

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 121-05

A BY-LAW TO REPEAL AND REPLACE BY-LAW NO. 79-83, BEING A BY-LAW TO PROHIBIT OR REGULATE THE DESTRUCTION OR INJURING OF TREES IN THE REGIONAL MUNICIPALITY OF HALTON.

WHEREAS pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, Section 135(2), as amended (hereinafter referred to as the *Municipal Act, 2001*), an upper-tier municipality may prohibit or regulate the destruction or injuring of trees designated in the by-law.

AND WHEREAS the Council of The Regional Municipality of Halton is desirous of passing such a By-law.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS:

THAT in this By-law:

- (a) "Agricultural Operation" means an agricultural, aquacultural, horticultural or Silvicultural operation that is carried on in the expectation of gain or reward;
- (b) "Building Permit" means a building permit issued under the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;
- (c) "Business Day" means any day in which the Region of Halton administration building is open for business;
- (d) "Council" or "Regional Council" means the Council of the Regional Municipality of Halton
- (e) "Diameter" means the diameter of the stem of a Tree measured outside the bark at a specified Point of Measurement;
- (f) "DBH" (Diameter at Breast Height) means the Diameter of the stem of a Tree at a Point of Measurement that is 1.37 metres above the ground;
- (g) "Forest Management Plan" means a document, including Silvicultural prescriptions prepared by a Registered Professional Forester on behalf of the Owner of a Woodland or Woodlands for the purpose of managing the natural and forestry resources of the Woodland(s) in accordance with Good Forestry Practices while accommodating to the extent possible both the short term and long term objectives of the Owner;

- (h) “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;
- (i) “Greenlands” means lands within the Greenlands System as identified in the Halton Region Official Plan;
- (j) “Injury to a Tree”, “Injuring of a Tree” or “to injure a Tree” means irrevocable and lasting damages done to a Tree to inhibit or terminate its growth, but does not include pruning or removing branches for purposes, such as improving the health of a Tree or maintaining laneways, field borders or fence lines;
- (k) “Local Municipality” means the City of Burlington, the Town of Oakville, the Town of Milton or the Town of Halton Hills;
- (l) “Normal Farm Practice” means a practice that:
 - i. 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
 - ii. makes use of innovative technology in a manner consistent with proper advanced farm management practices.

Whether a farm practice is a Normal Farm Practice shall be determined in accordance with the provisions of the *Farming and Food Production Protection Act*, including the final arbitration on Normal Farm Practices by the Farm Practices Protection Board under the Act. To assist in the interpretation of Normal Farm Practices, Regional Council may, with input from Halton Agricultural Advisory Committee, establish a protocol defining such Practices as they relate to the injury or destruction of trees. An Officer is responsible for the interpretation of the protocol;

- (m) “Officer” means a Registered Professional Forester appointed by Council for the administration and enforcement of this By-law;
- (n) “Owner” means a person or corporation having any right, title, financial interest or equity in land;

- (o) “Own Use” means use of Trees that does not include a sale, exchange or other disposition of the Trees;
- (p) “Permit” means the written authorization issued under Section 6 or 7 of this By-law;
- (q) “Point of Measurement” means that point on the Tree trunk measured above the ground;
- (r) “Registered Professional Forester” means a person as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c.18. (as amended) and/or is a member or an associate member in good standing of the Ontario Professional Foresters Association;
- (s) “Region” means The Regional Municipality of Halton, or Regional Council, or an Officer so authorized and appointed by Council to administer and enforce this By-law;
- (t) “Silviculture” means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of management;
- (u) “Tree” means any species of woody perennial plant including its root system that has reached or can reach a height of at least 4.5 metres at physiological maturity;
- (v) “Urban Area” means lands so designated in the Halton Region Official Plan;
- (w) “Woodland” means an area of land with at least:
 - a) i. 1000 Trees, of any size, per hectare or 500 such Trees per 0.5 hectare;
 - ii. 750 Trees, measuring over five (5) centimetres in Diameter at DBH, per hectare or 375 such Trees per 0.5 hectare;
 - iii. 500 Trees, measuring over twelve (12) centimetres in Diameter at DBH, per hectare or 250 such Trees per 0.5 hectare; or
 - iv. 250 Trees, measuring over twenty (20) centimetres in Diameter at DBH, per hectare or 125 such Trees per 0.5 hectare;

but does not include:

- b)
 - i. an active cultivated fruit or nut orchard;
 - ii. a plantation established for the purpose of producing Christmas Trees;
 - iii. a plantation specifically planted and maintained for the purpose of harvesting as certified in writing by an Officer based on field inspection and investigation;
 - iv. a Tree nursery, or
 - v. a narrow linear strip of Trees that defines a laneway or a boundary between fields.

For the purpose of this By-law, the boundary of a Woodland shall be defined by the ecological limit of the Woodland and not by property boundaries. Where a potential Woodland is dissected by a road or path not wider than 20m or by a natural feature such as a creek, the boundary of the Woodland shall be deemed to cross the road, path or natural feature, but the area of the Woodland shall be calculated exclusive of the area of the road, path or natural feature.

2. APPLICATION OF THE BY-LAW:

- a) THAT this By-law is authorized by Section 135 of *The Municipal Act* and does not override any federal or provincial legislation;
- b) THAT this By-law shall apply to:
 - i) all Woodlands having an area of land 1ha and above;
 - ii) all Woodlands having an area of land between 0.5ha and 1ha, upon delegation of such authority by each Local Municipality to the Region, under Section 135(10) of *The Municipal Act*; and
 - iii) all Greenlands outside Woodlands 0.5ha or larger, upon delegation of such authority by each Local Municipality to the Region, under Section 135(10) of *The Municipal Act*.

3. GENERAL PROHIBITION

- a) THAT no person or corporation through their own actions or through any other person or corporation shall destroy or Injure any Tree located in Greenlands or in Woodlands 0.5ha or larger;
 - i. unless exempted by Section 4 of this By-law;

- ii. unless in accordance with the provisions of Section 5 of this By-law; or
 - iii. unless in possession of a valid Permit issued by the Region under Section 6 or 7 of this By-law and in accordance with its terms of conditions.
- b) THAT no person or corporation through their own actions or through any other person or corporation shall:
- i. contravene the terms or conditions of a Permit issued under this By-law;
 - ii. fail to comply with an Order issued under Section 9 of this By-law; or
 - iii. remove or deface any Order that has been posted pursuant to Section 9 of this By-law.

4. EXEMPTIONS

THAT 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 Forest 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 by his or her agent, while making a survey; or
- d) the Injuring or destruction of Trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under Sections 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 are 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 control of infestation on any land when determined by an Officer and as required by Good Forestry Practices; or
- j) the removal of damaged Trees that pose a hazard to human safety or properties; or
- k) Normal Farm Practices carried on as part of an agricultural operation outside the Urban Area.

5. REMOVAL OF TREES WITHOUT A PERMIT

- a) THAT an Owner may remove Trees within Woodlands 0.5ha or larger or within Greenlands, outside the Urban Area, on his or her property for his or her Own Use of the resulting wood product provided that:
 - i. the amount of wood product from the destruction or Injuring of Trees shall not exceed the equivalent of 24 cubic metres in volume within any calendar year, as determined through Schedule “C”;
 - ii. the removal of Trees is carried out in accordance with Good Forestry Practices; and
 - iii. the removal of Trees within Woodlands shall not have the effect of reducing the density of Trees below those required to meet the definition of a Woodland.
- b) THAT an Owner may remove Trees within Woodlands 0.5ha or larger or within Greenlands, outside the Urban Area, provided that:
 - i. the removal is in accordance with a Forest Management Plan prepared by a Registered Professional Forester and approved by the Region as being effective for a prescribed period of time;

- ii. such a Plan has been filed with an Officer; and
 - iii. the Owner has provided notice to an Officer at least five business days prior to the date on which the removal activity is intended to commence.
- c) THAT any Tree Injury, destruction or removal undertaken without a Permit issued under this By-law must comply with Section 5, Subsections (a) and (b) as applicable, failing which such Injury, destruction or removal is a contravention of this By-law.

6. HARVESTING PERMITS:

- a) THAT upon application by an Owner, or by an agent with written permission of the Owner, the Region may issue a Harvesting Permit to allow the removal of Trees within Woodlands 0.5ha or larger or within Greenlands in accordance with Good Forestry Practices under the following conditions:
- i. the application contains the information as prescribed in Schedule “B”;
 - ii. the application is submitted to the Region prior to the commencement of the proposed Tree removal activity with reasonable time to allow an Officer to review the merit of the application
 - iii. an Officer may request additional information from the applicant or his/her agent;
 - iv. an Officer may undertake a site inspection prior to, during and after the Tree harvesting activity;
 - v. the Permit may be issued with terms and conditions consistent with Good Forestry Practices, including but not necessarily limited to, expiry date of the Permit and manner and/or restrictions under which the proposed Tree harvesting activity is to be carried out;
 - vi. within the Urban Area,
 - I) a Harvesting Permit is required for tree removal for Own Use or under Normal Farm Practices carried out as part of an agricultural operation. An Officer may waive certain items of information under Schedule “B” for these types of application.

- II) the application for a Harvesting Permit must be accompanied by a Forest Management Plan prepared by a Registered Professional Forester, in addition to those items of information prescribed in Schedule “B”.
- b) THAT when an application for a Permit is denied, the Region will give written notice by personal delivery or registered mail to the applicant and the Owner within 5 (five) Business Days of the decision.
- c) THAT failure to comply with the Permit’s terms and conditions is considered a contravention of this By-law.

7. SPECIAL COUNCIL PERMITS:

- a) THAT no application shall be made, nor would Council consider an application for a Special Council Permit that would have the effect of amending any part of Halton Region Official Plan.
- b) THAT upon application by an Owner, or by an agent with written permission of the Owner, Regional Council may issue a Special Council Permit to allow any Injuring, destruction, and/or removal of Trees within Woodlands 0.5ha or larger or within Greenlands under the following conditions:
 - i. the application is accompanied by the applicable fee as prescribed in Schedule “A”;
 - ii. the application contains the information as prescribed in Schedule “B”;
 - iii. the application is submitted to the Region at least thirty (30) Business Days prior to the commencement of the proposed Tree Injury/destruction/removal activity;
 - iv. the application explains the necessity for the proposed Tree Injury/destruction/removal and the rationale for selecting the area for such an activity;
 - v. the application is accompanied by a report prepared by a Registered Professional Forester evaluating alternative locations for the proposed Tree Injury/destruction/removal activity on the subject property and the impact of the proposed activity on the sustainability of any Greenlands and/or Woodlands;
 - vi. within five (5) Business Days of receipt of the complete application and applicable fees, the Region will give written notice of the application, by registered mail, to all assessed Owners of each parcel of land that abuts the subject property;

- vii. an Officer may undertake a site inspection prior to, during and after the Tree Injury/destruction/removal activity.
 - c) THAT the Permit may be issued with terms and conditions as determined by Regional Council, including but not necessarily limited to, expiry date of the Permit, manner and/or restrictions under which the Tree Injury/destruction/removal activity is to be carried out, and measures such as re-planting of Trees or dedication of an interest in land, including a restrictive covenant registered on title of the property.
 - d) THAT when an application for a Special Council Permit is denied, the Region will give written notice by personal service or registered mail to the applicant and the Owner within ten (10) Business Days of the decision.
 - e) THAT failure to comply with the Permit's terms and conditions is considered a contravention of this By-law.
8. APPEALS TO THE ONTARIO MUNICIPAL BOARD:

THAT an applicant for a Permit under Section 6 or 7 may appeal to the Ontario Municipal Board if:

- a) the Region refuses to issue a Permit, within thirty (30) days after the refusal; or
- b) the Region fails to make a decision on the application, within forty-five (45) days after a complete application is received by the Region; or
- c) if the applicant objects to a condition of the Permit, within thirty (30) days after the issuance of the Permit.

9. ORDERS TO DISCONTINUE ACTIVITY:

- a) THAT where an Officer is satisfied that a contravention of this By-law has occurred, the Officer may issue an Order requiring the person or corporation 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:
 - i. the municipal address or the legal description of the land;
 - ii. reasonable particulars of the contravention; and

- iii. the period within which there must be compliance with the Order.
 - b) THAT an Order issued under this Section may be served personally to:
 - i. the Owner of the property; and/or
 - ii. the person or corporation identified as Injuring or destroying a Tree or Trees within Woodlands 0.5ha or larger or within Greenlands on the property;
 - c) THAT where service cannot be carried out under Section 9, Subsection (b), it is deemed sufficient if an 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(s) or corporation(s) to whom the Order is directed.
10. PENALTIES:
- a) THAT any person who contravenes any provision of this By-law, or an Order issued under Section 9, is guilty of an offence and is liable for each occurrence of the contravention, infraction or violation:
 - i. on a first conviction, to a maximum fine of \$10,000 or \$1,000 per Tree, whichever is greater; and
 - ii. on any subsequent convictions, to a maximum fine of \$25,000 or \$2,500 per Tree, whichever is greater.
 - b) THAT any corporation who contravenes any provision of this By-law, or an Order issued under Section 9, is guilty of an offence and is liable for each occurrence of the contravention, infraction or violation:
 - i. on a first conviction, to a maximum fine of \$50,000 or \$5,000 per Tree, whichever is greater; and
 - ii. on any subsequent convictions, to a maximum fine of \$100,000 or \$10,000 per Tree, whichever is greater.
 - c) THAT if a person or corporation is convicted of an offence for contravening this By-law or an Order issued under Section 9, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person or corporation to rehabilitate the land, to plant or replant Trees in such a manner and within such period as the court considers appropriate and to maintain the replanted Trees as appropriate, including any Silvicultural treatment necessary to re-establish the Trees.

11. ENFORCEMENT

- a) THAT Regional Council may appoint from time to time by resolution any persons it deems qualified and necessary to act as Officers to administer and/or enforce the provisions of this By-law.
- b) THAT any Officer appointed by resolution of Regional Council pursuant to Section 11, Subsection (a) above may at all reasonable times enter upon the land, but not any building, of any Owner for the purposes of:
 - i. enforcing this By-law;
 - ii. determining compliance with the provisions of this By-law;
 - iii. determining compliance with terms and conditions of a Permit issued under this By-law; or
 - iv. determining compliance with an Order issued under Section 9 of this By-law.
- c) THAT any person who obstructs or interferes with an Officer in the discharge of his or her duties under this By-law shall be considered committing an act in contravention of this By-law.

12. ADMINISTRATION

- a) THAT Schedules “A” through “C” shall form part of this By-law.
- b) THAT if any sections or subsections of this By-law or parts thereof are found by any Court to be illegal, such sections or subsections or parts thereof shall be deemed to be severable and all other sections or subsections of this By-law or parts thereof shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found illegal.
- c) THAT the short title of this By-law is “Tree By-law”.
- d) THAT By-law No. 79-83 of The Regional Municipality of Halton shall be repealed effective on the coming into force and effect of this By-law.
- e) THAT despite Section 12, Subsection (d) above, By-law No. 79-83 of The Regional Municipality of Halton shall continue to apply to proceedings in respect of offences that occurred before its repeal.

13. THAT this By-law shall come into force and effect on January 1, 2006.

READ and PASSED this 5th day of October, 2005.

REGIONAL CHAIRMAN

REGIONAL CLERK

Report PPW120-05/CA-44-05

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 121-05 - SCHEDULE "A"

PERMIT FEES

Special Council Permit	\$500.00
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THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 121-05 - SCHEDULE “B”

PRESCRIBED INFORMATION FOR PERMIT APPLICATION

<p align="center">Harvesting Permits under Section 6 of the By-law</p>	<p align="center">Special Council Permits under Section 7 of the By-law</p>
<ul style="list-style-type: none"> • Date of submission • Names, addresses and telephone numbers of all Owners and agents • Signatures or authorization of all Owners and agents • Municipal address of subject property • Legal description of subject property • A sketch of subject property including relevant features • Area of proposed Tree removal activities as shown on the sketch • Description on how the Tree Injury/destruction/removal activities are to be carried out, including equipment to be used • Estimated start and end dates for such activities • Estimated volume of Tree harvest • Tree marker information if applicable • Cutting contractor information if applicable 	<ul style="list-style-type: none"> • Date of submission • Names, addresses and telephone numbers of all Owners and agents • Signatures or authorization of all Owners and agents • Municipal address of subject property • Legal description of subject property • Air photo (1:10,000 or better) of subject property • Details of Tree Injury/destruction/removal activities on subject property within the past 5 years • Area of Tree Injury/destruction/removal activities • Description on how the Tree Injury/destruction/removal activities are to be carried out • Estimated start and end dates for such activities • Cutting contractor information • Reason for the proposed Tree Injury/destruction/removal activities • Signed statement by a Registered Professional Forester on alternative locations for the proposed Injury/destruction/removal activities and the impact of the proposed activities on the sustainability of the remaining Greenlands and/or Woodlands • A forest regeneration plan prepared by a Registered Professional Forester if the proposed tree removal is within the Urban Area • Names, addresses and telephone numbers of the Registered Professional Forester(s)

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 121-05 - SCHEDULE “C”

EQUIVALENT WOOD VOLUME

<i>Tree Diameter (centimetres) at</i>		<i>Broadleaved (cubic metres)</i>	<i>Coniferous (cubic metres)</i>
<i>2cm Above Ground</i>	<i>137cm Above Ground</i>		
11	8	.0252	.0237
14	10	.0383	.0335
16	12	.0607	.0480
19	14	.0952	.0670
22	16	.1324	.0921
24	18	.1656	.1259
27	20	.2116	.1770
30	22	.2731	.2219
32	24	.3457	.2676
35	26	.4244	.3108
38	28	.5036	.3461
41	30	.5827	.4218
43	32	.6532	.4968
46	34	.7319	.5795
49	36	.8300	.6767
51	38	.9965	.7962
54	40	1.1429	.9223
57	42	1.3172	1.0611
59	44	1.4768	1.2024
62	46	1.6319	1.3403
65	48	1.8261	1.4854
68	50	2.0354	1.6247
70	52	2.2555	1.7509
73	54	2.4764	1.8757
76	56	2.6901	2.0143
78	58	2.9534	2.1579
81	60	3.2761	2.3243
84	62	3.6732	2.5165
86	64	4.0389	2.7187
89	66	4.1477	2.8964
92	68	4.6623	3.0743
95	70	5.1809	3.3007
97	72	5.5144	3.5576
100	74	5.6144	3.8283

Sources:

Honer, T.G., M.F. Ker and I.S. Alemdag. 1983. Metric Timber Tables for the Commercial Tree Species of Central and Eastern Canada. Canadian Forestry Service Information Report M-X-140 Staley, R.N., 1991. Wood...Take a Stand and Make it Better. Ontario Ministry of Natural Resources.

