



BY-LAW NO. 38-2013

A BY-LAW OF THE CORPORATION OF THE COUNTY OF HURON TO PROHIBIT OR REGULATE THE DESTRUCTION OR INJURING OF TREES IN WOODLANDS AND WOODLOTS IN THE COUNTY OF HURON.

WHEREAS sections 135, 136, 137 and 138 of the Municipal Act, S.O. 2001, c.25, as amended (the "Act"), permit the enactment of a by-law by the Council of the Corporation of the County of Huron to prohibit or regulate the destruction or injuring of trees in woodlands and woodlots as defined in the By-law;

AND WHEREAS Council has determined that it is desirable to enact such a by-law for the purpose(s) of improving the forest, soil, fish, wildlife and water resources of the County of Huron by conserving and improving the woodlands and woodlots as hereinafter defined;

NOW THEREFORE, the Council of the Corporation of the County of Huron **HEREBY ENACTS** as follows:

SECTION 1 - DEFINITIONS

In this By-law:

- (a) "Building permit" means a building permit issued under the Building Code Act, 1992, S.O. 1992, c23, as amended or any successor legislation.
- (b) "Business day" means any day falling on or between Monday and Friday of each week but does not include New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, or Boxing Day.
- (c) "Circumference" means the measurement of the perimeter or outer boundary of a stem or trunk of a tree with such measurement including the bark of the stem.
- (d) "Clerk" means the County Clerk of the Corporation of the County of Huron.
- (e) "Coppice growth" means where more than one tree stem grows from a single tree stump.
- (f) "Council" means the Council of the Corporation of the County of Huron.
- (g) "County" means the Corporation of the County of Huron or the area up to and including the geographical boundaries of the County of Huron as the context requires.
- (h) "Diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement.
- (i) "DBH" (Diameter at Breast Height) means the diameter of the stem of a tree measured at a point that is 1.37 metres (4.5 feet) above the ground.
- (j) "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.
- (k) "Lower tier municipality" means each of the Municipalities of Howick, Morris-Turnberry, Ashfield-Colborne-Wawanosh, North Huron, Central Huron, Huron East, Bluewater, South Huron and Goderich.

- (l) "Officer" means a provincial offences officer or an individual appointed by Council for the administration and enforcement of this By-law.
- (m) "Owner" means a person having any right, title, or interest of any kind in land upon which a woodland or woodlot is located in whole or in part.
- (n) "Own Use" means use by the owner that does not include a sale, exchange or other disposition of trees destroyed or injured.
- (o) "Person" includes but is not limited to an individual, partnership or corporation.
- (p) "Point of Measurement" means that point on the tree stem or trunk measured above the highest point of the ground in an undisturbed state at the base of the tree. For coppice growth, the point of measurement means that point on each tree stem or trunk measured above the point on the tree stem or trunk where the tree stems or trunks separate provided that such point of separation is less than 1.37 metres (4.5 feet) above the highest point of undisturbed ground at the base of the coppice growth. The point of separation in effect becomes "ground level" for each stem in the coppice growth, and the same circumference or diameter limits apply as for single-stemmed or single-trunked trees.
- (q) "Registered Professional Forester" has the same meaning as in the Professional Foresters Act, S.O. 2000, c.18.
- (r) "Silviculture" means the theory and practice of controlling forest establishment, and the composition, growth and quality of forests to achieve the objectives of good forestry practice and forest management.
- (s) "Silvicultural prescription" means a site specific operational plan that describes the existing forest conditions and the forest management objectives for an area; and which prescribes the methods for harvesting the existing forest stand and a series of silvicultural treatments that will be carried out to establish a free growing stand in a manner that accommodates other resource values as identified.
- (t) "Tree" means any species of woody perennial plant of any size, having a stem or trunk, and including its root system, which has reached or can reach a height of at least 4.5 metres (15 feet) at physiological maturity.
- (u) "Woodlands" or "Woodland" means land at least one hectare (2.47 acres) or more in area with at least:

- (i) 1000 trees, of any size, per hectare (405 trees per acre);
- (ii) 750 trees, measuring over five (5) centimetres (2 inches) in diameter at DBH, per hectare (304 trees per acre);
- (iii) 500 trees, measuring over twelve (12) centimetres (5 inches) in diameter at DBH, per hectare (202 trees per acre); or
- (iv) 250 trees, measuring over twenty (20) centimetres (8 inches) in diameter at DBH, per hectare (101 trees per acre),

but does not including a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

- (v) “Woodlots” or “woodlot” means land at least 0.2 hectare (0.5 acre) in area and no greater than one hectare (2.47 acres) in area, with at least:

- (i) 200 trees, of any size, per 0.2 hectare (0.5 acre);
- (ii) 150 trees, measuring over five (5) centimeters (2 inches) DBH, per 0.2 hectare (0.5 acre);
- (iii) 100 trees, measuring over twelve (12) centimetres (5 inches) DBH, per 0.2 hectare (0.5 acre); or
- (iv) 50 trees, measuring over twenty (20) centimetres (8 inches) DBH, per 0.2 hectare (0.5 acre);

but does not include a cultivated fruit or nut orchard, a plantation established for the purpose of producing Christmas trees or nursery stock.

SECTION 2 - GENERAL PROHIBITION

Except as provided in this By-law, no person by themselves or through any other person shall destroy or injure, or cause or permit to be destroyed or injured, any living tree located in a woodland or woodlot within the County.

SECTION 3 - EXCEPTIONS

A person may destroy or injure a tree located in a woodland or woodlot in the County of Huron if:

- (1) the person who is destroying or injuring trees does so in accordance with a silvicultural prescription incorporating good forestry practices prepared by:

- (a) a Registered Professional Forester; or
- (b) a member in good standing of the Ontario Professional Foresters Association; and
- (c) the person who is destroying or injuring trees has complied with all the requirements of this By-law; and
- (d) the trees to be destroyed or injured have been clearly marked with paint on two sides and at the base of the tree.

or

- (2) the person who is destroying or injuring trees, has only destroyed or injured those trees which have attained, at the point of measurement specified in Schedule A to this By-law, the circumference or diameter measurement which is equal to or greater than the minimum circumference or diameter prescribed for the species in Schedule A to this By-law, and
 - (a) the injuring or destruction of trees has occurred in compliance with all the requirements of this By-law; and
 - (b) the destruction or injuring of trees will not reduce the number of trees per hectare (per acre) below the minimum number of trees per hectare (per acre) required for the area to remain a woodland or woodlot; and
 - (c) the trees to be destroyed or injured have been clearly marked with paint on two sides and at the base of the tree.

SECTION 4 - DRAINAGE WORKS

- (1) Except for municipal drainage works, if any destruction or injuring of trees is necessary in order to construct drainage works, prior to commencement of such work the person who intends by themselves or through other persons to do the work must first comply with this By-law.
- (2) Except for municipal drainage works, every person by themselves or through another commits an offence who constructs or causes or permits to be constructed tile drainage works that go through or are adjacent to a woodland or woodlot which are not constructed of non-perforated tile and upon conviction is liable to the general penalty in force on the date of the offence as specified in the Provincial Offences Act, R.S.O. 1990, chapter P. 33, as amended.

SECTION 5 - EXEMPTIONS

This By-law does not apply to:

- (1) activities or matters undertaken by a municipality or a local board of a municipality;
- (2) activities or matters undertaken under a license issued under the Crown Forest Sustainability Act, 1994;
- (3) 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;
- (4) 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;
- (5) 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,
- (6) 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;
- (7) the injuring or destruction of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act,
- (8) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (a) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
 - (b) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act.
- (9) the injuring or destruction of trees required to erect any building, structure or thing in respect of which a building permit is issued and has taken into consideration the protection of trees surrounding the structure or work

within the building envelope, provided that no tree is destroyed or injured that is located more than 15 metres (50 feet) from the outer edge of the building, structure or thing;

- (10) the injuring or destruction of trees that is required to install and provide utilities and a single lane driveway for vehicular access to the building, structure or thing in respect of which a building permit has been issued; or
- (11) the owner of a woodland or woodlot who has destroyed or injured trees for his or her own use provided that the destruction or injury of trees will not reduce the number of trees per hectare (per acre) in the area where the destruction or injury occurred below the minimum number of trees per hectare (per acre) required for the area to remain a woodland or woodlot.

SECTION 6 - NOTICE OF INTENT

- (1) Every person who intends to destroy or injure trees pursuant to Section 3(1) of this By-law shall complete and deliver or send by facsimile transmission to the office of the Clerk a signed Notice of Intent in the form prescribed in Schedule B to this By-law containing all the information required by the form no less than 20 business days and no more than 1 year prior to the start of the destruction or injury of trees together with a written silvicultural prescription incorporating good forestry practices prepared by a person authorized under Section 3(1) (a) or (b) of this By-law.
- (2) Every person who intends to destroy or injure trees pursuant to Section 3(2) of this By-law shall deliver or send by facsimile transmission to the office of the Clerk a signed Notice of Intent in the form prescribed in Schedule B to this By-law containing all the information required by the form no less than 10 business days and no more than 1 year prior to the start of the destruction or injury of trees.
- (3) Upon receipt of a completed Notice of Intent form, the Clerk will, within a reasonable time, return a receipted copy of the Notice of Intent filed.
- (4) Any person who has submitted a Notice of Intent shall notify the Clerk in writing (by letter, facsimile or email) no less than 24 hours prior to the date upon which the destruction or injury of the trees is to begin, advising of the location and date that the destruction or injury of trees is to start.

SECTION 7 - ORDER TO DISCONTINUE ACTIVITY

- (1) If an Officer is satisfied on reasonable and probable grounds that a contravention of this By-law has occurred or is occurring, 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. The Order shall be substantially in the form prescribed in Schedule C to this By-law.
- (2) An Order issued under this section may be served personally or may be served by sending it by registered mail to the last known address of;
 - (a) the registered owner of the woodland or woodlot; and
 - (b) any other person the Officer believes on reasonable and probable grounds is responsible for the contravention of the By-law.
- (3) Where service of an Order is made by mail, service shall be deemed to have been made on the fifth day following the date of mailing.
- (4) Service of the Order shall be deemed to be sufficient service on the person to whom the Order is directed so long as the Officer places a placard containing the terms of the Order in a conspicuous place at or near the site where the contravention is believed to have occurred.
- (5) Proof of service of the Order may be proved by way of Affidavit.
- (6) Any person by themselves or through another person who fails in whole or in part to comply with an Order issued under this section or causes or permits such conduct is guilty of an offence and on conviction is liable to the penalty prescribed in subsection 8(1) of this By-law.
- (7) Any person by themselves or through another person who removes, defaces or obscures an Order posted pursuant to subsection (4) or permits or causes such conduct is guilty of an offence and on conviction is liable to the general penalty in force on the date of the offence as specified in the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended.

SECTION 8 - PENALTY

- (1) Any person who contravenes sections 2 or 6 of this By-law or an Order issued pursuant to section 7 of this By-law or permits or causes such conduct is guilty of an offence and is liable:

- (a) on first conviction, to a fine of not more than \$10,000.00 or \$1,000.00 per tree injured or destroyed, whichever is greater; and
 - (b) on any subsequent conviction, to a fine of not more than \$25,000.00 or \$2,500.00 per tree injured or destroyed, whichever is greater.
- (2) Despite subsection (1), where the person convicted is a corporation,
 - (a) the maximum fines in clause (1)(a) are \$50,000.00 or \$5000.00 per tree injured or destroyed; and
 - (b) the maximum fines in clause (1)(b) are \$100,000.00 or \$10,000.00 per tree injured or destroyed.
- (3) If a person is convicted of contravening this By-law or an Order issued pursuant to section 7 of this By-law, 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 a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.
- (4) Any person by themselves or through another person who destroys or injures a tree that according to the Notice of Intent or silvicultural prescription filed was to remain unharmed after the destruction or injury of the trees has been completed or who causes or permits such conduct is guilty of an offence and on conviction is liable to the penalty specified in paragraph 8(1).

SECTION 9 - ENFORCEMENT

- (1) This By-law shall be enforced by one or more Officers appointed by the Corporation of the County of Huron.
- (2) An Officer may, at any reasonable time, enter and inspect any land to determine whether this By-law or an Order issued pursuant to section 7 of this By-law is being complied with.
- (3) The power of entry under this section does not allow an Officer to enter any building.
- (4) Any person who obstructs or interferes with an Officer while the Officer is engaged in the discharge of his or her duties under this By-law commits an offence and on conviction is liable to the general penalty in force on the

date of the offence as specified in the Provincial Offences Act, R.S.O. 1990, chapter P. 33, as amended.

- (5) For purposes of this By-law, circumference and diameter measurements will always be taken at the highest possible point of measurement shown on Schedule A to this By-law.
- (6) Where for the purpose of determining whether a tree is less than or greater than a measurement specified in this By-law, an Officer measures the diameter or circumference of that part of the tree still remaining after the destruction or injury of the tree as near as is reasonably practicable to the point of measurement specified in Schedule A to this By-law. The measurement so taken shall be presumed to be proof of the size of the tree at the specified point of measurement, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.
- (7) An owner of a property shall be presumed to have injured or destroyed, or caused or permitted to be injured or destroyed, a tree located in a woodland or woodlot situated in whole or in part on the owner's property, or contravened or caused or permitted the contravention of an Order issued pursuant to Section 7 of this By-law as the case may be, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.
- (8) An officer or director of a corporation who permits, causes or acquiesces to an act or omission of the corporation which contravenes this By-law is guilty of an offence and upon conviction is subject to the fines, penalties and orders prescribed in this By-law for the act or omission of the corporation.
- (9) This By-law applies to all woodlands in the County and to all woodlots in those lower tier municipalities which have delegated to the County their power under section 135(10) of the Act in respect of such woodlots.
- (10) For the purposes of paragraph 9(9), the effective date of the delegation by a lower-tier municipality shall be the date on which a resolution or By-law is passed by that lower-tier municipality for that purpose.
- (11) In the computation of time for the purposes of this By-law, where there is a reference to a number of days between two events that is less than 30 days, only business days shall be counted, excluding the day on which the first event occurs and including the day upon which the second event occurs.

SECTION 10 - ADMINISTRATION

- (1) Schedules A, B and C shall form part of this By-law.
- (2) If any Section or Sections of this By-law or parts thereof are found by any Court to be illegal 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 continue in full force and effect unless and until similarly found illegal.
- (3) The short title of this By-law is the "Forest Conservation By-law".
- (4) By-law No. 10-2006 of the Corporation of the County of Huron shall be repealed effective on the coming into force and effect of this By-law.
- (5) Despite subsection 10(4), By-law No. 10-2006 of the Corporation of the County of Huron shall continue to apply to a Notice of Intent filed before its repeal and to proceedings in respect of offences that occurred before its repeal, and to each respective lower tier municipality until each respective lower tier municipality passes a by-law referencing this by-law delegating its powers respecting the destruction or injuring of trees to the upper tier municipality.

READ a first time this 1st day of May 2013.
READ a second time this 1st day of May 2013.
READ a third time this 1st day of May 2013.

George Robertson, Warden

Susan Cronin, County Clerk

SCHEDULE A

PURSUANT TO HURON COUNTY FOREST CONSERVATION BY-LAW 38-2013

Minimum Circumference and Diameter Limits By Category of Tree Species

(For purposes of this By-law, circumference and diameter measurements will always be taken at the highest possible point of measurement).

SPECIES A

Maple (hard) Hard, Black, Sugar

<u>Point of Measurement</u>	<u>Circumference</u>	<u>Diameter</u>
46 cm. (18 inches)	160 cm. (63 inches)	51 cm. (20 inches)
30 cm. (12 inches)	175 cm. (69 inches)	56 cm. (22 inches)
20 cm. (8 inches)	191 cm. (75 inches)	61 cm. (24 inches)
10 cm. (4 inches)	224 cm. (88 inches)	71 cm. (28 inches)

SPECIES B

Ash Red, Green, White

Basswood

Butternut Note: Cutting of Butternut trees is regulated by the Endangered Species Act, 2007; Applicants must contact the Ontario Ministry of Natural Resources.

Hemlock Eastern

Maple (soft) Red, Silver, Soft

Oak Red, White, Bur, Swamp

Pine White

Sycamore American

Walnut Black

<u>Point of Measurement</u>	<u>Circumference</u>	<u>Diameter</u>
46 cm. (18 inches)	145 cm. (57 inches)	46 cm. (18 inches)
30 cm. (12 inches)	160 cm. (63 inches)	51 cm. (20 inches)

20 cm. (8 inches)	175 cm. (69 inches)	56 cm. (22 inches)
10 cm. (4 inches)	208 cm. (82 inches)	66 cm. (26 inches)

SPECIES C

Ash	Black
Beech	American
Cherry	Black
Elm	Red, Rock, White
Hickory	all species
Poplar	Cottonwood
Spruce	White, Norway
Hackberry	
Pine	Red

<u>Point of Measurement</u>	<u>Circumference</u>	<u>Diameter</u>
46 cm. (18 inches)	127 cm. (50 inches)	41 cm. (16 inches)
30 cm. (12 inches)	145 cm. (57 inches)	46 cm. (18 inches)
20 cm. (8 inches)	160 cm. (63 inches)	51 cm. (20 inches)
10 cm. (4 inches)	191 cm. (75 inches)	61 cm. (24 inches)

SPECIES D

Birch	White, Yellow
Beech	Blue
Cedar	Red, White
Ironwood	
Larch	all species
Cherry	Pin
Pine	Jack, Scotch
Popular	Trembling Aspen, Large Toothed Aspen, Balsam
Spruce	Black

<u>Point of Measurement</u>	<u>Circumference</u>	<u>Diameter</u>
46 cm. (18 inches)	64 cm. (25 inches)	20 cm. (8 inches)
30 cm. (12 inches)	79 cm. (31 inches)	25 cm. (10 inches)
20 cm. (8 inches)	97 cm. (38 inches)	30 cm. (12 inches)
10 cm. (4 inches)	127 cm. (50 inches)	41 cm. (16 inches)



SCHEDULE B
Pursuant To HURON COUNTY FOREST CONSERVATION BY-LAW NO. 38-2013
NOTICE OF INTENT

NOTICE OF INTENT to be received by the County Clerk's office **no less than ten (10) business days** prior to any destruction or injury of trees **pursuant to Section 3 (2)** of this By-law, and **no less than twenty (20) business days** prior to any destruction or injury of trees **pursuant to Section 3 (1)** of this By-law. A receipted copy of the NOTICE OF INTENT will be returned by the County Clerk's Office.

Please Print: ALL SECTIONS ARE TO BE FILLED OUT COMPLETELY ON THIS NOTICE. FAILURE TO DO SO WILL RESULT IN MAKING THIS NOTICE OF INTENT NULL AND VOID AND WILL BE RETURNED TO THE APPLICANT FOR CORRECTION.

Property Owner: _____

Mailing Address: _____

Postal Code: _____ Tel: _____

Fax: _____ E-mail: _____

Contractor: (if different from above) _____

Mailing Address: _____

Postal Code: _____ Tel: _____

Fax: _____ E-mail: _____

Expected Starting Date: _____

Location of Woodland/Woodlot: Lot _____ Con. _____

Municipality: _____ Former Township: _____

911 Address: _____

Reason for Removal: Commercial Timber Harvest _____ Stand Improvement _____

Firewood Removal: _____ Other _____

Approximate Size of Woodland: _____

Area of Harvest: (indicate on Sketch) _____

Will trees smaller than the diameter limit specified in the By-law be cut? Yes ____ No ____

If yes, explain: _____

Trees Marked by: _____ Paint Colour Used: _____

Mailing Address: _____

Tel: _____ E-mail: _____

Qualifications: _____

It is the responsibility of the owner or authorized agent to have marked with paint, on two sides and at the base of the tree, all the trees to be harvested.

If the woodland or woodlot is not harvested within one year of receipt of this Notice of Intent, this Notice is null and void.

TREE HARVEST SUMMARY

(A legible tally sheet can be substituted and attached)

Tree Species	No.	Description of Area
		<i>Indicates North</i>
Total Trees		<i>(Include property boundaries, road names, notable land features, access point and area of harvest)</i>

If the landowner is selling standing timber to a contractor for removal, has a Contract been signed between landowner and contractor? Yes _____ No _____

I agree that operations will be in accordance with the provisions of the Forest Conservation By-law No. 38-2013 of the County of Huron and that I am familiar with the contents and requirements of this By-law and acknowledge having received a copy thereof.

Further, I agree to notify the County Clerk in writing (by letter, facsimile or email) no less than 24 hours prior to the date upon which the destruction or injury of the trees is to begin, advising of the location and date that the destruction or injury of trees is to start.

Dated at _____ this _____ day of _____, 20__.

Signature of Contractor

Signature of Property Owner or Authorized Agent

MAILING ADDRESS:

Clerk, County of Huron
1 Court House Square
Goderich, Ontario
N7A 1M2

Tel: (519) 524-8394
Fax: (519) 524-2044

SCHEDULE C

PURSUANT TO HURON COUNTY FOREST CONSERVATION BY-LAW NO. 38-2013

STOP WORK ORDER

(Name of Owner or Person responsible for destruction or injury of trees)

Is hereby directed and ordered to forthwith stop, halt, cease and desist from any and all works associated with the destruction of trees or removal thereof from those woodlands or woodlots located on the property described below:

Municipal Address or Legal Description of the Property:

LOT: _____ CONCESSION: _____ MUNICIPALITY: _____

FORMER TOWNSHIP: _____ COUNTY: **HURON**

Date of Order: _____

Signature of Officer: _____

Issuing Authority: Forest Conservation By-law Enforcement Officer
Tel: (519) 524-8394 (Ext. 3)

Mailing Address: Clerk, County of Huron
1 Court House Square
Goderich, Ontario N7A 1M2

Fax No. (519) 524-2044