-law 2006-170

- “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.

Draft By-law Version_2

- “AGS” or “Acceptable Growing Stock” meaning Trees suitable for retention in the Forest Stand and are Trees of such form and quality as to be expected to maintain or improve in quality or value over a 15 year time period. The classification and designation of a Tree as AGS or UGS will follow principles and guidelines established in Section 5.3 of the technical guide “A Silvicultural Guide to Managing Southern Ontario Forests” (Ministry of Natural Resources, 2000).
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Current By-law 2006-170

- "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.

Draft By-law Version_2

- “Basal Area” means the cross-sectional area of Tree stems taken at 1.37 metres from the highest point of undisturbed ground from the base of the stem or trunk of the Tree. For the purpose of this By-law, this refers to Trees within a Woodland that measure at least 10 cm DBH and is expressed in cubic meters on a per hectare basis.
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Current By-law 2006-170

- "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.

Draft By-law Version_2

- “Committee” means the By-Law Appeals Committee which consists of three members appointed by Council for a term concurrent with the term of Council, or, any other committee appointed by Council for the purpose of overseeing appeals to by-laws of the County.
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Current By-law 2006-170

- "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.

Draft By-law Version_2

- “Officer” means a Municipal Law Enforcement Officer or other person appointed by Council for the administration and enforcement of this By-law.
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Current By-law 2006-170

- “Conifer Plantation” is a Woodlands or Woodlot where coniferous trees have been planted or seeded in a pre-determined pattern.

Draft By-law Version_2

- “Conifer Plantation” means a Forest Stand where coniferous Trees have been planted or seeded in a pre-determined pattern. For the purpose of this By-law, a Conifer Plantation is no longer be considered a Conifer Plantation once the planted conifer trees comprise 20% or less of the total Basal Area of the Forest Stand.
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Current By-law 2006-170

- “Coppice growth” means where more than one tree stem grows from a single tree stump.

Draft By-law Version_2

- “Coppice Growth” means a Tree with more than one stem growing from a single Tree stump. Each stem that is separate from the other stems at a point of measurement that is 1.37 meters above the highest point of undisturbed ground from the base of the Tree will be counted separately for the purpose of assessing Basal Area.
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Current By-law 2006-170

- “Cord” means a pile of fuelwood 1.22 metres by 1.22 metres by 2.44 metres

Draft By-law Version_2

- “Cord” means a pile of wood that measures 3.6 cubic metres (128 cubic feet) of stacked wood volume.
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Current By-law 2006-170

- “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.

Draft By-law Version_2

- “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, as defined in the Forestry Act, 1990.
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Current By-law 2006-170

- “Harvest” means the destruction of a tree through cutting or other mechanized means which results in the irreversible death of a tree by design.

Draft By-law Version_2

- “Harvest” means to Destroy a Tree.
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Current By-law 2006-170

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

Draft By-law Version_2

- “Owner” means a person having any right, title, interest or equity in land or any such person’s authorized representative 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.
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Current By-law 2006-170

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

Draft By-law Version_2

- “Own Use” means any use of Trees Injured or Destroyed by the Owner that does not include a sale, exchange, or other disposition of Tree material, and does not exceed the equivalent of 26.4 cubic metres (11 Cords) in wood volume, or 20 Trees, whichever is greater, within any calendar year. Where wood volume cannot be measured, Schedule “C” will be used to determine wood volume harvested based on stump diameter.
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Current By-law 2006-170

- “Permit means a permit to harvest, injure or destroy trees issued under Section 4 or 5 of this By-law.

Draft By-law Version_2

- “Permit” means written authorization for the Injury or Destruction of Trees issued by the County pursuant to this By-law.
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Current By-law 2006-170

- “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, 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;

Draft By-law Version_2

- “Salvage Harvest” means the harvest of Trees that have been damaged by disease, insects, wind, fire, ice, or other natural causes to an extent that the health of the Tree will rapidly decline without a doubt, and includes:
 - i. black ash, (*Fraxinus nigra*), green ash (*Fraxinus pennsylvanica*), white ash (*Fraxinus americana*), and pumpkin ash (*Fraxinus profunda*) Trees that are infested with Emerald Ash Borer (*Agrilus planipennis*).
 - ii. American beech (*Fagus grandifolia*) that are infested with Beech Bark Disease (*Neonectria faginata*)
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Current By-law 2006-170

- “UGS” or “Unacceptable Growing Stock” means trees that have a high risk of drying and are expected to decline over the next cutting cycle.

Draft By-law Version_2

- “UGS” or “Unacceptable Growing Stock” meaning Trees that have a high risk of dying and are expected to decline over the next cutting cycle, or approximately 15 years. This includes Trees that are of poor form and/or low quality. The classification and designation of a Tree as AGS or UGS will follow principles and guidelines established in Section 5.3 of the technical guide “A Silvicultural Guide to Managing Southern Ontario Forests” (Ministry of Natural Resources, 2000).
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By-law 2006-170

- "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.

- "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.

Draft By-law Version_2

- "Woodland" means an area of land, at least 0.41 hectare (1.0 acre) in area, containing the equivalent of at least:
 - i. 1000 Trees, of any size per hectare; or
 - ii. 750 Trees, measuring over five (5) centimetres DBH, per hectare, or
 - iii. 500 Trees, measuring over twelve (12) centimetres DBH, per hectare, or
 - iv. 250 Trees, measuring over twenty (20) centimetres DBH, per hectare

but does not include:

- a) an active cultivated fruit or nut orchard
 - b) an active tree nursery
 - c) a Plantation established and maintained for the purpose of producing Christmas Trees
 - d) Exotic Species identified in **Schedule "B"** of this By-law
 - e) Treed Fencerows
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Exemptions

Exemptions that are unchanged:

- activities or matters undertaken or authorized by a municipality or a local board of a municipality;
- activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act*, 1994;
- 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;
- the Injuring or Destruction of Trees imposed after December 31, 2002 as a condition of 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;
- 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;
- the Injuring or Destruction of Trees by a transmitter or a 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;
- 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*;
- 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 the 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*.

Removal of the following exemptions:

- the injuring or destruction of trees where the owner of the Woodlands has been granted an exemption pursuant to Section 4.
- 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.
 - 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.
 - 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.
 - 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.

Addition of the following exemptions:

- the Injuring or Destruction of Trees that are deceased.
- the Injuring or Destruction of Trees that are Exotic Species, as identified in **Schedule "B"** of this By-law;
- The Injury or Destruction of Trees that are less than 15 years of age and growing along the edge of a Woodland, in order to maintain the Woodland edge and control encroachment of Trees into areas that are not Woodland.
- The Injury or Destruction of Trees that is part of a Normal Farm Practice and carried out as part of an Agricultural Operation.

Modification to the following exemptions:

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- 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,
- 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.

Draft By-law Version_2

- the Injuring or Destruction of Trees by the Owner of the Woodlands, for the Owner's Own Use of the resulting wood product provided that:
 - i. The Injury or Destruction of Trees is carried out in accordance with Good Forestry Practices; and,
 - ii. The Injury or Destruction of Trees does not have the effect of reducing the Basal Area of AGS Trees below 16 m²/ha, in the Forest Stand in which the Injuring or Destruction of Trees has occurred; and,
 - iii. The Stump of any Tree that has been Injured or Destroyed is not lowered below 10cm in height in relation to the undisturbed ground height surrounding the Stump, and the Stump is not destroyed or removed from the ground; and,
 - iv. The Injury or Destruction of Trees does not have the effect of clearing, removing, or reducing any Woodland area.

General Prohibition

To compare the general prohibition section of the current by-law to the Draft By-law Version_2, the wording of the regulations below may be altered so that they can be understood in context. An explanation is included to help clarify the intended effect of the proposed changes.

Current By-law 2006-170

2. a) Except as provided for in the Exemptions to this By-law, 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 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 (Application for a Permit).

Draft By-law Version_2

- 4.1 No person or corporation through their actions or through any other person or corporation shall Injure or Destroy a Tree located in a Woodland unless:
 - i. exempted by Section 3 (Exemptions) of this By-law; or,
 - ii. in accordance with Good Forestry Practices; and,
 - iii. in accordance with a valid Permit issued by the County pursuant to Section 5 (Harvest Permit) or Section 6 (Exemption Permits) of this By-law and in accordance with its terms and conditions.

This regulation establishes under what circumstances a tree may be injured or destroyed in a woodland.

The current by-law separates harvests into 3 categories: Good Forestry Practices, Stand Improvement, and Circumference Limit. This first provision is the provision for a Good Forestry Practices harvest which requires that the harvest be in accordance with a silvicultural prescription prepared by a Registered Professional Forester.

The Draft By-law Version_2 does not separate harvest types but does require that the injuring or destruction of Trees be in accordance with Good Forestry Practices and that a harvest permit be obtained.

The requirement to mark the trees with paint visibly on at least two opposite sides of the tree as well as the base of the tree is included in the Harvest Permit section of the Draft By-law Version_2.

Current By-law 2006-170

2. b) No person through their own actions or through any other person shall harvest, destroy or injure a tree located in a Significant Biotic Area (enrolled in Managed Forest Tax Incentive Program or Conservation Lands Tax Incentive Program) unless in accordance with Section 2. a) (see previous regulation).

Draft By-law Version_2

N/A

In the current by-law, this regulation sets out provisions in which a tree may be injured or destroyed in woodland on a property that is enrolled in either the Managed Forest Tax Incentive Program (MFTIP) or Conservation Lands Tax Incentive Program (CLTIP). The regulation regarding the harvesting of trees on properties enrolled in MFTIP or CLTIP has been removed from the Draft By-law Version_2.

The Managed Forest Tax Incentive Program and Conservation Lands Tax Incentive Program each have their own set of requirements in order for landowners to remain eligible to participate and receive tax incentives. It is the responsibility of the landowner to ensure they manage their lands in accordance to the requirements of any program they may be enrolled in if they wish to remain eligible. Norfolk County will not be screening each property to investigate if the landowner is participating in either program.

Current By-law 2006-170

2. c) 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 (regulated by provincial or federal legislation), unless in accordance with provincial/federal legislation and Good Forestry Practices.

Draft By-law Version_2

N/A

In the current by-law. this regulation requires that the injury or destruction of a tree regulated by provincial or federal legislation be carried out in accordance with those regulations.

This regulation has been removed from the Draft By-law Version_2. Landowners and those harvesting trees are responsible for ensuring their activities are being carried out in accordance with provincial and federal regulations. A list of species that are designated and may be regulated by the federal Species at Risk Act and/or provincial Endangered Species Act is included in a schedule of the Draft By-law Version_2

Current By-law 2006-170

2. d) No person through their own actions or through any other person shall harvest, destroy or injure a tree located in a Conifer Plantation unless in accordance with a silvicultural prescription prepared by a Registered Professional Forester.

Draft By-law Version_2

- 4.4 No person or corporation through their actions or through any other person or corporation shall Injure or Destroy a Tree in a Conifer Plantation that has the effect of:
- a) reducing the Basal Area of AGS Trees that are 10cm DBH or larger below 18.0 m²/ha, within the Forest Stand in which the Injuring or Destruction of Trees has occurred; or,
 - b) clearing, removing, or reducing any Woodland area,

Unless:

- i. exempted by Section 3 (Exemptions) of this By-law; or,
- ii. in accordance with a valid Permit issued by the County pursuant to Section 5 (Harvest Permits) of this By-law, and in accordance with a Silvicultural Prescription approved by a Registered Professional Forester; or,
- iii. in accordance with a valid Permit issued by the County pursuant to Section 6 (Exemption Permits) of this By-law;

This regulation sets out the provisions in which a Tree may be Injured or Destroyed in a Conifer Plantation.

In the current by-law, any proposed harvesting in a Conifer Plantation must be carried out in accordance with a silvicultural prescription approved by a Registered Professional Forester.

In the Draft By-law Version_2 a minimum basal area requirement is established for harvesting in conifer plantations, similar to the manner in which harvests in other forest stands are regulated. Harvesting is required to be consistent with Good Forestry Practices which takes into account appropriate silvicultural treatments.

If management does not occur within a conifer plantation at regular or semi-regular intervals, than forest productivity and biodiversity is impacted. Conifer plantation management is generally less complex than management in natural hardwood and mixed wood stands and usually results in a lower value product, especially when plantations are young and when they are small in area.

This revision was intended to make regulations for harvesting trees in conifer plantations more consistent with regulations for harvesting trees in other forest stands and encourage management of conifer plantations.

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2. e) Except as provided in the Exemptions to this By-law, 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 (diseased, severely damaged, terminally infested with a pest, or an extoxic species) which can be proven before and after the tree has been harvested or destroyed.
 - 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 (Application for a Permit)

Draft By-law Version_2

- 4.2 No person or corporation through their actions or through any other person or corporation shall Injure or Destroy a Tree in a that has the effect of:
- a) reducing the Basal Area of AGS Trees that are 26cm DBH or larger below 16.0 m²/ha, within the Forest Stand in which the Injuring or Destruction of Trees has occurred; or,
 - b) reducing the Basal Area of AGS Trees that are 50cm DBH or larger below 3.0 m²/ha within the Forest Stand in which the Injuring or Destruction of Trees has occurred; or,
 - c) clearing, removing, or reducing any Woodland area.

Unless:

- i. exempted by Section 3 (Exemptions) of this By-law; or,
- ii. the Trees Inured or Destroyed meet the definition of a Salvage Harvest (diseased, severely damaged, terminally infested with a pest); or,
- iii. the Injuring or Destruction of Trees is located within a Conifer Plantation and in accordance with Section 4.4 (regulations for harvesting withing a Conifer Plantation) of this By-law; or,

- iv. in accordance with a valid Permit issued by the County pursuant to Section 5 (Harvest Permit) of this By-law, and in accordance with a Silvicultural Prescription approved by a Registered Professional Forester; or,
 - v. in accordance with a valid Permit issued by the County pursuant to Section 6 (Exemption Permit) of this By-law.
- 4.3 Any person proposing to Injure or Destroy an Undersized Tree located in a Woodland must provide a species list and the number of Undersized Trees per species to be Injured or Destroyed on the harvest permit application, unless:
- i. exempted by Section 3 (Exemptions) of this By-law; or,
 - ii. a Silvicultural Prescription prepared by a Registered Professional Forester is submitted with the harvest permit application.

In the current by-law, this is the regulation that establishes under what circumstances a Tree may be injured or destroyed in a woodland in accordance with a Circumference Limit harvest or Stand Improvement harvest.

A Circumference Limit harvest is the regulation of tree harvesting based on tree size and residual basal area. A Stand Improvement harvest is the harvest of only those trees that meet specific criteria, generally being a tree that has been severely damaged or infested with a forest pest to the point where that it will continue to deteriorate, or to prevent the spread of a forest pest, or a tree that is an exotic species.

The requirement for a tree to attain a specific circumference limit before it may be harvested is not included in the Draft By-law Version_2. Reference to “undersize trees” and a schedule with circumference limits is included in the by-law. Harvest permit applications that are not accompanied with a Silvicultural Prescription approved by a Registered Professional Forester will be required to include a tally for Undersized Trees that are marked for harvest. Undersize trees do not pertain to conifer trees within a conifer plantation. Failure to do so will be considered a contravention of the By-law if those Trees are Injured or Destroyed.

The requirement to mark the trees with paint visibly on at least two opposite sides of the tree as well as the base of the tree is included in the Harvest Permit section of the by-law.

The requirement for an Owner of land to be in ownership of the property for at least 2 years before being able to undertake a harvest is not included in the Draft By-law Version_2 (previously for circumference limit harvests only).

The requirement to maintain a residual stocking of 16 m²/ha after a harvest is contained in both the current by-law and the Draft By-law Version_2; however, in the Draft By-law Version_2, the 16 m²/ha of residual stocking must be comprised of “acceptable growing stock”. This addition is to ensure that consideration is being given to retention of trees that will continue to improve the overall quality and health of the forest stand. This regulation does not pertain to the harvesting of trees in a conifer plantations or harvesting of trees in accordance with a silvicultural prescription approved by a Registered Professional Forester.

The requirement to retain a residual basal area of 3.0 m²/ha or more of acceptable growing stock of Trees 50 cm DBH or greater has also been added to the Draft By-law Version_2. This is to ensure that some larger trees are being retained in the forest stand in consideration of stand structure, forest genetics, and provisions of wildlife habitat. This regulation does not pertain to the harvesting of trees in conifer plantations or harvesting of trees in accordance with a silvicultural prescription approved by a Registered Professional Forester.

Current By-law 2006-170

2. 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 (harvest permits and exemption permits); 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;

Draft By-law Version_2

- 4.6 Except for municipal drainage works, no person or corporation through their actions or through any other person or corporation shall Injure or Destroy a Tree located in a Woodland for the purpose of constructing drainage works, including but not limited to installation of open ditch drains and tile drains, unless:
 - a) exempted by Section 3 (Exemptions) of this By-law; or,
 - b) in accordance with a valid Permit issued by the County pursuant to Section 6 (Exemption Permits) of this By-law

This regulation is for the purpose of restricting the injury or destruction of trees for the purpose of installing ditches and drains through a woodland.

Activities undertaken by the municipality are exempt through the Municipal Act, so this works undertaken under authority of the Drainage Act generally exempt. This regulation pertains primarily to private drainage works.

The current by-law requires the use of a closed tile system where any drainage works goes through or is adjacent to a Woodland. This specific restriction is removed for the Draft By-law Version_2.

Current By-law 2006-170

2. 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;

Draft By-law Version_2

- 4.7 No person or corporation through their actions or through any other person or corporation shall:
- a) contravene the terms or conditions of a Permit issued under this By-law;
 - b) fail to comply with an Order issued under this By-law; or
 - c) remove or deface an Order that has been posted pursuant to this By-law.
 - d) hinder or obstruct an Officer or attempt to hinder or obstruct an Officer who is performing a duty in accordance with this By-law

Current By-law 2006-170

2. 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.

Draft By-law Version_2

- 4.5 No person or corporation through their actions or through any other person or corporation shall Injure or Destroy a Tree in such a manner that results in the Stump height being less than 10cm in height in relation to the undisturbed ground height surrounding the Stump, or that results in the Stump being destroyed or removed from the ground;

This list of regulations in the current by-law generally pertain to how tree harvesting operations are to be carried out.

In the Draft By-law Version_2 the majority of these regulations have been removed. The requirement for a permit to be obtained has already been established earlier in the by-law and is explained further in the harvest permit section.

Since most of these regulations are intended to regulate commercial tree harvesting operations, for which a permit would be required, the regulations listed in this section in the current by-law may be regulated at the time of permit approval, as a condition of a permit.

The regulation requiring a minimum stump height to remain after a tree is harvested is contained in both by-laws, but expanded on in the Draft By-law Version_2 by specifying that the stump cannot be destroyed or removed from the ground.

Harvest Permits

To compare the harvest permit section of the current by-law to the Draft By-law Version_2, the process will be summarized into point form for a better direct comparison of the proposed changes.

Current By-law 2006-170

- Application made to the County with the prescribed fee. A fee applies to applications made less than 7 days prior to the harvest of trees.
- The County will respond to an application within 45 days.
- A permit may be issued for up to 1 year.
- A permit may be renewed for up to 1 year.
- A permit may include terms and conditions relating to the manner in which destruction, injury or harvesting is to occur and the qualifications of persons authorized to destroy, injure or harvest trees, imposed by the by-law officer.
- Notification must be provided to the by-law officer 24 hours prior to commencement of the harvest.
- Notification must be provided to the by-law officer 24 hours prior to the completion of the harvest.
- Sign to be posted at entrance to the property upon commencement of harvest and remain posted until 10 days after completion of the harvest.

Draft By-law Version_2

- Application made to the County with the prescribed fee. A fee is proposed for applications that are not accompanied with a prescription prepared by a Registered Professional Forester.
- The County will respond to an application within 20 days.
- A permit may be issued with an expiry date.
- A permit may include terms and conditions relating to the manner in which destruction, injury or harvesting is to occur and the qualifications of persons authorized to destroy, injure or harvest trees, imposed by the by-law officer.

This section of the by-law explains the process for applying for a harvest permit, including requirements for the application and how the application will be responded to by the County.

The current by-law requires the County to respond to an application for a harvest permit within 30 days. The County will respond to an application for a harvest permit within 20 days in the Draft By-law Version_2.

In the current by-law a by-law officer may issue a permit for a period of up to 1 year, with a possible 1 year extension granted after that. The Draft By-law Version_2 authorizes an officer to issue a permit with an expiry date. The intent is to continue to issue harvest permits for a period of 1 year, and grant extensions as necessary and when appropriate.

The requirement to provide 24 hour notice before commencement of a harvest, 24 hours prior to the completion of a harvest, and to post a sign by the road during operations will be made conditions of a permit.

Exemption Permits

To compare the exemption permit section of the current by-law to the Draft By-law Version_2, the process will be summarized into point form for a better direct comparison of the proposed changes.

Current By-law 2006-170

- Application made to the County with the prescribed fee.
- An application for clearing of an area greater than 1 hectare must be accompanied by an Environmental Impact Study.
- The application must be made at least 30 days prior to the anticipated commencement of the injuring or destruction of woodlands.
- Notification of the application will be sent by mail to all landowners who own land abutting the subject lands at least 15 business days prior to consideration of the application.
- The owner shall post a public notice sign at the property at least 15 days prior to consideration of the application.
- A by-law officer may issue an exemption permit and impose terms and conditions if the destruction of woodlands is 0.2 hectare or less.
- A by-law officer may issue an exemption permit and impose terms and conditions if the destruction of woodlands is larger than 0.2 hectare provided there have been no objections filed with the County and the by-law officer agrees that the general purpose and intent of the by-law is maintained.
- If objections have been filed with the County, or if the applicant objects to the terms and conditions of an exemption permit, the By-law Appeals Committee will consider the application for exemption, any conditions to the permit and make a final decision.

Draft By-law Version_2

- Application made to the County with the prescribed fee.
- The County may request additional information from the applicant, such as an Environmental Impact Study.
- Notification of the application will be sent by mail to all landowners who own land within 100 metres of the subject property at least 14 days prior to consideration of the application (for clear cutting only).
- Notification of the application will be sent to other County departments and other agencies that, in the opinion of the Officer, may have an interest in the application.
- Any correspondence received on the application will be used to inform a decision on the application.
- A by-law officer may deny an application for exemption or may issue an exemption permit and impose terms and conditions.

This section of the by-law explains the process for applying for an exemption permit, including requirements for the application and how the application will be responded to by the County.

Exemption permits are a provision that allow for the injuring and destruction of trees that would otherwise be prohibited by the by-law. Exemption permits are almost exclusively used

for the purpose of permitting the clearing of Woodland area, but may be applicable in instances where minimum basal area targets cannot be met, or the injuring and destruction of trees that may not be consistent with Good Forestry Practices.

The revisions to this section in the Draft By-law Version_2 are intended to better separate applications for exemption that are for clearing purposes, and applications for exemption where there the woodland will still remain after the proposed injury or destruction of trees.

Written correspondence received on an application does not automatically defer the application to the By-law Appeals Committee in the Draft By-law Version_2.

Conditions and terms may be placed on exemption permits in both by-laws, but in the Draft By-law Version_2 it is made clear that such conditions may include measures such as planting of trees, payment-in-lieu of planting trees, or dedication of an interest in land, including a restrictive covenant registered on title of the property with the County or other qualified organization.

Appeals

To compare the appeals section of the current by-law to the Draft By-law Version_2, the wording of the regulations below may be altered so that they can be understood in context.

Current By-law 2006-170

7. a) An applicant for a harvest permit or exemption permit 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.

Draft By-law Revision_2

- 7.1 The owner or applicant for an Exemption Permit under Section 6 of this By-law may appeal to the Committee:
 - a) if the County refuses to grant a Permit, within ten (10) days of the refusal;
 - b) if the County fails to respond to the application within forty-five (45) days after the application is received; or
 - c) if the owner or applicant objects to a condition of a Permit, within ten (10) days of the granting of the Permit.
- 7.2 Where an application for exemption is appealed to the Committee, the Committee may:
 - a) issue an Exemption Permit with terms and conditions including but not limited to, expiry date of the Exemption Permit, the manner and/or restrictions under which the Injuring or Destruction of Trees is to be carried out; and measures such as planting of Trees, payment-in-lieu of planting Trees, or dedication of an interest in land, including a restrictive covenant registered on title of the property; or
 - b) deny the application for an Exemption Permit.
- 7.3 When the By-law Appeals Committee decides on an Exemption Permit application, the decision is final.

The current by-law references the Ontario Municipal Board as the authority to make appeals to with respect to permit applications under the by-law. The Ontario Municipal Board was replaced by the Local Planning Appeal Tribunal and subsequently the Ontario Land Tribunal which has a reduced scope from the Ontario Municipal Board and does not deal with municipal forest by-law matters.

The By-law Appeals Committee currently handles appeals to most Norfolk County by-laws, and currently handles exemption permit applications where there have been objections filed with the County.

The By-law Appeals Committee will continue to be the authority that will decide matters relating to applications for exemption.

By-law Schedules

Current By-law

- Schedule A- Circumference Limits by Category of Tree Species
- Schedule B- Basal Area Calculation and Assessment
- Schedule C- List of Publications Used to Support what Constitutes Good Forestry Practices
- Schedule D- Definition of Significant Biotic Areas (MFTIP and CLTIP properties)
- Schedule E- List of Fees
- Schedule F- Requirements for Notice of Harvest Sign
- Schedule G- Sample of a Stop Work Order Form
- Schedule H- Circumference Limits
- Schedule I- Considerations for Exemption Permits

Draft By-law Version_2

- Schedule A- List of Exotic Species
- Schedule B- Table for Calculating Equivalent Wood Volume
- Schedule C- Harvest Permit Application Requirements
- Schedule D- Exemption Permit Application Requirements
- Schedule E- Criteria for Determination of Woodland and Woodland Boundary
- Schedule F- Minimum Circumference Limits for Trees by Species

The schedules of the by-law include information relevant to the regulations and are usually cited within the body of the by-law.

Schedule A of the current by-law has been modified and included as Schedule F in the Draft by-law Version_2. Circumference limits themselves remain unchanged, but the list of Trees that do not have a circumference limit as a result of being regulated by federal or provincial legislation has been updated. It is the County's intention to develop a circumference limit for diameter at breast height for each species to make identifying and marking undersize trees more practical during tree marking operations.

Schedule B of the current by-law was removed for the Draft By-law Version_2 because it is not required for the purpose of the regulations. Basal area assessment may be conducted in various ways, and it would be the responsibility of the County to explain and justify their sampling methods should they be questioned for the purposes of a prosecution or otherwise.

Schedule C of the current by-law was removed for the Draft By-law Version_2 because it is not required for the purpose of the regulations. The publications listed include silvicultural guides, tree marking guides and technical guides that support and explain the principles of Good Forestry Practices and appropriate silvicultural treatments. While the publications listed

are probably some of the most relevant publications that should help guide forest management decisions for this area, they should not be considered an exclusive list of considerations that are given to Good Forestry Practices, and there is certainly an abundance of other stewardship guides and technical reports that could be relied upon to inform management decisions.

Schedule D of the current by-law was removed for the Draft By-law Version_2 as the by-law will no longer regulate properties that are enrolled in MFTIP or CLTIP different than other properties. As noted earlier in this document, both MFTIP and CLTIP regulate their own programs.

Schedule E in the current by-law was removed for the Draft By-law Version_2. Norfolk County's User Fee By-law is reviewed annually, and fees could be subject to change. Any fees relating to the application of permits will be outlined in Norfolk County's User Fee By-law.

Schedule F in the current by-law was removed. The requirement to post a "Notice of Timber Harvest sign" will be made a condition of harvest permits in the Draft By-law Version_2. The signs will be supplied by Norfolk County, as they are currently. It was determined it is not necessary to outline the information required to be on the sign as a schedule in the by-law.

Schedule G in the current by-law was removed for the Draft By-law Version_2. The requirements for information to be set out in an Order to Discontinue Activity are established in section 8 of the Draft By-law Revision_2.

Schedule H in the current by-law was removed for the Draft By-law Version_2. This schedule is a list of circumference limits from a previous by-law intended for a section of the current by-law that is no longer relevant in the Draft By-law Version_2

Schedule I in the current by-law was removed for the Draft By-law Version_2. This schedule was intended to provide clarity as to circumstances under which the County may provide credit to a landowner for restoration (planting of trees) when considering an exemption application (for clearing woodland) by that same owner. Each application will be considered on its own merit so no predetermination of "credit" will be provided for in the proposed draft by-law.

Schedule B of the Draft By-law Version_2 is intended to be used for calculation of wood volume for trees in instances where there may only be a stump remaining and measurement of the wood is otherwise impossible. Wood volume is relevant for the exemption provision provided for "own use" in the by-law.

Schedule C of the Draft By-law Version_2 is intended to provide a clear list of requirements to be included with, or on, a harvest permit application. The County will provide the application forms which will include all the minimum information to be filled out by the applicant. This information is referenced in the harvest permit section of the by-law.

Schedule D of the Draft By-law Version_2 is intended to provide a clear list of requirements to be included with, or on, an application for an exemption permit. The County will provide the application forms which will include all the minimum information to be filled out by the applicant. This information is referenced in the exemption permit section of the by-law.

Schedule E of the Draft By-law Version_2 is intended to provide some clarification as to how the boundary of a Woodland is determined. While it may seem straightforward, there are some nuances that are worth addressing in the by-law for enforcement purposes. The definition for Woodland establishes a minimum stocking of trees per hectare to be considered a Woodland, the schedule is intended to clarify how the boundary of a Woodland is delineated and how a Woodland may be measured.

-End of Document-