

THE CORPORATION OF THE CITY OF PICKERING

BY-LAW NUMBER 6108/03

Being a by-law to prohibit and regulate the injuring, destruction or removal of trees in defined areas of the City of Pickering.

WHEREAS pursuant to Section 135(1) of the Municipal Act, 2001, S.O 2001, c. 25, as amended, a local municipality may prohibit or regulate the destruction or injuring of trees; and

WHEREAS the Council of the Corporation of the City of Pickering passed Resolution #125/02 on November 4, 2002 that directs staff to prepare a by-law that would require residents backing onto watercourse ravine areas to obtain a permit for felling healthy trees and that said by-law include a permit fee and fines for violation of the by-law and that the by-law clearly outline very limited circumstances where the felling of healthy trees would be permitted; and

WHEREAS Schedule III to the City of Pickering Official Plan has identified shoreline and stream corridors, wetlands and environmentally significant areas;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PICKERING HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law:
 - a) "City" shall mean the Corporation of the City of Pickering;
 - b) "Clerk" shall mean the Clerk for the Corporation of the City of Pickering or his designate;
 - c) "Council" shall mean the Council of the Corporation of the City of Pickering;
 - d) "dbh" shall mean the diameter of the stem of a tree measured at a point that is 1.5 metres above ground;
 - e) "Tree Protection Area" includes areas designated as Shorelines and Stream Corridors, Wetlands and Environmentally Significant Areas and areas within 30 metres on lands adjacent thereto as set out in Schedule "A" attached hereto.
 - f) "Good Forestry Practice" shall mean 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 which 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. Good forestry practice shall also include the cutting and removal of severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees, or which no longer contribute to the achievement of forest values;
 - g) "Officer" shall mean a person assigned by the Clerk to enforce the provisions of this by-law;
 - h) "Owner" shall mean the registered owner of land, or their agent, or anyone acting under the direction of the owner or their agent; and

- i) "Site" shall mean the area of land containing any tree(s) proposed to be injured, destroyed or removed.

EXEMPTIONS

2. The provisions of this by-law do not apply:
- a) to activities or matters undertaken by the City, the Regional Municipality of Durham, or a local board thereof;
 - b) to lands owned by, regulated by or to activities or matters undertaken by the Toronto and Region Conservation Authority or the Central Lake Ontario Conservation Authority;
 - c) to activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
 - d) to 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;
 - e) to 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;
 - f) to 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;
 - g) 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;
 - h) 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*;
 - i) 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*;
 - j) trees measuring less than 25 millimetres dbh;
 - k) in areas that are not defined as a "Tree Protection Area" by this by-law;
 - l) to activities or matters prescribed by regulations pursuant to the *Municipal Act, 2001*;
 - m) to the removal of dead, dangerous, diseased or severely injured trees or stumps, in accordance with good forestry practice;
 - n) to woodlots that are governed by By-law Number 148-91 of the Regional Municipality of Durham or its successor.

PROHIBITIONS

3. a) Unless otherwise exempted by this by-law, no person shall injure or destroy a tree in a Tree Protection Area without a permit issued under this by-law.
- b) Where a permit has been issued pursuant to this by-law, no person shall injure, destroy or remove a tree except in accordance with the plans, conditions and any other information on the basis of which a permit was issued.

REQUIREMENTS FOR AN APPLICATION

4. a) Unless otherwise exempted by this by-law, every person who intends to injure, destroy or remove a tree within an Tree Protection Area by cutting, burning, bulldozing, lacerating, chemical application or any other means, shall apply for and obtain a permit.
- b) A person applying for a permit to injure, destroy or remove a tree shall submit a completed application form, along with the required plans, information and fee of \$100.00 to the Clerk.
- c) Applications shall be made on a form approved by the Clerk.

REQUIREMENTS FOR ISSUANCE OF PERMIT

5. The Clerk shall issue a permit where:
 - a) the applicant has fulfilled all requirements of this by-law;
 - b) the proposed activity is associated with an existing use of the property including ongoing silviculture practices and selective thinning or harvesting of plantations, in accordance with good forestry practice;
 - c) the Clerk is satisfied that the proposed activity:
 - (i) will not interfere with natural drainage processes;
 - (ii) will not result in soil erosion, slope instability or siltation in a watercourse;
 - (iii) will not have a significant impact on any healthy vegetation community within, and adjacent to the subject site;
 - (iv) will not have a significant impact on any fish or wildlife habitat within, and adjacent to the subject site;
 - d) the owner, if required, enters into an agreement which may be registered on title in the subject lands containing such conditions as the Clerk considers necessary to ensure that the proposed activity will be undertaken in accordance with the approved plans and information. Such an agreement may contain a provision requiring the applicant to post with the City security in an amount determined by the Clerk to ensure performance of the obligations under the agreement;
 - e) the Clerk may impose conditions to a permit as in the opinion of the Clerk are reasonable, to ensure that the proposed activity is consistent with the provisions of paragraphs 5(a) to 5(d) above;
 - f) where silviculture or harvesting activity is proposed within a woodlot, one permit may be issued to authorize activity for an extended or ongoing period of time, on the basis of an acceptable forestry management plan;

- g) the Clerk may refer any application, associated plans and information to municipal staff, public agency, advisory body and/or other qualified professional for comment prior to making a decision; and
- h) A permit issued pursuant to this by-law shall be valid to the expiry date as specified on the permit by the Clerk.

APPEALS

- 6. An applicant for a permit pursuant to this by-law may appeal to the Ontario Municipal Board:
 - a) if the Clerk refuses to issue a permit, within thirty (30) days after the refusal;
 - b) if the Clerk fails to make a decision on an application, within forty-five (45) days after the application and required plans and information are received by the Clerk; or,
 - c) if the applicant objects to a condition in the permit, within thirty (30) days after the issuance of the permit.


ADMINISTRATION

- 7.
 - a) The administration and enforcement of this by-law shall be performed by the Clerk and by such persons assigned by the Clerk.
 - b) If after inspection, the Clerk or Officer is satisfied that a contravention of this by-law has occurred, the Clerk or Officer may make an order requiring the person to stop the injuring or destruction of trees and the order shall contain particulars of the contravention.
 - c) A person to whom an order has been made pursuant to this by-law may appeal the order to the Council by filing a notice of the appeal to the Clerk within thirty (30) days after the date of the order.
 - d) As soon as practicable after a notice of appeal is filed, the Council shall hear the appeal and may confirm, alter or revoke the order.
 - e) The decision of Council under subsection 7(d) of this by-law is final.

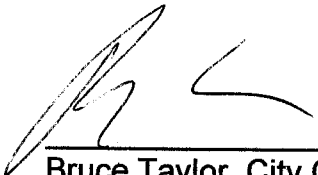
ENFORCEMENT

- 8.
 - a) Any person who contravenes any provision of this by-law or any order issued pursuant to this by-law is guilty of an offence and on conviction 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.
 - b) If a person is convicted of an offence for contravening this by-law or an order made under Section 7(b) of this by-law, in addition to any other remedy or any penalty provided 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 manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

By-law read a first, second and third time and finally passed this 17th day of March, 2003.



Wayne Arthurs, Mayor



Bruce Taylor, City Clerk