

This is an office consolidation of By-Law 70-21 and amendments thereto. For accurate reference you should consult the original by-laws that are retained by the Clerk

BY-LAW NUMBER 70-21 (As amended by By-Law 101-23)

- of -

THE CORPORATION OF THE COUNTY OF BRANT

GOOD FORESTRY PRACTICES BY-LAW

To prohibit or regulate the destruction or injuring of trees within and adjacent to natural heritage features and areas in the County of Brant.

WHEREAS Section 135(1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, hereinafter referred to as the *Act* permits the enactment of a By-Law by the Council of the Corporation of the County of Brant to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Section 135(7) of the *Act* provides that the By-Law may require that a permit be obtained to destroy or injure trees and impose conditions on a permit, including conditions relating to the manner in which destruction or injuring occurs and the qualification of persons authorized to destroy or injure trees;

AND WHEREAS Section 429 of the *Act* authorizes a municipality to establish a system of fines for offences under a By-Law passed under the *Act*;

AND WHEREAS the Council of the Corporation of the County of Brant has determined it is desirable to enact such a By-Law for the purposes of:

- Conserving and improving the health of natural heritage features and areas in the County by controlling and reducing clear cutting.
- Improving the County's resilience and adaptation to climate change.
- Implementing the County's strategic priority for Sustainable and Managed Growth by protecting and enhancing the natural environment.
- Promoting good forestry practices that sustain and improve healthy natural heritage features and areas and their related long-term social, economic, and environmental values.
- Protecting, promoting, and enhancing the many benefits that trees contribute to the County in terms of aesthetics, human health, recreation, and the overall enjoyment and quality of life.
- Reducing airborne pollution, protecting and improving the quality and quantity of water, preventing soil and wind erosion, reducing water run-off, and providing cooler temperatures in the summer.
- Promoting and implementing the objectives and policies in the County's Official Plan, Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe on climate change and green infrastructure, in which green infrastructure includes natural and human-made components that provide ecological and hydrologic functions and processes through components such as natural heritage features and systems, urban forests, and natural channels.
- Supporting and implementing the vision, objectives and policies in the County's Official Plan, the Provincial Policy Statement, and the Growth Plan for the Greater Golden Horseshoe with regard to the protection, maintenance, and restoration of natural heritage features, areas, and systems.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT ENACTS as follows:

SECTION 1 DEFINITIONS

In this By-Law:

Agricultural Operation means an agricultural, aquacultural, or horticultural operation that is carried on in the expectation of gain or reward. The lands must be assessed as farmland, having a valid Farm Business Registration number.

Amenity Area means the outdoor area situated in the *rear yard* of a *property* used for residential purposes intended for recreational use for residents, and may include landscaped areas, patios, decks, balconies, swimming pools, play areas and similar uses but does not include any area occupied at grade by a building's service areas, parking areas or driveways.

Applicant means the *owner* or the *owner's* authorized representative who submits an application for a *permit* under this By-Law.

Building Permit means a building permit as issued under the *Building Code Act* or any successor thereof.

Bush Cord means a measure of stacked wood measuring 3.63 cubic meters in volume.

Business Day means any day falling on or between Monday and Friday of each week but does not include a statutory holiday or a day that the *County* is closed.

Calendar Year means the timeframe from the beginning of January 1 to the end of December 31 of the same year.

Canopy means the extent of the outermost boundary on the surface of the ground directly below and which corresponds with the outermost edge of the branches of the crown of an individual *tree* or group of *trees*.

Certified Arborist means an individual who is currently certified by the International Society of Arboriculture and/or by the Province of Ontario unless a suspension, term, condition, or limitation of certification applies which would restrict the individual from carrying out responsibilities under this By-Law.

Certified Tree Marker means an individual who has full certification in good standing for marking trees under the Ontario Ministry of Natural Resources and Forestry Certified Tree Marker Program or any successor thereof, unless a suspension, term, condition or limitation of certification applies which would restrict the individual from carrying out responsibilities under this By-Law.

Christmas Tree Plantation means the intentional planting of *trees* that are maintained or established for the purpose of producing Christmas trees as part of an agricultural operation, but does not include plantations that have ceased to exist be harvested for such purposes for a period of ten years or more.

Clear Cutting means a break in the *canopy* of *trees* in *natural heritage features and areas* in which the cumulative area of the *canopy* of *trees* *injured* or *destroyed* exceeds 0.1 hectare, with or without a *permit*. Clear cutting shall include the cumulative incremental or continuous *injury* or *destruction* of *trees* since the enactment of this By-Law.

Clerk means the Clerk of the *County* or their designate.

Common Property Tree: Every *tree* whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands.

Council means the Council of the *County*.

County means the Corporation of the County of Brant, or the geographic area under the jurisdiction of the Corporation of the County of Brant.

Cultivated Fruit or Nut Orchard means the intentional planting of *trees* that are maintained for food production as part of an *agricultural operation*, but does not include orchards that have ceased being managed or harvested for their intended purpose for a period of ten years or more.

Designated Official means the Manager of Parks and Forestry for the *County* or authorized designates acting on their authority.

Destroy means any action which causes or results in the irreversible *injury* or death of a *tree*. The terms destroyed, destroying, and destruction shall have a corresponding meaning.

Diameter at Breast Height (dbh) means the diameter of the stem of a *tree* measured outside the bark at a point of measurement that is 1.37 metres above the ground. If a *tree* consists of two or more stems forking below breast height, each stem is measured separately, at breast height, or if a *tree* forks at breast height, or slightly above, the *diameter* measurement is taken below the enlargement that is caused by the fork.

Environmental Impact Study means an analysis completed in accordance with the *County* Official Plan and/or as per guidelines approved by the *County* by a qualified expert in ecology, forestry, hydrology and/or other specialties based on specific circumstances. Where required, the Environmental Impact Study shall be completed in accordance with a Terms of Reference approved by the *County*. The study shall include an assessment of potential hydrologic and ecological impacts, which is to include information such as: an inventory and evaluation of *natural heritage features and areas*, natural heritage systems, water resource systems and associated ecological and hydrologic functions on and adjacent to a project site; identification of environmental constraints including features, systems, linkages and vegetation protection zones; demonstration of conformity with applicable legislation and policies including but not limited to this By-Law, the *County* Official Plan, Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe, and *Endangered Species Act*; identification of potential impacts; and recommended solutions to avoid, minimize and mitigate removal of *natural heritage features and areas*. An *Environmental Implementation Plan* is required to demonstrate how recommendations will be implemented.

Environmental Implementation Plan means a plan completed in accordance with guidelines approved by the *County* by qualified experts in ecology, forestry, hydrology and/or specialties based on specific circumstances. In the absence of guidelines, the Plan shall provide in the form of a short report and accompanying site plans information that incorporates all of the following information, unless otherwise directed by the *Designated Official*:

- a) The purpose of the *destruction* or *injuring* of *trees*;
- b) Demonstration that there is:
 - i. No reasonable alternative to the *destruction* or *injuring* of *trees* and the *injury* and *destruction* of *trees* has been minimized and mitigated to the maximum extent possible;
 - ii. The *injury* or *destruction* is in conformity with vision, objectives and policies in this By-Law, the *County* Official Plan, Provincial Policy Statement, and Growth Plan for the Greater Golden Horseshoe with regard to climate change, green infrastructure, and protecting, maintaining, and improving *natural heritage features and areas*, natural heritage systems, and water resource systems; and
 - iii. Natural landforms or contours, erosion hazards will be adequately protected.

- c) History of *tree* removal on the *property* in conjunction with all previous violations, permits, exemptions, planning approvals, regulations, and other removal of *trees* in *natural heritage features and areas*;
- d) Photographs of *trees* to be *injured* or *destroyed*;
- e) An inventory of *trees* including the location, size, species, general age, and health;
- f) Identification of *trees* to be removed and retained;
- g) Identification of *natural heritage features and areas* and vegetation protection zones;
- h) An assessment on whether any *trees* proposed for *injury* or *destruction* contain species and/or the habitat of threatened, *endangered* or special concern species listed in the *Endangered Species Act* and any required compliance measures;
- i) Timing windows and/or any other measures necessary to ensure compliance with the *Migratory Birds Convention Act*;
- j) A site plan of any proposed development including buildings, structures, services/utilities, grading, drainage, and limits of construction;
- k) Details on how *natural heritage features and areas* will be identified on site for removal and retention;
- l) Protection measures for *natural heritage features and areas* to be retained such as tree protection fencing;
- m) A proposal for *replacement trees* outlining if the *applicant* will provide *replacement trees* on lands subject to the clearing, on alternate lands approved by the *County*, and/or as cash-in-lieu to the *Replacement Tree Planting Fund*. The proposal must include the total area of the canopy of *trees* to be *injured* or *destroyed*, and the aerial extent of *replacement trees* required to be planted. The aerial extent of *replacement trees* required to be provided by the *applicant* shall be at a ratio equal to the greater of: two times the aerial extent of the *canopy of trees injured* or destroyed; a ratio approved through an *Environmental Impact Study*; or a ratio as established by County approved guidelines;
- n) Where *replacement trees* are to be planted on the subject lands or on alternate lands approved by the *County*, details of the proposed *replacement trees* must be described in the report and illustrated on a drawing. *Replacement trees* must meet the definition of *replacement trees* and details must be provided on planting, maintenance and monitoring for a minimum of two years; and
- o) A statement on the drawing that the *injury* or *destruction* of the *trees* will only be carried out in accordance with good forestry practices under the supervision of a *certified arborist* or *Qualified OPFA Member*.

Good Arboriculture Practices means the proper implementation of removal, renewal, and maintenance activities known to be appropriate for individual trees and includes pruning of trees to remove dead limbs, maintain structural stability and balance, or to encourage their natural form, provided that such pruning is limited to the appropriate removal of not more than one-third of the live branches or limbs of a tree, but does not include pruning to specifically increase light or space.

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. (as defined in the *Forestry Act*). Provincial Silvicultural Guidelines shall be used for direction on applying good forestry practices.

Hazard Tree means any tree or other growth that is dead, decayed or damaged and the branches and limbs thereof which create an unreasonable hazard or unsafe condition.

Hedgerow means a linear row or group of *trees* that are attached to *woodlots*, *woodland* or that consist of an isolated row or group of *trees*, the area of which is 0.2 hectares or greater in size and meets the density criteria of *trees* for a *woodland* or *woodlot*.

Injure means any action that causes physical, biological, or chemical damage to a *tree*, including any lasting damage which has the effect of inhibiting or terminating its growth. The terms injury, injured, or injuring shall have a corresponding meaning.

Natural Heritage Features and Areas means lands containing any of the following how-so-ever as described in this By-Law, Provincial planning policies and plans established under the authority of the *Planning Act*, or the *County Official Plan* whereby the direction that provides the greatest protection to natural heritage and features shall prevail:

- a) A *woodland* or *woodlot*;
- b) Significant woodlands;
- c) A regionally or provincially Life Science Area of Natural and Scientific Interest identified by the Province;
- d) A provincially significant *wetland* evaluated, non-provincially significant *wetland* evaluated, and unevaluated *wetlands* identified by the Province; and other *wetlands*;
- e) Habitat of endangered or threatened species as per the *Endangered Species Act* unless written authorization has been obtained from the Province;
- f) Significant wildlife habitat that has been identified by the Province and/or using criteria established by the Province;
- g) Sand barrens, savannahs, tallgrass prairies, and alvars;
- h) Valleylands in a natural area that occur in a valley or other landform depression that has water flowing through or standing for some period of the year;
- i) Erosion hazards due to human or natural processes that pose a threat to life and property. The erosion hazard shall include at a minimum the lands within 10 metres of the top of bank; and/or
- j) Vegetation Protection Zone which includes the natural area maintained in a natural predeveloped state that is contiguous with and within 15 metres of the water's edge of a *wetland*, lake, intermittent stream, or permanent stream.

Officer means a *person* designated, appointed, and authorized by *Council* to administer or enforce the provisions of this By-Law.

Order means a Work Order or an Order to Discontinue an Activity pursuant to Section 444 and 445 of the *Municipal Act*.

Owner includes the *person* for the time being managing or receiving the rent of the land or premises, whether on the *person's* own account or as agent or trustee of any other *person* or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the *property* who, under the terms of a lease, is required to repair and maintain the *property* in accordance with the standards of maintenance and occupancy for the *property*.

Own Use means the use of a tree or sections of a tree injured or destroyed solely for the personal use by the owner and may include the accessory sale of no more than three bush cords of wood in a calendar year.

Permit means written authorization for the *destruction* or *injuring* of a *tree* issued by the *Designated Official* or *Council* pursuant to this By-Law.

Person means an individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and the heirs, executors, or legal representatives of a person to whom the context can apply according to law.

Plant Nursery means the use of land, buildings or structures, or portions thereof, where *trees* are grown for the purpose of retail or wholesale trade but does not include a nursery that has ceased

being managed or harvested for its intended purpose for a period of ten years or more.

Prohibited Clear Cutting Area means lands containing any of the following how-so-ever as described in this By-Law, Provincial planning policies and plans established under the authority of the *Planning Act*, or the *County Official Plan* whereby the direction that provides the greatest protection to *natural heritage and features* shall prevail:

- a) Significant woodlands, unless the *applicant* has demonstrated to the satisfaction of the *Designated Official* that:
 - i. the significant woodland is part of an *agricultural operation* that is located outside of a settlement area; and
 - ii. the proposed *injury or destruction of trees* in the significant woodland is considered necessary to operate the *agricultural operation* as part of normal farm practices as determined by the *County*, and where required by the *Designated Official* as determined by the Normal Farm Practices Protection Board; and
 - iii. the purpose of the proposed *injury or destruction of trees* in the significant woodland is not to increase productive farmland unless determined by the Normal Farm Practices Protection Board to be a normal farm practice, as the County does not consider *clear cutting* for such purposes to be a normal farm practice; and
 - iv. the *injury or destruction of trees* meets all criteria under Section 6 g);
- b) A regionally or provincially Life Science Area of Natural and Scientific Interest identified by the Province;
- c) A provincially significant *wetland* evaluated, non-provincially significant *wetland* evaluated, and unevaluated *wetlands* identified by the Province; and other *wetlands*;
- d) Habitat of endangered or threatened species as per the *Endangered Species Act* unless written authorization has been obtained from the Province;
- e) Significant wildlife habitat that has been identified by the Province and/or using criteria established by the Province;
- f) Erosion hazards due to human or natural processes that pose a threat to life and property. The erosion hazard shall include at a minimum the lands within 10 metres of the top of bank;
- g) *Vegetation Protection Zone* which includes the natural area maintained in a natural predeveloped state that is contiguous with and within 15 metres of the water's edge of a *wetland*, lake, intermittent stream, or permanent stream.

Property means a parcel of land having specific boundaries, which is capable of legal transfer.

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 practices*.

Qualified OPFA Member means a Registered Professional Forester, Associate Member or Temporary Member of the Ontario Professional Foresters Association under the *Professional Foresters Act*, certified to practice professional forestry, unless a suspension, term, condition, or limitation of certification applies which would restrict the Member from carrying out responsibilities under this By-Law.

Rear Yard means the outdoor *amenity area* on a property extending across the full width of a lot between the rear lot line of a *property* and the nearest part of the primary dwelling unit.

Replacement Trees means planting non-invasive native trees and plants through reforestation or afforestation to replace *trees injured or destroyed*. The aerial extent of the *replacement trees* shall be at a ratio equal to the greater of: two times the aerial extent of the *canopy of trees injured or destroyed*; a ratio approved through an *Environmental Impact Study*; or a ratio as established by *County* approved guidelines. The *applicant* has the option of providing replacement trees in the form of planting on lands subject to the clearing, on alternate lands approved by the *County*, and/or as cash-in-lieu to the *Replacement Tree Planting Fund*. Replacement trees may include a mixture of

native trees, plants, ground covers, savannahs and tallgrass prairies, and seed mixes. The minimum density of *replacement trees* must meet the number of *trees* per hectare required to meet the definition of a *woodland* or a *woodlot*. Replacement trees shall have a minimum height of 1.0 metres and circumference of three inches, unless otherwise approved by the *Designated Official*.

Replacement Tree Planting Fund means the fund set aside for the purpose of planting *trees* in the *County* other than on the lot where a *tree* has been injured or destroyed.

Residential Dwelling means a single detached residential dwelling, semi-detached residential dwelling or rowhouse residential dwelling where the principal use of the dwelling is as a place of residence occupied by one or more people for living, sleeping, eating and food preparation use.

Silviculture means the art, science, theory and practice of controlling forest establishment, and the composition, growth and quality of forests to achieve the objectives of *good forestry practices* and forest management.

Silvicultural Prescription means the site specific operational plan, signed and sealed by a *Qualified OPFA Member*, 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 *silviculture* treatments that will be carried out to establish a free-growing stand in a manner that accommodates other resource values as identified.

Tree means any species of woody perennial plant, including the root system, where the plant has reached or can reach a height of at least 4.5 metres at physiological maturity.

Unforested Corridor means a break in a forest *canopy* not wider than 20 metres, including but not limited to roads, paths, buildings and structures, or natural features such as a creek, *wetland*, or watercourse.

Unsafe Condition shall mean a condition that poses or constitutes an undue or unreasonable hazard or risk to life, limb or health of any person on or about the property.

Wetland means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens.

Windbreak means row or group of *trees* that are used to block and direct wind in which the area of the windbreak is 0.2 hectares or greater in size and meets the density criteria of *trees* for a *woodland* or *woodlot*.

Woodland means forested areas, treed areas, and plantations that are at least 1.0 hectares or more in area with at least:

- a) 1,000 *trees* of any size per hectare;
- b) 750 *trees*, measuring over 5 cm at *dbh*, per hectare;
- c) 500 *trees*, measuring over 12 cm at *dbh*, per hectare; or
- d) 250 *trees*, measuring over 20 cm at *dbh*, per hectare.

A *hedgerow* or *windbreak* that meet the size and density criteria are considered a *woodland*. A *woodland* does not include a *tree* located within a *cultivated fruit or nut orchard*, *Christmastree plantation*, or *plant nursery*. For the purpose of this By-Law, the boundary of a *woodland* shall be defined by the ecological limit of the *canopy* of the *woodland* and not by *property* boundaries. Where a *woodland* is dissected by an *unforested corridor*, the boundary of the *woodland* shall be deemed to cross the *unforested corridor*.

Woodlot means forested areas, treed areas, and plantations that are at least 0.2 hectares and less than 1.0 hectares in area with at least:

- a) 988 *trees* of any size per hectare;
- b) 741 *trees*, measuring over 5 cm at *dbh*, per hectare;
- c) 494 *trees*, measuring over 12.7 cm at *dbh*, per hectare; or
- d) 247 *trees*, measuring over 20.3 cm at *dbh*, per hectare.

A *hedgerow* or *windbreak* that meets the size and density criteria are considered a *woodlot*. A *woodlot* does not include a *tree* located within a *cultivated fruit or nut orchard*, *Christmas tree plantation*, or *plant nursery*. For the purpose of this By-Law, the boundary of a *woodlot* shall be defined by the ecological limit of the *canopy* of the *woodlot* and not by *property* boundaries.

SECTION 2 APPLICATION OF THE BY-LAW

- a) This By-Law shall apply to all trees in natural heritage features and areas in the County.
- b) Where a provision of this By-Law conflicts with a provision of another by-law in force in the County, the provision that establishes the higher standard shall prevail to protect the health, safety and welfare of the general public.
- c) Nothing in this By-Law serves to prohibit the following:
 - i. A normal farm practice under the Farming and Food Production Protection Act.
 - ii. Removal of a noxious weed in accordance with the Weed Control Act
 - iii. Removal of a tree classified as prohibited or restricted as defined in the Invasive Species Act.
 - iv. Removal of a hazard tree approved by designate.
- d) Notwithstanding any provisions in this By-Law, no person shall cause or permit the injuring or destruction of a tree in contravention of the Endangered Species Act, Species at Risk Act, Fisheries Act, Migratory Birds Convention Act and/or any other applicable provincial or federal legislation.

SECTION 3 GENERAL PROHIBITION

- a) No *person* through their own actions or through the actions of others under the care and control of that *person*, shall *injure*, *destroy*, cause, or permit to be *injured* or *destroyed*, any *tree* located in *natural heritage features and areas*, unless:
 - i. The *tree* may be *injured* or *destroyed* pursuant to County of Brant Highways By-Law 275-99 or Property Standards By-Law 205-02, as may be amended or updated;
 - ii. Exempted under the provisions of this By-Law; or
 - iii. They are in possession of a valid *permit* that has been issued pursuant to the provisions of this By-Law and in accordance with its terms or conditions.
- b) No *person* through their own actions or through the actions of others under the care and control of that *person*, shall fail to comply with the terms or conditions of a permit issued pursuant to Section 5 or Section 6 of this By-Law.

SECTION 4 EXEMPTIONS

The provision of this By-Law shall not apply to the following:

Statutory Exemptions as per the Municipal Act:

- 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 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 subdivision agreement entered into under those sections.
- e) The *injuring or destruction of trees* imposed after December 31, 2002, 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); 2002, c.17, Schedule a, s.27 (3,4).

Other Exemptions:

- i) *Pruning* necessary to maintain the health and condition of a *tree* provided the *pruning* is in accordance with *good arboricultural practices*.
- j) The *injury or destruction of a tree* for the construction and maintenance of municipal drainage works under the *Drainage Act*, or any successor thereof.
- k) The *injury or destruction of a tree* as part of an activity or matter undertaken by the Grand River Conservation Authority or Long Point Region Conservation Authority on land owned or managed by the Conservation Authority provided that the *injury or destruction* does not result in *clear cutting*; reduce the density of *trees* in a *woodland* or *woodlot* below the minimum number of *trees* per hectare required to be considered a *woodland* or *woodlot*; and the *destruction or injury* is consistent with *good forestry practices*.
- l) The *injury or destruction of a tree* as part of an activity by a federally regulated pipeline company for the purpose of constructing and maintaining such infrastructure and associated right-of-way defined in the Onshore Pipeline Regulations, or any successor thereof.
- m) The *injury or destruction of a tree* as part of an activity of a provincially regulated pipeline company for the purpose of constructing and maintaining such infrastructure and associated right-of-way defined in the Technical Standards and Safety Act, or any successor thereof.
- n) The *injury or destruction of a tree* located in a:
 - i. *Cultivated fruit or nut orchard, Christmas tree plantation, or plant nursery*;

- ii. Building, solarium, rooftop garden or interior courtyard; or
 - iii. A landscaped area being an area containing trees planted for aesthetic purposes whereby the landscaped area is located in close proximity to an existing building, is generally less than 0.1 hectares in size and is approved in writing by the *Designated Official* as being a landscaped area.
- o) The *injury* or *destruction* of a *tree* located within 2 metres of an existing building, driveway, sidewalk, parking lot, domestic well, sewage system or a *tree* certified by a building inspector or engineer as causing structural damage to a drain, utility, domestic well, sewage disposal system, load-bearing structure or roof structure.
- p) For any of the following purposes, provided that the *tree* was not planted as a *replacement tree* as a condition of a *permit* issued pursuant to this By-Law or as a condition of a *Planning Act* application, and the *destruction* or *injury* of the *tree* is in accordance with *good forestry practices*:
- i. The *injury* or *destruction* of a *tree* located in an *amenity area* that is within the *rear yard* and within 10 metres of a *residential dwelling*, provided the *injury* or *destruction* does not constitute *clear cutting* and the *tree* is not in a *wetland*, area of natural and scientific interest, or vegetation protection zone.
 - ii. The *injury* or *destruction* of a *tree* to construct an existing building, structure, or thing including any associated driveway, access, servicing and utilities for which a *building permit* has been issued provided that the *injury* or *destruction* does not constitute *clear cutting* and the *tree* is not in a *wetland*, area of natural and scientific interest, or vegetation protection zone.
 - iii. The *injury* or *destruction* of a *tree* through selective harvesting, subject to the following provisions:
 1. For properties less than 5 hectares in area that no more than 20 *trees* or 6 *bush cords* plus associated fuel wood from the tops of the aforementioned *trees* are *injured* or *destroyed* within a *calendar year*; or
 2. For properties 5 hectares or greater in area that no more than 40 *trees* or 12 *bush cords* plus associated fuel wood from the tops of the aforementioned *trees* are *injured* or *destroyed* within a *calendar year*; and
 3. The *injury* or *destruction* does not constitute *clear cutting*, or reduce the density of *trees* in a *woodland* or *woodlot* below the minimum number of *trees* per hectare required to be considered a *woodland* or *woodlot*.
 - iv. The *injury* or *destruction* of a *tree* where land has been previously cleared as part of an *agricultural operation* which has become overgrown with young early-successional tree species (e.g. sumac, hawthorn, apple, scots pine, poplar, white birch, ash) that are less than 10 years old and have a *dbh* of less than 10 cm, provided that the land is to be used as part of an *agricultural operation*.
 - v. The *injury* or *destruction* of a *tree* where *trees* are impeding the passage of agricultural equipment along an existing laneway or to construct a new laneway where the lands do not contain an existing laneway and there is no feasible location outside of *natural heritage features* and areas as verified in writing by the *Designated Official*, where the lands are used as part of an *agricultural operation*, provided that the *injury* or *destruction* does not constitute *clear cutting*.
- q) The *injury* or *destruction* of a *tree* growing in contaminated soil and, by its presence, preventing remediation of the contaminated soil, provided that proof of remediation efforts in the form of a remediation plan prepared by a qualified person defined in Ontario Regulation 153/04, or any successor thereof.
- r) The *injury* or *destruction* of a *tree* as part of a Normal Farm Practice that is recognized by the Normal Farm Practices Protection Board.

- s) The *injury or destruction of a tree* for activities that create or maintain infrastructure authorized under an environmental assessment process.
- t) The *injury or destruction of a tree* for flood or erosion control projects undertaken by the municipal, provincial or federal government including that of a conservation authority provided it has been demonstrated to be necessary in the public interest and after all alternatives have been considered.
- u) The injury or destruction of hazard trees as approved by the designate.

SECTION 5 GOOD FORESTRY PRACTICES PERMIT

- a) The *County* may issue a *permit* entitled a Good Forestry Practices Permit to allow the *injuring or destruction of trees in natural heritage features and areas* provided that:
 - i. The Good Forestry Practices Permit Application Form is completed in accordance with Section 5 b) of this By-Law;
 - ii. The *person* who is *injuring or destroying trees* does so in accordance with a *silvicultural prescription* prepared and approved by a *Qualified OPFA Member* in accordance with *good forestry practices*;
 - iii. A *permit* has been issued by the *Designated Official*; and
 - iv. The *person* who is *injuring or destroying trees* has complied with all the requirements of this By-Law.
- b) An *applicant* who intends to *injure or destroy trees* in accordance with *good forestry practices* shall complete and deliver, or send by email, to the *Designated Official*, a legible and signed Good Forestry Practices Permit Application Form, by:
 - i. Submitting a complete application form, in the form prescribed by the *Designated Official*, and signed by the *applicant* and *owner*;
 - ii. Submitting the prescribed fee as set out in the *County Fees and Charges By-Law*;
 - iii. Submitting a copy of the *silvicultural prescription* signed by and identifying the *person* who prepared and approved the prescription; and
 - iv. Clearly marking the *trees* to be *injured or destroyed* by a *Certified Tree Marker* with a vertical line of paint in a visible location approved by the *Designated Official*.
- c) Upon receipt of a complete application, the *Designated Official* shall, within a reasonable time, return to the mailing address or email address provided in the application form, a receipted copy of the *permit*.
- d) The *applicant* shall erect and display a notice sign at the entrance to the *natural heritage features and areas* in a location that is clear and visible to all persons, and the notice shall be in the form prescribed by the *Designated Official*. The public notice shall remain on display until either the application has been denied or the approved *injury or destruction of trees* has been completed.
- e) The *applicant* shall notify the *Designated Official*, by telephone or email, no more than seven *business days* and no less than 24 hours prior to the date upon which the *injury or destruction of trees* is to begin advising of the date upon which the *injury or destruction of trees* is to start.
- f) The *permit* is valid for a term of two years and is not transferable. If the activity for which the *permit* was issued has not taken place within the time frame of the *permit*, such *permit* shall lapse and shall be of no effect.
- g) Prior to the expiry of the *permit*, the *applicant* may request in writing, that the *permit* be renewed. Such renewals may, at the discretion of the *Designated Official* shall not be unreasonably denied. *Permits* may be renewed one time only for an additional period of not more than one year.

SECTION 6 CLEAR CUTTING PERMIT

- a) Where an *applicant* intends to *injure* or *destroy trees* that are not exempt under Section 4 of this By-Law or approved in accordance with a *permit* issued for a Good Forestry Practices Permit pursuant to Section 5, an application may be made for a Clear Cutting Permit provided the *injury* or *destruction* is not proposed in a *prohibited clear cutting area*, by applying for a *permit* to the *Designated Official* at least 45 days prior to the intended *destruction* or *injury of trees*, by:
- i. Submitting a complete Clear Cutting Permit Application Form, in the form prescribed by the *Designated Official*, signed by the *applicant* and *owner*;
 - ii. Submitting the prescribed fee as set out in the *County Fees and Charges By-Law*;
 - iii. Where the *tree* is a *common property tree*, a letter from the adjacent *property owner* agreeing to proposed *injuring* or *destruction*;
 - iv. Clearly marking the *trees* proposed to be *injured* or *destroyed* by a *Certified Tree Marker* in a visible location approved by the *Designated Official*;
 - v. Submitting an *Environmental Implementation Plan*;
 - vi. Submitting an *Environmental Impact Study* in addition to an *Environmental Implementation Plan* where specified by the *Designated Official*. An *Environmental Impact Study* is required where the *injury* or *destruction* of *trees* is proposed in or within 120 metres of known or potential *natural heritage features and areas*, unless otherwise directed by the *Designated Official*;
 - vii. Submitting a proposal for *replacement trees* on the lands subject to the *injury* or *destruction* of *trees*, on alternate lands approved by the *Designated Official*, and/or as a cash-in-lieu payment to the *Replacement Tree Planting Fund*. The aerial extent of the *replacement trees* required to be provided by the *applicant* shall be at a ratio equal to the greater of: two times the aerial extent of the *canopy of trees injured* or *destroyed*; a ratio approved through an *Environmental Impact Study*; or a ratio as established by *County* approved guidelines; and
 - viii. Any other information as deemed necessary by the *Designated Official*.
- b) Once the required information has been submitted in Section 6 a) to the satisfaction of the *Designated Official*, the *applicant* will be notified in writing that the application is deemed complete.
- c) Within fifteen *business days* of the application being deemed complete and at least fifteen *business days* prior to consideration of the application, the *Designated Official* shall send by regular mail or by personal delivery, written notice of the application to all assessed *owners* of each parcel of land that abuts the subject property from which *trees* are proposed to be *injured* or *destroyed*.
- d) At least fifteen *business days* prior to consideration of the application, the *applicant* shall erect and display a public notice sign at the entrance to the *natural heritage features and areas* in a location that is clear and visible to all persons, and the notice shall be in the form prescribed by the *Designated Official*. The public notice shall remain on display until either the application has been denied or the approved *injury* or *destruction* of *trees* has been completed.
- e) The *Designated Official* may confer with representatives of the *County*, Ministry of Natural Resources and Forestry, Ministry of Agriculture Food and Rural Affairs, relevant Conservation Authority, and any such other government agencies, or experts as are deemed necessary for the purpose of obtaining comments and determining whether a *permit* should be issued.
- f) In considering an application for a *permit* for a Clear Cutting Permit, the *Designated Official* may:
- i. Issue a *permit* for the *injury* or *destruction*;
 - ii. Issue a *permit* for the *injury* or *destruction* with modifications and/or conditions; or
 - iii. Refuse to issue a *permit* for the *injury* or *destruction* request.

- g) A *permit* for a Clear Cutting Permit will not be issued for the *injury* or *destruction of trees* unless the *applicant* has demonstrated to the satisfaction of the *Designated Official* that all of the following will be achieved, taking into consideration the proposed *injury* or *destruction of trees* in conjunction with the cumulative impacts of all previous permits, planning approvals, exemptions, violations, regulations and other removal of *natural heritage features and areas*:
- i. The intent, purpose, and provisions of the By-Law will be maintained;
 - ii. There is no reasonable alternative to the *destruction* or *injuring of trees*, and the *injury* and *destruction of trees* has been minimized and mitigated to the maximum extent possible;
 - iii. The amount of *tree destruction* or *injury* would not reduce the area of a *woodland* below the minimum area to be considered a significant *woodland* how-so-ever as described in the *County Official Plan*;
 - iv. The proposed *injury* or *destruction of trees* is not in a *prohibited clear cutting area*;
 - v. *Natural heritage features and areas*, ecological systems, hydrological functions, natural landforms or contours, erosion and flooding hazards will be adequately protected;
 - vi. The *injury* or *destruction* is in conformity with the vision, objectives and policies in the *County Official Plan*, *Provincial Policy Statement*, and *Growth Plan for the Greater Golden Horseshoe* with regard to climate change and green infrastructure and protecting, maintaining, restoring and improving *natural heritage features and areas*, natural heritage systems, and water resource systems;
 - vii. *Replacement trees* will be provided in accordance with the provisions of this By-Law;
 - viii. Authorization has been obtained pursuant to the *Endangered Species Act* for the *injury* or *destruction of a tree* that is a species or contains the habitat of endangered or threatened species;
 - ix. Where an application for an official plan or zoning amendment, consent, minor variance, plan of subdivision, plan of condominium, or site plan to the land on which the *tree* is located has been submitted that a final decision has been made pursuant to the *Planning Act*; and
 - x. A site alteration permit is not required pursuant to the *County of Brant Site Alteration By-Law*.
- h) The *Designated Official* may impose such terms and conditions to the *permit* that are reasonable and desirable for the appropriate development of the land on which the *permit* is granted that may include but not be limited to:
- i. Implementation and inspections regarding recommendations in the *Environmental Implementation Plan*;
 - ii. Written confirmation from a *Qualified OPFA Member* or another qualified professional approved by the *Designated Official*, confirming completion of the *Environmental Implementation Plan*;
 - iii. A written undertaking by the owner to plant and maintain *replacement trees* as approved as part of the *Environmental Implementation Plan*;
 - iv. Providing *replacement trees* at the ratio required by this By-Law on the lands subject to the Clear Cutting Permit, on alternate lands approved by the *County*, and/or as cash-in-lieu to be provided to the *Replacement Tree Planting Fund*;
 - v. Posting a letter of credit or alternative form of financial securities for a specified period of time to ensure implementation of the *Environmental Implementation Plan*;
 - vi. Entering into an agreement with the *County* and/or registering a restrictive covenant on title of the *property*;
 - vii. A requirement that any *injury* or *destruction of trees* for an *agricultural operation* must be put into agricultural use within a specified time period;
 - viii. The *injury* or *destruction of trees* be carried out in accordance with *good forestry practices* under the supervision of a *certified arborist* or *Qualified OPFA Member*; and/or
 - ix. Any other conditions as deemed necessary by the *Designated Official*.
- i) The *owner* or *applicant* shall be notified in writing with respect to the decision regarding the application for a *permit*.

- j) The decision of the *Designated Official* shall be final, unless the application for a *permit* is appealed to *Council* or a Committee of *Council* in accordance with Section 7.
- k) The *applicant* shall notify the *Designated Official*, by telephone or email, no more than seven *business days* and no less than 24 hours prior to the date upon which the *injury* or *destruction* of *trees* is to begin advising of the date upon which the *injury* or *destruction* of *trees* is to start.
- l) The *permit* is valid for a term of two years and is not transferable. If the activity for which the *permit* was issued has not taken place within the time frame of the *permit*, such *permit* shall lapse and shall be of no effect.
- m) Prior to the expiry of the *permit*, the *owner* may request in writing, that the *permit* be renewed. Such renewals may, at the discretion of the *Designated Official* shall not be unreasonably denied. *Permits* may be renewed one time only for an additional period of not more than one year.

SECTION 7 APPEAL

- a) The *applicant* for a *permit* under Section 6, may appeal to *Council* or a Committee of *Council*, and shall submit the prescribed fee in the *Fees and Charges By-Law*:
 - i. Within 14 days of a written refusal from the *Designated Official* to issue a *permit*;
 - ii. Within 45 days after the application is deemed complete, if the *Designated Official* fails to make a decision; or
 - iii. Within 14 days of a written decision by the *Designated Official*, if the *owner* or *applicant* objects to a term or condition of the *permit*.
- b) Where an *Order* has been served, the *owner* or *person* to whom the *Order* is being served may appeal the *Order* to *Council* or a Committee of *Council* within 30 days of being served the *Order*.
- c) An appeal made under this section does not act as a stay of any *Order* issued, which shall take effect on the day it is served or deemed served and shall continue to be effective until *Council* or a Committee of *Council* renders a decision indicating otherwise.
- d) Circulation of Notice of Hearing:
 - i. The *Clerk* shall circulate by personal service, regular mail or email not less than 14 days prior to the *Council* or Committee of *Council* meeting notice of a hearing.
 - ii. The notice of hearing shall be circulated to the *owner*, *applicant* and to all assessed *owners* of land that are within 120 metres of the *property* subject to the application.
 - iii. The Notice shall contain the following information:
 - 1. Name of the *owner*;
 - 2. The address of the lands subject to the hearing;
 - 3. Purpose of the application and appeal;
 - 4. The date or dates for which the application is sought;
 - 5. The date and time the matter will be heard by *Council* or a Committee of *Council*; and
 - 6. Contact information should an individual wish to address *Council* or a Committee of *Council* regarding the matter.
- e) In hearing the matter, *Council* or a Committee of *Council* shall give the *applicant* and any *person* an opportunity to be heard and may consider such other matters as it deems appropriate.
- f) Where a *permit* is appealed to *Council* or a Committee of *Council*, Sections 6 f) to m) shall apply with necessary modifications.
- g) The proceedings at the hearing held by the *Council* or a Committee of *Council* shall be in accordance with the provisions of the *Statutory Powers Procedures Act*, R.S.O. 1990, c.22.

- h) The decision of *Council* or a Committee of *Council* shall be final.

SECTION 8 ORDER TO DISCONTINUE ACTIVITY

- a) Pursuant to Section 444 of the *Municipal Act*, where an *Officer* is satisfied that a contravention of this By-Law has occurred, the *Officer* may issue 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 and discontinue the *injuring* or *destruction* of *trees*.
- b) The *Order* to Discontinue Activity shall set out:
- i. The name of the *owner* and the municipal address or the legal description of the land;
 - ii. Reasonable particulars of the contravention; and
 - iii. The date by which the *Order* must be in compliance with the By-Law.

SECTION 9 WORK ORDERS

- a) Pursuant to Section 445 of the *Municipal Act*, 2001, where the *County* is satisfied that a contravention of a By-Law of the municipality passed under this or any other Act has occurred, the *County* may make an *Order* requiring the *person* who contravened the By-Law or who caused or permitted the contravention or the *owner* or Occupant of the land on which the contravention occurred to do work to correct the contravention. An *Order* may require work to be done even though the facts which constitute the contravention of the By-Law were present before the By-Law making them a contravention came into force.
- b) The *Order* shall set out:
- i. Reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - ii. The work to be done and the date by which the work must be done.

SECTION 10 OFFENCE-CONTRAVENTION WORK ORDER

- a) No *person* shall contravene an *Order* issued pursuant to this bylaw.

SECTION 11 REMEDIAL ACTION

- a) Pursuant to Section 446 of the *Municipal Act*, 2001, where the *County* has the authority under this By-Law or under any Act to direct or require a *person* to do a matter or thing, in default of it being done by the *person* directed or required to do it, the *County* may enter upon land at any reasonable time, to perform the work at the *person's* expense and may recover the costs from the *person* directed or required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

SECTION 12 POWERS OF ENTRY

- a) Pursuant to Sections 435 and 436 of the *Municipal Act* 2001, R.S.O. 2001, c.25 any *Officer*, employee, or agent of the *County* may without notice, and upon producing the proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- i. This By-Law or any other By-Law passed by the municipality;
 - ii. Any direction or *Order* of the Municipality made under the *Municipal Act* 2001, R.S.O. 2001, c.25, or this By-Law;
 - iii. A condition of a license issued by the Municipality; or

- iv. An *Order* to discontinue or remedy a contravention of this By-Law for which a conviction has been entered by a court of competent jurisdiction.

SECTION 13 ENFORCEMENT AND INSPECTIONS

- a) An *Officer* may enforce the provisions of this By-Law.
- b) An *Officer* may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-Law is being complied with.
- c) For the purposes of conducting an inspection pursuant to this By-Law, an *Officer* may:
- i. Require the production for inspection of documents or things relevant to the inspection;
 - ii. Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii. Require information from any *person* concerning a matter related to the inspection; and
 - iv. Alone, or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- d) No *person* shall hinder or obstruct an *Officer* or attempt to hinder or obstruct an *Officer* who is performing a duty under this By-Law, including refusing to identify themselves when requested to do so by an *Officer*.
- e) Any *person* who provides false information on an application or to an *Officer* shall be deemed to have hindered or obstructed the *Officer* in the execution of their duties.

SECTION 14 PENALTY

- a) Every *person* who contravenes any provision of this By-Law, including failing to comply with an *Order* made under this By-Law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (the "Provincial Offences Act") and the *Municipal Act*, 2001.
- b) Any contravention of any provision of this By-Law is hereby designated as a continuing offence.
- c) As per Section 429(3) of the *Municipal Act*:
- i. A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000. However, a special fine may exceed \$100,000.
 - ii. In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph i., the total of all of the daily fines for the offence is not limited to \$100,000.
 - iii. In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph i., the total of all fines for each included offence is not limited to \$100,000.
- a) In addition to any other remedy or penalty imposed, for contravention of any provision of this By-Law, any *person*, and any director or officer of a corporation who is convicted of an offence under this By-Law is liable to a fine of not less than \$500 for each day or part of a day that the offence continues, and not more than \$10,000 for each day or part of a day that the offences continues, and the total of all daily fines is not limited to \$100,000.00.
- b) In addition to any other remedy or penalty imposed for contravention of any provision of this By-Law, the court in which the conviction has been entered or any court of competent jurisdiction

thereafter may make an *Order* prohibiting the continuation or repetition of the offence by the *person* convicted and requiring the *person* convicted to correct the contravention in the manner and within the period that the court considers appropriate.

- c) In addition to any other remedy or penalty imposed for contravention of any provision of this By-Law, the contravention may be restrained by application by the *County* or by any *County* taxpayer.
- d) The *County* may designate that the *injuring* or *destruction* of each *tree* is one offence in a series of multiple offences.
- e) If a *person* is convicted of an offence for contravening this By-Law or an *Order* issued under 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 to re- establish the *trees*.
- f) If a court makes an *Order* under Section 11 “Remedial Action” of this By-Law, the *County* relies on Section 446(3) of the *Municipal Act*, as amended, for the recovery of costs.

SECTION 15 GENERAL PROVISIONS

- a) The issuance of a *permit* does not relieve the *owner*, *applicant*, or *permit* holder from any responsibility to obtain all other approvals that may be required from any other level of government or authority having jurisdiction or any agencies thereof.
- b) 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.
- c) In this By-Law, unless the context otherwise requires words importing the singular shall include the plural.
- d) This By-Law shall be known as the “Good Forestry Practices By-Law”.
- e) By-Law 197-07 shall be repealed effective on the coming into force and effect of this By- Law.
- f) Despite subsection 15 e) of this section, By-Law 197-07 of the *County* shall continue to apply to proceedings in respect of offences that occurred before its repeal.

READ a first and second time, this__ day of_____, 2023.

READ a third time and finally passed in Council, this__ day of_____, 2023.

THE CORPORATION OF THE COUNTY OF BRANT

Mayor _____

Clerk _____