

**CORPORATION OF THE COUNTY OF DUFFERIN
BY-LAW NUMBER 2006-15**

**A BY-LAW TO REGULATE THE DESTRUCTION
OR INJURING OF TREES IN WOODLANDS IN
THE COUNTY OF DUFFERIN AND TO REPEAL
BY-LAWS NUMBER 96-31 AND 96-32.**

Authority

WHEREAS under section 135 of the *Municipal Act, R.S.O. 2001, S.O. 2001, c. 25*, the Council of the Corporation of the County of Dufferin is empowered to pass by-laws:

- (a) prohibiting or regulating the destruction or injuring of trees in woodlands designated in the by-law; and
- (b) providing for the appointment of officers to enforce any by-law passed under this section;

AND WHEREAS the Council has determined that it is desirable to enact such a by-law for the purpose of maintaining and improving the woodlands of the County;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF DUFFERIN ENACTS AS FOLLOWS:

Definitions

1. For the purposes of this by-law:

- (a) “basal area” and “individual tree basal area” mean the area of the cross-section of the stem or trunk of a tree taken at a point of measurement of a standing tree 1.37 metres above ground level;
- (b) “basal area of a woodlands” means the sum of the basal areas of the individual trees of a dbh greater than 10 cm which comprise a woodlands;
- (c) “building permit” means a building permit issued under the Building Code Act, 1992, S.O. 1992, c23, as amended;
- (d) “business day” means any day falling on or between Monday and Friday of each week and not including holidays;
- (e) “circumference measurement” means a measurement made outside the bark of the tree and circumference measurements will always be taken at the highest possible point of measurement;
- (f) “Chief Administrative Officer” and “CAO” mean the Chief Administrative Officer of the County of Dufferin;
- (g) “Clerk” means the Clerk of the Corporation of the County of Dufferin;
- (h) “coppice growth” means where more than one tree stem grows from a single tree stump, the point of measurement for the purpose of this by-law shall be at the point on the tree trunk where the tree stems separate provided that such point of

- (i) separation is closer than 1.37 metres to the highest point of the ground in an undisturbed state at the base of the tree;
- (j) “Council” means the Council of the Corporation of the County of Dufferin;
- (k) “County” means the Corporation of the County of Dufferin;
- (l) “County Forest Manager” and “Forest Manager” mean the County Forest Manager of the Corporation of the County of Dufferin.
- (m) “destroy” or “destruction” means to remove, cut down, or in any other way injure a tree to such an extent that it is deemed necessary to remove or cut down the tree;
- (n) “dbh” means the diameter of the stem of a tree measured at a point that is 1.37 metres above the highest point of ground at the base of the tree where the ground meets the stump;
- (o) “good forestry practice” 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 recreation opportunities of the landscape. Good forestry practice may include the injuring or destruction of trees that have been damaged by disease, insects, wind, ice, fire, lightning, or other natural causes to the extent that the health of such trees is likely to further deteriorate and the injuring or destruction of trees to prevent the spread of insects and/or diseases to other trees.;
- (p) “injure any living tree” or “injuring of trees” 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;
- (q) “Officer” means an individual appointed by Council for the administration and enforcement of this by-law;
- (r) “Owner” means a person having any right, title, interest, or equity in the land;
- (s) “own use” means use that does not include a sale, exchange, or other disposition of trees that are injured or destroyed;
- (t) “point of measurement” means that point on the tree trunk measured above the highest point of the ground in an undisturbed state at the base of the tree;
- (u) “Qualified Tree Marker” means:
 - (i) an individual who has successfully completed the Ontario Ministry of Natural Resources Certified Tree Marker Program or;
 - (ii) a Registered Professional Forester qualified to do tree marking or;
 - (iii) a member in good standing of the Ontario Professional Foresters Association qualified to do tree marking or;
 - (iv) a forest technician qualified to do tree marking or;
 - (v) an owner who is marking his or her own woodlands in accordance with a management plan under the auspices of the Managed Forest Tax Incentive Program;
- (u) “Registered Professional Forester” as defined in the *Professional Foresters Act*, 2000, S.O. 2000, c. 18;
- (v) “silvicultural prescription” means one or more professional recommendations for controlling the establishment, composition, constitution, and growth of forests from seedling through to the desired endpoint of the forest stand;

- (w) “silviculture” means the theory and practice of controlling forest establishment, composition, growth, and quality of forests to achieve the objectives of management;
- (x) “tree” is any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity and;
- (y) “woodlands” means lands with at least,
 - (i) 1,000 trees of any size per hectare or 500 such trees per 0.5 ha,
 - (ii) 750 trees, measuring over five centimetres in diameter, per hectare or 375 such trees per 0.5 ha,
 - (iii) 500 trees, measuring over 12 centimetres in diameter, per hectare or 250 such trees per 0.5 ha; or
 - (iv) 250 trees, measuring over 20 centimetres in diameter, per hectare or 125 such trees per 0.5 ha,

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees. For the purpose of the definition of “woodlands”, all measurements of the trees are at dbh.

Application of By-law

2. This by-law shall apply to:

- (i) all woodlands within the County greater than 1.0 ha; and
- (ii) all woodlands greater than 0.5 ha within the County upon delegation of such authority by each local municipality to the County under s. 135(10) of the *Municipal Act*.

General Prohibition

3. No person shall cause or permit the destruction or injury of any tree located in a woodland greater than 0.5 ha or larger:

- (i) unless such injury or destruction is exempted under s. 5 of this By-law;
- (ii) unless the person is in possession of a valid Permit issued by the County pursuant to s. 6 of this By-law; or
- (iii) unless County council issues a minor exemption pursuant to s. 9 of this By-law.

4. No person shall through their own actions or through any other person:

- (i) contravene the terms or conditions of a permit issued under this By-law;
- (ii) fail to comply with an Order issued under s. 10 of this By-law; or
- (iii) remove or deface any Order that has been posted pursuant to s. 10 of this By-law.

Exemptions

5. This by-law shall not apply to:

- (a) activities or matters undertaken by a municipality or a local board of a municipality;
- (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- (c) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (d) the injuring or destruction of trees imposed as a condition to the approval of a site

plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;

(e) the injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;

(f) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;

(g) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;

(h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,

(i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that *Act*, and

(ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act, 2001*, c. 25, s. 135 (12).

(i) the injuring or destruction of trees growing upon any highway or upon any opened road allowance;

(j) the injuring or destruction of trees by a person who has been the registered owner of land for at least two years to cut trees thereon for the person's own use;

(k) the injuring or destruction of trees that is reasonably required in order to erect any building, structure or thing for which a building permit has been issued;

(l) the injuring or destruction of trees that is reasonably required in order to install and provide utilities and a driveway to the construction or use of the building, structure, or thing for which a building permit has been issued and;

(m) trees that are destroyed by cutting, burning or other means within the terms of a legally binding contract that any persons may have entered into during the one year preceding the coming into force of this by-law, provided that such trees are destroyed by cutting, burning or other means prior to January 1, 2007 and within the provisions of by-law number 96-31 of the Corporation of the County of Dufferin.

Permit to Cut Trees

6. Upon application by the owner or an agent of the owner, the County may issue a "Permit to Cut" to allow the removal of trees within a woodland greater than 0.5 ha provided that:

(a) the Owner has notified the Officer at least 7 days prior to any intended cutting by providing the form of a "Permit to Cut" described in Schedule B at the location described therein and;

(b) (i) the removal is in accordance with a silvicultural prescription that has been prepared for the woodlands in which the trees are to be destroyed or injured and such silvicultural prescription has been filed with and approved by the County and the woodlands has been marked by a Qualified Tree Marker in accordance with said silvicultural prescription, and the person who is

destroying or injuring the trees does so in accordance with good forestry practice or;

(ii) the person who is destroying or injuring trees has only destroyed or injured trees that have attained, at the specified point of measurement, the minimum circumference specified for the species in Schedule A and the basal area of the woodlands is not reduced below 20 square metres per hectare when sampled using recognized forest sampling procedures;

and;

(c) the trees to be injured or destroyed have been marked with paint to the satisfaction of the Officer.

7. In injuring or damaging any tree pursuant to s. 6 or any other section in this By-law, no person shall so conduct his operations as to unnecessarily injure or damage any other tree.

8. Where cutting is conducted under an Agreement for the Sale of Timber with the County, a "Permit to Cut" is deemed to have been issued.

Minor Exemption

9. An application for an exemption to s. 4 of this By-law must be submitted to the Clerk at least three months prior to the anticipated commencement of injury or destruction of trees and must be in the form of Schedule C. Upon application by the owner of any trees affected by this by-law, or any predecessor thereof, or any person authorized in writing by the owner, the Council of the Corporation of the County of Dufferin may, by by-law or resolution, authorize such minor exemption from the by-law in respect of such trees as in its opinion is desirable for the appropriate development or use of the land on which such trees are situate, if in its opinion the general intent and purpose of the by-law is maintained.

(a) At least fifteen business days prior to consideration of the application for an exemption the Clerk shall send, by regular mail, written notice to the applicant and all assessed owners of each parcel of land that abuts the applicant's woodlands for which an exemption is being sought and to such other persons as prescribed by Council.

(b) The applicant shall erect and display a public notice regarding the exemption application at the entrance to the woodlands in a position that ensures that it is clear and visible to all persons.

(c) The notice shall be posted at least ten business days prior to consideration of the application.

(d) Provided that there have been no objections filed with the Clerk and the Officer agrees that the general purpose and intent of this by-law is maintained, the Clerk may grant the exemption. When granting an exemption, the Clerk may include terms or conditions.

(e) When denying an exemption, the Clerk must notify the applicant.

(f) The applicant may object to the terms and conditions on the exemption.

(g) Where there have been objections filed with the Clerk or where the applicant objects to the terms and conditions on the exemption, Council will consider the application for exemption, any conditions to the exemptions and make a decision whether to grant the exemption.

(h) The Council shall hear any person who wishes to speak to the exemption for which

objections have been filed.

(i) When granting an exemption Council may include terms or conditions.

Order to Discontinue Activity

10. If an Officer is satisfied that a contravention of the by-law has occurred, the Officer may make an order requiring the person who contravened the by-law or who caused or permitted the injuring or destruction of trees in contravention of the by-law to stop the injuring or destruction of trees and the order shall set out,

(a) the municipal address or the legal description of the land;

(b) reasonable particulars of the contravention;

(c) the period within which there must be compliance with the order;

and shall be in the form shown in Schedule D.

Offences

11. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as may be amended from time to time

12. A person shall not:

(a) fail to comply with an Order issued under Section 10 of this by-law or;

(b) remove or deface any Order that has been posted pursuant to Section 10 of this by-law or;

(c) contravene the terms or conditions of an approved Permit to Cut submitted pursuant to this by-law or;

(d) cause or permit the contravention of the terms or conditions of an approved Permit to Cut submitted pursuant to this by-law.

13. Every person who contravenes any provision of this by-law is liable:

(i) on a first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and

(ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.

Replacement

14. If a person is convicted of an offence for contravening this by-law or an order under section 10, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

Enforcement

15. (a) Any police officer, provincial offences officer, municipal law enforcement officer, or employee of the County designated by the Chief Administrative Officer is authorized to inform any person of the provisions of this by-law and to request compliance therewith.

(b) Any police officer, provincial offences officer or municipal law enforcement officer may enforce the provisions of this by-law.

Entry on land

16. An Officer appointed to enforce this by-law, or any predecessor thereof, and any person acting under his instructions may at all reasonable times enter upon the land of any person for the purpose of,

- (a) enforcing the provisions of this by-law;
- (b) determining compliance with an order made under section 10;
- (c) examining trees that might be affected by a minor exemption authorized under section 9.

Severability

17. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in full force and effect.

18. That by-law numbers 96-31 and 96-32 of the Corporation of the County of Dufferin be and the same are hereby repealed effective on the coming into force of this by-law.

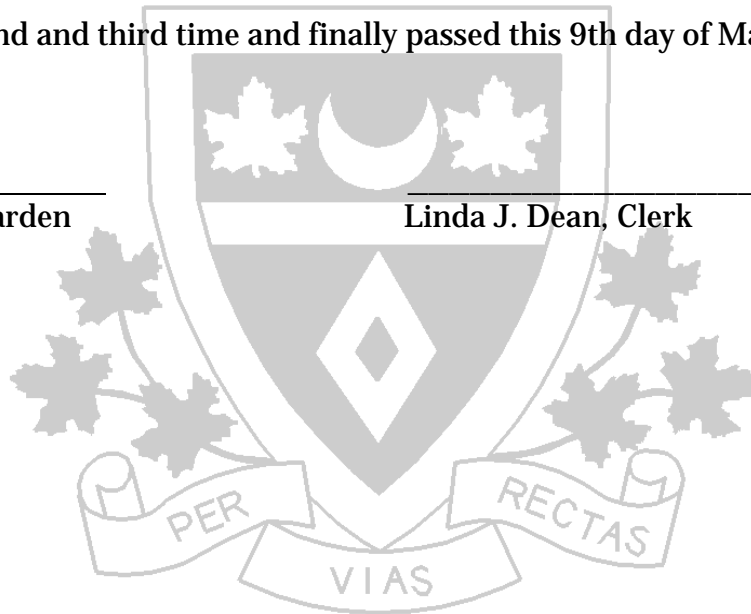
19. Schedules A, B, C and D shall form part of this by-law.

20. This by-law shall come into full force and effect on the date of passing.

READ a first, second and third time and finally passed this 9th day of March, 2006.

J. Earl Lennox, Warden

Linda J. Dean, Clerk



Schedule A 2006-15

Group 1 Large Circumference Species	Group 2 Medium Circumference Species	Group 3 Small Circumference Species
<p><i>Acer saccharum</i> (sugar maple) <i>Acer nigrum</i> (black maple) <i>Acer rubrum</i> (red maple) <i>Acer saccharinum</i> (silver maple) <i>Quercus spp</i> (oak species) <i>Juglans nigra</i> (black walnut) <i>Juglans cinerea</i> (butternut) <i>Carya spp</i> (hickory species) <i>Prunus serotina</i> (black cherry) <i>Fraxinus americana</i> (white ash) <i>Tilia americana</i> (basswood) <i>Fagus grandifolia</i> (beech) <i>Pinus strobus</i> (white pine) <i>Tsuga canadensis</i> (eastern hemlock) <i>Ulmus spp</i> (native elm species) <i>Betula alleghaniensis</i> (yellow birch)</p>	<p><i>Pinus resinosa</i> (red pine) <i>Larix spp</i> (larch species) <i>Picea spp</i> (spruce species) <i>Fraxinus nigra</i> (black ash) <i>Fraxinus pennsylvanica</i> (red or green ash) <i>Salix spp</i> (willow species)</p>	<p><i>Abies balsamea</i> (balsam fir) <i>Thuja occidentalis</i> (white cedar) <i>Betula papyrifera</i> (white birch) <i>Populus spp</i> (native poplar species) <i>Ostrya virginiana</i> (ironwood) <i>Picea mariana</i> (black spruce)</p>

Height above ground	Group 1 Species	Group 2 Species	Group 3 Species
10 cm	205 cm	160 cm	110 cm
30 cm	160 cm	130 cm	85 cm
40 cm	145 cm	110 cm	65 cm



Schedule B 2006-15 Permit to Cut Pursuant to Forest Conservation By-Law 2006-15

This document is deemed to be a public document in accordance with the Municipal Freedom of Information and Protection of Privacy Act, Chapter M.56, R.S.O. 1990.

Permit to Cut to be completed by the owner, owner's representative, or contractor and to be in the office of the Officer at least seven (7) business days prior to the start of cutting.

SECTION 1 – Contractor/Consultant

Property owner:

Address (including lot, concession, emergency number, and township):

Address of woodlands being harvested (if different from above, including lot, concession, emergency number, and township):

Phone number(s):

If the woodlands is being harvested using good forestry practices, **attach the relevant silvicultural prescription** in addition to completing the following:

Size of woodlands:

Volume to be removed:

Species of trees (list all species to be harvested):

Expected starting date:

Expected ending date:

Actual start of cutting must be confirmed by phone, fax, or email, no less than two business days prior to start.

Person in charge of cutting (*If different from property owner*):

Address:

Phone number(s):

I agree that operations will be in accordance with the provisions of County of Dufferin forest conservation by-law 2006- and that I am familiar with the contents and requirements of this by-law and acknowledge having received a copy thereof. Further, I agree that I or my representative will contact the Officer of the County of Dufferin prior to the start of cutting. If appropriate, the relevant silvicultural prescription is attached.

Signature of Contractor/Consultant

Date

SECTION 2 - Owner

Has a contract been signed between the contractor and the owner?

Has the owner acquired and checked the contractor's references?

Is the woodlands being harvested using good forestry practices?

If not, why not?

Please note that circumference limit cutting (cutting all or most of the trees that are larger than the size limits in Schedule A) is generally not considered to be good forestry practice and will negatively affect the health and economic return of the forest in the future.

I agree that operations will be in accordance with the provisions of County of Dufferin forest conservation by-law 2006- and that I am familiar with the contents and requirements of this by-law and acknowledge having received a copy thereof. Further, I agree that I or my representative will contact the Officer of the County of Dufferin prior to the start of cutting. If appropriate, the relevant silvicultural prescription is attached.

Signature of Owner

Date

SECTION 3

Permit Conditions (if any):

We acknowledge the above conditions and agree to abide by them in the performance of the operations described in Sections 1 and 2 above.

Signature of Contractor/Consultant

Date

Signature of Owner

Date

SECTION 4

Signature of Officer

Date

Start Date Confirmed

This permit is not considered complete and approved unless signed and dated by the Officer.

At least seven (7) business days prior to the start of cutting, return this notice to:
Officer
c/o Dufferin County Museum and Archives
PO Box 120 (Airport Rd. & Highway 89)
Rosemont, ON L0N 1R0
705-435-1881 or 877-941-7787
fax: 705-435-9876 forestmanager@dufferinmuseum.com

Schedule C 2006-15

Application for Minor Exemption Pursuant to Forest Conservation By-Law 2006- 15

Application to be completed by the owner, owner's representative, or contractor and to be in the office of the Clerk at least three months prior to anticipated start of cutting.

Property owner:

Address (including lot, concession, emergency number, and township):

Address of woodlands for which minor exemption is being requested (if different from above, including lot, concession, emergency number, and township):

Map of subject woodlands attached:

Phone number(s):

Purpose of minor exemption:

Size of woodlands:

Volume to be removed:

Species of trees (list all species to be removed):

Expected starting date:

Signature of Owner

Date

At least three months prior to anticipated start of cutting, return this application to:
Clerk, County of Dufferin
51 Zina Street, Orangeville, ON L9W 1E5
519-941-2816 fax: 519-941-4565

Schedule D 2006-15

STOP WORK ORDER

Pursuant to Forest Conservation By-Law 2006-15

You are hereby directed and ordered to forthwith stop, halt, cease, and desist from any and all works associated with the injuring, destruction, or removal of trees from those lands comprising:

Municipal Address/Legal Description of the Property:

Owner/Individual Responsible for Destruction or Injury of Trees:

Description of Infraction:

Date of Inspection:

Effective Order Date: _____ to:

Signature of Officer: _____ Date: _____

Pursuant to by-law 2006- Section 7, where the person to whom the Order is directed has been served in accordance with this by-law is not satisfied with the terms of the Order, the person may appeal to Council by filing Notice of Appeal by personal service or certified mail to the Clerk within 30 days after the date of the Order.

Officer c/o Dufferin County Museum and Archives
PO Box 120 (Airport Rd. & Highway 89)
Rosemont, ON LON 1R0
705-435-1881 or 877-941-7787
fax: 705-435-9876
forestmanager@dufferinmuseum.com

Clerk, County of Dufferin
51 Zina Street, Orangeville, ON L9W 1E5
519-941-2816 fax: 519-941-4565