

OFFICE CONSOLIDATION

This is a consolidation of the Town’s by-law to prohibit or regulate the destruction of trees in woodlands being By-law 2000-100 as amended by By-law 2004-54 and 2021-64. This is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of the by-law. Official versions of all by-laws can be obtained from the Legislative Services section by calling (905) 584-2272. If there are any discrepancies between this consolidation and By-laws 2000-100, 2004-54 and 2021-64 the By-laws shall prevail.

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 2000-100

A by-law to prohibit or regulate the destruction of trees in woodlands

WHEREAS Section 223.2 of the Municipal Act, R.S.O. 1990 c. M.45, as amended, enables Council to pass by-laws for prohibiting or regulating the injury or destruction of trees of any class of trees specified in the by-law in any defined area or on any class of land; and, to require that a permit be obtained for the injuring or destruction of trees specified in the by-law; and, prescribing fees for the permit, and conditions under which a permit may be issued;

AND WHEREAS certain policies in the Town of Caledon Official Plan require and encourage the protection, maintenance, enhancement and sound management of woodlands;

NOW THEREFORE the Council of the Corporation of the Town of Caledon enacts as follows:

SECTION 1 TITLE OF BY-LAW

This by-law may be cited as the “Woodland Conservation By-law”.

SECTION 2 DEFINITIONS

In this by-law,

“agricultural operation” means land used for the commercial production of crops or raising of livestock and includes cultivation, seeding, and harvesting;

“applicant” means the owner who submits an application under this by-law;

“application” means the application form for a permit under this by-law;

“Christmas tree farm” means land on which coniferous trees are grown and maintained for sale as Christmas trees;

“clerk” means the clerk of the Corporation of the Town of Caledon;

“council” means the council of the Corporation of the Town of Caledon;

“dbh” means ‘diameter breast height’, and is the diameter of the stem of a tree measured at a point 1.37 metres above ground level’;

“destroy” means the removal, injury or ruin of a tree by cutting, burning, uprooting, chemical application or other means;

“director” means the director of Building and By-law Enforcement for the Town of Caledon;

“diseased tree” means a tree injured or affected by a disease caused by a vertebrate or invertebrate animal, virus, fungus, bacterium, or other organism, or any combination thereof;

"environmental policy area" means land that is defined as Environmental effective Policy Area (EPA) in the Town of Caledon Official Plan, as

[By-law 2004-54 effective Apr 6/04

[By-law 2004-54 effective Apr 6/04

[By-law 2004-54 effective Apr 6/04

amended;

[By-law 2004-54
effective Apr 6/04

"fence row" means a narrow linear strip of trees that defines a laneway boundary between fields or properties;

"forest management plan" includes a plan for forest management prepared by a forestry consultant; or a plan prepared by an owner or his agent which is approved by a managed forest plan approver designated by the Ministry of Natural Resources; which is in accordance with the guidelines set by the Ministry of Natural Resources or other recognized guidelines, which provides for the management of forests for the production of wood and wood products, and the maintenance, protection, restoration and enhancement of ecosystem integrity;

[Amended by By-law
2021-64 effective July
13/21]

"forestry consultant" means a Registered Professional Forester or an Associate Registered Professional Forester in good standing with the Ontario Professional Forester's Association;

"good forestry practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the woodlot and the environmental conditions under which it is being applied and which maintains woodlot values, including: significant ecosystems; important fish and wildlife habitat; soils; water quality and quantity; woodlot productivity and health; and the aesthetic and recreational values of the landscape;

"horticultural nursery" means land used for the growing of sod, flowers, bushes, trees or gardening, landscaping or orchard stock for wholesale or retail sale;

"municipality" means the Corporation of the Town of Caledon;

"officer" means a person appointed and designated an officer under this by-law;

"Official Plan" means the Official Plan of the Town of Caledon;

"owner" includes the registered owner of the land on which the trees are growing or located;

"permit" means the written authorization from the director to destroy trees under this by-law;

"person" means an individual, a corporation and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law;

"tree" means any species of single or multi-stemmed perennial woody plant, which has reached or can reach a height of at least **(6)** metres at physiological maturity. This definition does not include sumac, hawthorne and wild apple trees, except where these species form an integral component of a forest ecosystem;

"tree cutting contractor" shall mean any person who enters into a contract with the applicant for the purposes of destroying trees;

"woodland" means different trees, shrubs, ground vegetation and soil complexes that provide habitat for plants and animals which is a minimum of 0.5 hectares (1.2 acres) in area and contains at least:

- (i) 370 trees measuring more than 5 centimetres dbh; or
- (ii) 250 trees measuring more than 12 centimetres dbh; or
- (iii) 125 trees measuring more than 20 centimetres dbh;

but shall not include:

- (iv) an orchard that is being actively managed and harvested for the purposes for which it was planted;

- (v) a Christmas tree farm that is being actively managed and harvested for the purposes for which it was planted;
- (vi) a horticultural nursery that is being actively managed and harvested for the purposes for which it was planted;
- (vii) or a landscaped area being an area containing trees planted for aesthetic and not forestry purposes;
- (viii) a nut tree farm;
- (ix) trees planted as a feedstock for ethanol, pulp or veneer;
- (x) a fence row.

SECTION 3 SCOPE OF BY-LAW

3.1 AREA OF APPLICATION OF BY-LAW

This by-law applies to all trees in a woodland.

3.2 EXEMPTIONS

This by-law does not apply to:

- (i) activities or matters undertaken by the provincial or federal government or their agents;
- (ii) activities or matters authorized under the *Crown Forestry Sustainability Act, 1994*;
- (iii) activities or matters prescribed by regulation by the Lieutenant governor in Council;
- (iv) activities or matters authorized under the *Forest Tree Pest Control Act*, R.S.O. 1990, c. F.25;
- (v) trees on land described and authorized for removal in a licence for a pit or quarry or licence for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8;
- (vi) trees located within waste disposal sites defined in part V of the *Environmental Protection Act*, R.S.O. 1990, c. E.19;
- (vii) activities undertaken by Ontario Hydro or any public utility board or commission performing its functions;
- (viii) activities authorized under the *Environmental Assessment Act* R.S.O. 1990, c. E.18;
- (ix) works lawfully undertaken by the Regional Municipality of Peel;
- (x) trees destroyed in accordance with the conditions of an approval granted under the *Planning Act* R.S.O. 1990, c. P.13;
- (xi) activities undertaken by Conservation Authorities on lands owned by the authority;
- (xii) trees destroyed due to emergency work authorized by the Chief Building Official or the Director of Infrastructure.

SECTION 4 GENERAL PROVISIONS

- 4.1 No person shall destroy a tree on any lands in a woodland without first obtaining a permit where required under this by-law.
- 4.2 Where a permit has been issued under this by-law, no person shall destroy a tree except in compliance with the permit and the conditions attached thereto.

SECTION 5 ADMINISTRATION AND ENFORCEMENT

5.1 ADMINISTRATION

- 5.1.1 The director shall be responsible for the administration of this by-law and is hereby delegated the authority to receive all permit applications and fees, and shall issue permits and may impose conditions to a permit in accordance with this by-law.

5.2 ENTRY

- 5.2.1 Every officer appointed for purposes of enforcement of this by-law shall have the power to enter and inspect any land to which this by-

law applies provided that the entry occurs during daylight hours and the Certificate of Designation is produced prior to entry.

[Section 5.2.2 added by By-law 2021-64 effective July 13/21]

5.2.2 No person shall hinder or obstruct, or attempt to hinder or obstruct an officer carrying out an inspection under this by-law.

SECTION 6 APPLICATION FOR PERMIT TO DESTROY TREES

6.1 SUBMISSION OF APPLICATION

[Section 6.1.1 Deleted and Replaced by By-law 2021-64 effective July 13/21]

6.1.1 An owner who intends to destroy a tree where a permit is required under this by-law shall complete the application form prescribed by the Director and deliver the completed application and non-refundable payment of the applicable fee as outlined in the Town of Caledon Fees By-law at least forty five (45) days prior to the destruction of a tree.

6.1.2 An applicant shall provide all the information required to complete the application form, and shall furnish such plans, specifications, documents and other information that may be required by the director so that he may be able to determine whether or not the proposed tree destruction conforms to any applicable statute, regulation or by-law.

Section 6.1.3 deleted in its entirety by By-law 2021-64, effective July 13, 2021.

6.2 OWNER'S AUTHORIZATION

[Amended by By-law 2021-64 effective July 13/21]

6.2.1 Where there is more than one owner, only one owner shall be considered the applicant and the other owners shall complete and submit with the application the authorization form prescribed by the Director.

6.3 CONSULTATION

6.3.1 After the director receives an application he may confer with representatives of the Ministry of Natural Resources, relevant Conservation Authority or, with a forestry consultant, or such other officials as are necessary to determine whether or not a permit should be issued to the applicant and whether any conditions should be imposed.

6.4 INSPECTION PRIOR TO PERMIT ISSUANCE

6.4.1 Following receipt of an application, an officer and any person acting under the officer's instructions may inspect the lands and shall make his recommendation to the director as to whether or not a permit should be issued and if so, under what conditions, if any, the destruction of any tree may be carried out under the permit.

SECTION 7 PERMITS

7.1 ISSUANCE OF PERMIT

7.1.1 A permit for the destruction of trees shall not be required where:

- (i) the destruction of trees is on lands under a forest management plan and a copy of the plan has been given to the director at least 30 days before the destruction and, the destruction is in accordance with good forestry practices; or
- (ii) the destruction of trees is necessary to install a building, domestic well or a sewage disposal system authorized by a building permit issued by the chief building official or an approval under *the Ontario Water Resources Act*, R.S.O. c. O.40, where the total area from which trees are cleared does not exceed 0.4 hectares (0.98 acres); or

- (iii) the destruction of trees is for the personal use of the owner, not including a sale, exchange or other disposition of the trees that are cut, provided that no more than twenty (20) trees are to be destroyed in any 12 month period, and the trees are destroyed in accordance with good forestry practice, and will not reduce the number of trees in the woodland below the minimum number of trees necessary to constitute a woodland; or
- (iv) the destruction of trees is necessary to remove a diseased tree which may negatively affect the ecological integrity of the woodland, or a tree which is a hazard to human health or property.

7.1.2 A permit to destroy a tree shall be issued to the owner within 45 days of the date the application is deemed to be received when:

[By-law 2004-54
effective Apr 6/04

(i) the destruction of trees is in accordance with good forestry effective practice according to a written certificate from a forestry consultant,

[By-law 2004-54
effective Apr 6/04

(ii) the destruction of trees would permit the establishment or effective expansion of a use permitted by the Official Plan and the Zoning By-law, if the director is satisfied that the intent of the Official Plan and this by-law is maintained, and a report has been prepared by a forestry consultant stating that there is no alternative to the destruction of the trees, or

[By-law 2004-54
effective Apr 6/04

(iii) the destruction of the trees would permit the expansion of effective an existing agricultural operation and can be reasonably

i. demonstrated to the director that:

- (a) the destruction of trees will provide for the reclaiming of and increase in productive farm land;
- (b) the woodland is on land that is contiguous with the agricultural operation;
- (c) the owner of the land is actively engaged in a viable agricultural operation and owns, actively works and resides on an agricultural operation; and
- (d) the destruction of trees does not occur within an Environmental Policy Area.

7.1.3 An application is deemed to be received by the director when the following have been submitted to the director:

- (i) the completed application form; and,
- (ii) the prescribed fee; and
- (iii) all required reports.

7.1.4 NON-ISSUANCE OF PERMIT

A permit to destroy a tree shall not be issued to the owner when:

- (i) the application is incomplete; or
- (ii) the required fee has not been paid; or
- (iii) the director requires a report from the forestry consultant and the report has not been submitted or in the opinion of the director, is not satisfactory; or

- (iv) the lands on which the tree is located are subject to an application for an approval under the *Planning Act*, R.S.O. 1990 c. P.13, which has been submitted to the approval authority and not approved; or
- (v) the lands on which the tree is located are subject to an application to amend the Niagara Escarpment Plan and/or a Development Permit application under the provisions of the Niagara Escarpment Plan, and the application has not received approval from the Niagara Escarpment Commission; or
- (vi) the tree is an endangered species as defined in the *Endangered Species Act*, R.S.O. 1990, c. E. ; or
- (vii) flood or erosion control, or the ecological integrity of the woodland, will be negatively affected as determined by the staff of the Ministry of Natural Resources, conservation authority, forestry consultant, or other officials as may be consulted by the director; or
- (viii) the destruction of trees will not be in accordance with good forestry practices as determined by a forestry consultant or an Officer.

7.2 DURATION OF PERMIT

- 7.2.1 A permit shall be issued in the name of the owner and shall expire one hundred and eighty (180) days after the date of issuance.

7.3 NOTICE OF COMPLETION

- 7.3.1 When the destroying of trees is completed under the permit, the owner shall forthwith notify the director in writing.

7.4 CONDITIONS OF PERMIT

- 7.4.1 The director may attach any or all of the following conditions to the permit which may include and are not restricted to the following:
 - (i) the species, size, number and location of replacement trees to be planted by the applicant;
 - (ii) the date by which any replacement trees are to be planted; and/or
 - (iii) the maintenance and care of any replacement trees.

7.5 PERMIT EXTENSION

- 7.5.1 The director may extend the expiration date of a permit for a period up to one (1) year from the date of the issuance if a written request for an extension is received by the director at least five (5) working days before the date the permit expires.
- 7.5.2 When considering whether or not to grant a permit date extension, the director shall consider the extent to which the work authorized by the permit has occurred and the extent to which the conditions of the permit have been adhered to.

Section 8 Appeal to the Ontario Municipal Board deleted in its entirety by By-law 2021-64, effective July 13, 2021.

[Section 8 renumbered by By-law 2021-64 effective July 13/21]

SECTION 8 NON-COMPLIANCE WITH BY-LAW

8.1 ISSUANCE OF ORDER

8.1.1 If an officer is satisfied that a contravention of this by-law, including non-compliance with the conditions attached to the permit, has occurred, the officer may make an order requiring the person to stop destroying the tree.

8.1.2 Every person to whom an order is issued shall comply with the order.

8.2 SERVICE OF ORDER

8.2.1 An order issued under this by-law shall be served either personally on the owner or by sending it by pre-paid registered or by ordinary mail to the last known address of the owner or by sending it by facsimile to the owner to the transmission number shown on the application.

8.2.2 The officer may also post a placard containing the terms of the order in a conspicuous place on the affected lands.

Section 8.3 Appeal to Council deleted in its entirety by By-law 2021-64, effective July 13, 2021.

SECTION 9 PENALTY

9.1 Every person who contravenes any provision of this by-law including the condition of a permit or an order issued by an officer is guilty of an offence.

9.2 Every person who is charged with an offence under this by-law by the filing of a certificate of offence under Part 1 of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, upon conviction is liable to a fine provided for by the aforesaid act.

9.3 Every person who is charged with an offence under this by-law by the laying of an information under Part III of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, upon conviction is liable, pursuant to the fine provisions of the Municipal Act, 2001, to a fine as follows:

- (i) on a first conviction, to a maximum fine of \$10,000.00,
- (ii) on any subsequent conviction, to a fine of not more than \$20,000.00.

9.4 If a person is convicted of an offence for contravening the provisions of this by-law, or an order issued pursuant to this by-law, the court in which the conviction has been entered may order the person to correct the contravention, which may include but is not limited to: planting or replanting such tree(s) in such manner and within such time period as the court considers appropriate, such as replacement of a comparable number, size and tree species as determined by a forestry consultant.

9.5 Any costs payable or associated with an order of the court in subsection 9.4 are in addition to, and not in substitution for, the payment of any penalty imposed by the court for the commission of an offence under this by-law or any other applicable legislation.

SECTION 10 EFFECTIVE DATE OF BY-LAW

10.1 This by-law shall come into force and take effect on the day of enactment by Council.

[Section 8.1.2 Added by By-law 2021-64 effective July 13/21]

[Section 10 Deleted and Replaced with Section 9 by By-law 2021-64 effective July 13/21]

Section 12 deleted in its entirety by By-law 2021-64, effective July 13, 2021.

Read a first, second and third time and passed this 31'st day of July 2000

Carol Seglins, Mayor

Marjory Morden, Clerk