

THE CORPORATION OF THE MUNICIPALITY OF NORTH GRENVILLE

BY-LAW _____

A By-Law to regulate or prohibit the injury or destruction of trees within the Municipality of North Grenville

WHEREAS Section 135 of the Municipal Act, 2001, S.O. 2001, c.25, as amended authorizes the Municipal Council to adopt a by-law to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS the Council of the Corporation of the Municipality of North Grenville wishes to establish a by-law to prohibit and regulate the destruction or injuring of trees of significance on lands in the Municipality;

NOW THEREFORE, the Council of the Corporation of the Municipality of North Grenville hereby enacts as follows:

1.0 BY-LAW TITLE AND GENERAL PURPOSE AND INTENT

1.1 This by-law may be referred to as the “Tree Cutting By-law”.

1.2 The general purpose and intent of this By-law is to:

- i) encourage the retention of trees of significance;
- ii) prohibit the unnecessary injury or destruction of trees of significance;
- iii) ensure there is valid justification when a tree of significance is to be injured or destroyed; and
- iv) where appropriate provide for the planting of replacement trees where trees of significance are to be injured or destroyed.

2.0 DEFINITIONS

2.1 For the purposes of this By-law, the following definitions shall apply:

- a) “By-Law Officer” means a By-Law Enforcement Officer, Special Enforcement Officer, or Building Inspector of the Corporation of the Municipality of North Grenville; or any Police Officer, Constable, or Special Constable of the Ontario Provincial Police.
- b) “Council” means the Council of the Corporation of the Municipality of North Grenville.
- c) “DBH” or “Diameter Breast Height” means the diameter, measured outside the bark, of the stem or trunk of a tree, and shall be measured at a point 1.37 metres above the existing grade of the ground adjoining the base of the tree, or where there are multiple stems to a tree, means the total of the diameters of the three (3) largest stems measured at a point 1.37 metres above the existing grade of the ground adjoining the tree.

- d) “Dead”, “Dying” or “Diseased” in reference to a tree means a tree with no living tissue, a tree where seventy (70) percent or more of its crown is dead, or a tree infected by a lethal pathogen as certified by a Qualified Tree Expert.
- e) “Destruction” means the removal, ruin or harm of a tree by cutting, burning, girding of the tree or its roots, interfering with roots or uprooting, interfering with water supply, chemical application, compaction or regarding, within the drip line of a tree, or by other means including irreversible injury to a tree, which may result from accident or design, but does not include the pruning or removal of branches or maintenance purposes provided any such pruning is limited to the appropriate removal of not more than one third of the live branches or limbs of a tree, and “destroy”, “destroyed”, “destroying”, and similar words have the same meaning
- f) “Director” means either the Director of Public Works or the Director of Planning and Development or both, or their Designate, who is responsible for the administration and interpretation of the by-law.
- g) “Emergency work” means any work necessary to protect lives or property and includes utility repairs and structural repairs to a building.
- 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; Good Forestry Practices will be based on the most up-to-date "Provincial Silvicultural Guide" from the Ministry of Natural Resources and Forestry;
- i) “Hazard Tree” means a tree that is severely damaged to the extent that it is or poses an immediate safety threat to persons or property.
- j) “Injury” means lasting damage to a tree which has or is likely to have the effect of inhibiting or terminating its growth, but does not include pruning or removing branches for maintenance purposes, provided that any such pruning or branch removal is limited to the removal, as appropriate, of not more than one-third of the live branches or limbs of a tree, and “injure”, “injuring”, and similar words have the same meaning.
- k) “Lot”
 - i. shall mean a parcel of land or contiguous parcels of land under one ownership and which is described in a deed or other document legally capable of conveying an interest in land and which deed is on record in the Registry Office or Land Titles Office; or
 - ii. shall mean a parcel land shown as a lot or block on a Registered Plan of Subdivision, but a Registered Plan of Subdivision for the purposes of this paragraph does not include a Registered Plan of Subdivision which has been deemed not to be a Registered Plan of

Subdivision under a By-Law passed pursuant to Section 50.4 of The Planning Act, as amended from time to time.

- l) "Lot Area" shall mean the total horizontal area within the lot lines of a lot.
- m) "Maintenance" includes all work or operations related to trimming, pruning, spraying, injecting, fertilizing, treating, cabling and bracing a tree in accordance with Good Arboricultural Practice.
- n) "Municipality" means Corporation of the Municipality of North Grenville or the geographic area of the Municipality of North Grenville as the context requires.
- o) "Normal Farm Practice" means a practice that is recognized by the Normal Farm Practices Board, which 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 regarding Normal Farm Practice;
- p) "Owner" means a person having any right, title, interest or equity in land or property, or any such person's authorized representative, and includes an occupant, tenant or lessee.
- q) "Permit" means permission or authorization given in writing pursuant to this By-law by the Municipality to injure, destroy or remove a tree.
- r) "Permit Application" means an application prepared pursuant to this By-law requesting permission to injure or destroy one or more trees on a lot, submitted to the Director along with the prescribed fee.
- s) "Person" includes an individual, a sole proprietorship, a partnership, a corporation, a not for profit corporation, a registered charity and their respective heirs, executors, administrators, assigns or other duly appointed representatives.
- t) "Pruning" means the removal, as appropriate, of not more than one-third of the live branches or limbs of a tree in accordance with Good Arboricultural Practice.
- u) "Qualified Tree Expert" means a person who has graduated from an accredited college or university with a diploma or degree in Urban Forestry, Arboriculture or equivalent.
- v) "Tree" means 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 maturity, provided that where multiple stems grow from the same root system, the number of trees shall be the number of stems that can be counted at a point of measurement 1.37 metres from the ground.
- w) "Tree of Significance" means a tree that:
 - i) has a DBH of 20 centimeters or greater;

- ii) is an endangered species as defined in the Endangered Species Act, R.S.O 1990, c.E. 15, as amended; or
 - iii) is a nationally rare species as defined in the Species at Risk Act, 2002, S.O. 2002, c. 24, or successor legislation.
- x) “Woodlands” means woodlands as defined in the *Forestry Act* that are one hectare or more in area.

3.0 APPLICATION OF THE BY-LAW

- 3.1 This By-law shall apply to any lot that has a lot area of 1 hectares (2.4 acres) or more located within the Municipality of North Grenville.
- 3.2 This By-law shall apply to trees of significance, as defined herein.

4.0 EXEMPTIONS FROM THE BY-LAW

- 4.1 The following are prescribed exemptions under Section 135 (12) of the Municipal Act, 2001:
- a) 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 section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or a subdivision agreement entered into under those sections;
 - b) Activities or matters undertaken or authorized by a Municipality or a local Board of a Municipality;
 - c) Activities or matters undertaken under a licence issued under the *Crown Forestry Sustainability Act*, 1994 (Crown Lands);
 - d) The injuring or destruction of Trees by a person or agent licensed under the *Surveyors Act* to engage in the practice of surveying;
 - e) 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 as defined in that Section; and,
 - f) The injuring or destruction of Trees undertaken on land described in a licence or permit for a pit, wayside pit or wayside quarry issued under the *Aggregate Resources Act*.
- 4.2 The following are exemptions established by the Municipality:
- a) The harvesting of Trees by the Owner of Woodlands for the Owner’s own use in accordance with Good Forest Practices or harvesting diseased or infected trees;
 - b) The injuring or destruction of Trees undertaken as Normal Farm Practices, as ruled by the Normal Farm Practices Protection Board;
 - c) The injuring or destruction of trees that is required in order to erect any building, structure or thing or to install and provide utilities, vehicular access in respect for which a Building Permit has been issued;
 - d) The injuring or destruction of trees along a property boundary to a maximum width of 2.5 metres for the purposes of installing or maintaining a property boundary fence;

- e) The injury or destruction of trees for the construction, improvement, maintenance or repair of drainage works authorized under the *Drainage Act, 1990*.
- f) The injuring or destruction of trees that are dead, dying or diseased or are a hazard tree.
- g) The injury or destruction of any tree located within a waste disposal site as defined in Part V of the *Environmental Protection Act, 1990*, as amended;
- h) The injury or destruction of any tree that:
 - i) is required as a result of emergency work;
 - ii) is required under an order pursuant to the Municipality's Property Standards By-law;
 - iii) requires pruning or maintenance where the branches or limbs interfere with existing utility conductors, buildings or structures;
 - iv) is a tree on a raised podium, in an indoor courtyard, in a solarium or on a rooftop garden;
 - v) is in a tree nursery, tree farm, or cultivated orchard.

4.3 In all other circumstances, prior to the injury or destruction of any tree, a Permit shall first be obtained from the Municipality in accordance with Sections 7.0 and 8.0 of this By-law.

5.0 ADMINISTRATION AND ENFORCEMENT

5.1 The Director is responsible for the administration of this By-law and is hereby delegated the authority to review Permit Applications, issue Permits, refuse Permits, and include conditions of Permits.

5.2 The Director may delegate any of his/her duties under this By-law to a By-law Officer.

5.3 For purposes of conducting inspections or determining compliance with this By-law, the Director or By-law Officer may, upon producing the appropriate identification, at any reasonable time, enter and inspect any lot.

5.4 No person shall obstruct the Director or a By-law Officer who is carrying out an inspection pursuant to this By-law, and any person who obstructs the Director or By-law Officer is guilty of an offence.

6.0 GENERAL PROHIBITIONS

6.1 Except as provided in Section 4 of this By-law, no person through his/her own actions or through the actions of another, shall:

- i) injure or destroy any tree without first obtaining a Permit in respect of that tree;
- ii) injure or destroy any tree without complying with any conditions of a Permit issued in respect of that tree;
- iii) fail to comply with any condition or term of a Permit;
- iv) fail to comply with any Order issued pursuant to this By-law or remove or deface any Order issued pursuant to this By-law, without obtaining the prior consent of the Director;
- v) obstruct or attempt to obstruct the Director, any By-law Officer or any person acting under the Director's instructions in the exercise of an authority under this By-law;

vi) contravene any other provision of this By-law.

7.0 PERMIT APPLICATION

- 7.1 Where a Permit pursuant to this By-law is required, an Owner or other person who intends to injure or destroy a tree shall submit a Permit Application to the Director in the form provided by the Municipality with payment of the prescribed fee.
- 7.2 Upon receipt of a Permit Application, where the Director determines that the application is exempt from the requirements for a Permit, the prescribed fee shall be refunded to the applicant.
- 7.3 The Director may require, as a component of a Permit Application, a report by a Qualified Tree Expert in support of the Permit Application, notwithstanding that such a report is not required as a component of the initial Permit Application.
- 7.4 Where any part of a tree subject of a Permit Application is located on an adjacent lot, the Permit Application shall include the written permission of the owner of the adjacent lot.

8.0 ISSUANCE OF A PERMIT

- 8.1 Upon receipt of a Permit Application, the Director or any person acting under the Director's instructions may inspect the lot and tree(s) to determine whether or not a Permit should be issued, and if so what conditions should be established.
- 8.2 The Director may issue a Permit to injure or destroy a tree where the Director is satisfied that:
- i) the application satisfies the requirements of this By-law;
 - ii) the application is to permit the establishment or extension of a building or structure which requires the tree(s) to be removed;
 - iii) the tree is causing structural damage to load bearing structures, drains, or buildings; or
 - iv) removal of the tree(s) is necessary to support a permitted agricultural use or activity.
- 8.3 The Director may refuse to issue a Permit to injure or destroy a tree where the Director where any one or more of the following applies:
- i) The Permit Application form has not been submitted in full, does not contain all required information, or is considered incomplete;
 - ii) The Director requires a report by a Qualified Tree Expert in support of the application and the report has not been provided;
 - iii) An application for rezoning, consent, minor variance, plan of subdivision, or site plan approval for the lot on which the tree(s) is located has been submitted to the Municipality but has not yet received approval;
 - iv) The tree that is requested to be injured or destroyed is an endangered species as defined in the Endangered Species Act, R.S.O 1990, c.E. 15, as amended;

- v) The tree is a nationally rare species as defined in the *Species at Risk Act, 2002*, or successor legislation;
- vi) Where required and where the lot size and conditions would accommodate replacement, no adequate provision for replacement of the tree(s) has been included in the Permit Application;
- vii) The injury or destruction of the tree(s) contravenes the general intent and purpose of this By-law.

8.4 Any Permit issued pursuant to this By-law shall be issued in the name of the Owner and shall expire ninety (90) calendar days after the date of issuance, unless a written request for an extension is received by the Director prior to expiration of the Permit, in which case the Director may issue one extension for a maximum of ninety (90) calendar days.

8.5 The Director may impose conditions on any Permit including but not limited to:

- i) the manner and timing in which the injury or destruction of the tree(s) is to be carried out;
- ii) the qualifications of the persons authorized to injure or destroy the tree(s);
- iii) the requirement for replacement tree(s) or plantings, including the species, number, location and timing of replacement tree(s) or plantings;
- iv) where replacement tree(s) or plantings are not physically possible on the lot, requiring replacement trees or plantings at another suitable location to which the Owner agrees or the payment of cash-in-lieu of the planting of replacement trees to the Municipality, to be used by the Municipality to plant trees on other lands;
- v) measures to be implemented by the Owner to mitigate the direct and indirect effects of the destruction of the tree(s) on other nearby trees, properties, water bodies or natural areas.

8.6 Council may adopt policies to guide the Director in the use of conditions for Permits.

9.0 ORDERS TO DISCONTINUE ACTIVITIES

9.1 Where the Director or any By-law Officer is satisfied a contravention of this By-law or a Permit has occurred, the Director or By-law Officer may make an Order setting out the particulars of the contravention and requiring the Owner or such other person contravening this By-law to stop the injury or destruction of a tree, or requiring work to be done to correct the contravention.

9.2 An Order issued in accordance with this Section shall set out:

- i) the name of the Owner, the municipal address or other suitable description of the lot upon which the contravention has occurred;
- ii) reasonable particulars of the contravention;
- iii) what the Owner must do to rectify the contravention;
- iv) a statement that if the work is not done in compliance with the Order within a specified time period, the Municipality may have the work done at the expense of the Owner;
- v) the date and time by which the Order must be complied with;
- vi) information regarding who to contact with the Municipality for information relating to

the Order.

- 9.3 An Order issued pursuant to this Section may be served personally or by sending it by prepaid registered mail to the last known address of the Owner.
- 9.4 Where an Order issued pursuant to this Section is made by mail, it shall be deemed to have been effected on the fifth day after the date the Order is mailed.
- 9.5 In the event that service cannot be carried out under Subsection 9.3 of this By-law, the Director or a By-law Officer shall place a placard containing the terms of the Order in a conspicuous place on the lot where the contravention has occurred, and placement of the placard will be deemed sufficient service of the Order on the Owner.
- 9.6 Wherever this By-law or a Permit directs or requires any matter or thing be done, in default of its being done, the matter or thing may be done by the Municipality under direction of the Director or a By-law Officer at the Owner's expense, and the Municipality may enter upon the lot upon which the matter or thing was to have been done at any reasonable time for this purpose, and the Municipality may recover the costs incurred by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

10.0 APPEALS

- 10.1 Where the Director refuses to issue a Permit, or where the Director has imposed conditions on a Permit to which the Owner is not prepared to accept, the Owner may within fifteen (15) days of the date of refusal of the Permit Application or receipt of the Permit subject to conditions, appeal the matter to Council by filing a written request with the Director that the matter be considered by Council.
- 10.2 Where the Owner has filed an appeal with the Director, the Director shall prepare and forward a report on the appeal to Council within thirty (30) days of receipt of the appeal, setting out the grounds for his/her decision on the Permit Application.
- 10.3 Council shall consider the appeal and may:
- i) confirm the original decision of the Director; or
 - ii) direct the Director to issue a Permit or to issue a Permit with revised conditions.

11.0 PENALTIES

- 11.1 Every person who contravenes any of the provisions of this bylaw is guilty of an offence and the offence is hereby designated as a continuing offence as provided for in subsection 429(2)(a) of the *Municipal Act, 2001*, S.O 2001, as amended.
- 11.2 Every Person who is convicted of an offence under this by-law is liable to a minimum fine not exceeding \$500 to a maximum fine not exceeding \$100,000, pursuant to subsection 429(1) and (3) of the *Municipal Act, 2001*, S.O 2001, as amended.

11.3 When a person has been convicted of an offence under this by-law, the Superior Court of Justice or any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence, and requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

12.0 PRESCRIBED FEES

12.1 The prescribed fees payable to the Municipality in respect of the submission of a Permit Application shall be as set out in Schedule A to this By-law.

13.0 SEVERABILITY

13.1 If a court or tribunal of competent jurisdiction declares any provision, provisions, or part of a provision of this By-law to be illegal or unenforceable for any reason, such provision, provisions, or part of a provision shall be severed and all other provisions of this By-law shall be deemed to be separate and independent therefrom and shall be valid and enforceable to the fullest extent permitted by law.

14.0 ADMINISTRATION

14.1 The administration of this by-law shall be performed by the Municipality, or any persons so designated by the Municipality.

14.2 Where a provision of this By-law conflicts with a provision of another by-law enforced by the Municipality, the provisions that established the higher standards shall prevail in order to protect the health, safety, and welfare of the general public.

14.3 Schedules “A”, “B”, and “C” constitute part of this by-law.

14.4 If any section or sections of this by-law, or parts thereof, are found by any court to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof, shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid.

14.5 This by-law shall come into force and can take effect on the date of its passing.

PASSED AND ENACTED

THIS _____ DAY OF _____, 2022.

Mayor

Clerk

THE CORPORATION OF THE MUNICIPALITY OF NORTH GRENVILLE

SCHEDULE “A” TO BY-LAW NO. _____

PERMIT FEES

The following shall be paid to the Municipality at the time of the application for a Tree Cutting Permit pursuant to this by-law.

Fee Type	Fee	Renewal Fee
Permit (includes administrative fee and 3 hours of staff review/inspection)	\$300	\$150
Review/Inspection in excess of 3 hours	Will be based on the Municipality’s current rates and fees by-law	Will be based on the Municipality’s current rates and fees by-law