

## By-law Number 30-2020

### of The Regional Municipality of Durham

Being a by-law to prohibit or regulate the Destruction or Injury of Trees in Woodlands in the Regional Municipality of Durham.

Whereas the *Municipal Act*, Section 135(2), provides upper tier municipalities with the authority to prohibit or regulate the Destruction or Injury of Trees in Woodlands.

Whereas the Council of the Regional Municipality of Durham deems it desirable to enact a Regional Woodland Conservation and Management By-law for the purposes of:

- conserving and improving the Woodlands in the Region through Good Forestry Practices;
- promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
- helping to achieve the objectives of the Durham Regional Official Plan to ensure the long-term health and productivity of Woodlands;
- promoting the conservation of biological diversity, including rare natural features and native species;
- managing the spread of invasive species;
- managing the Destruction or Injury of Trees in Woodlands;
- regulating and controlling the removal and protection of Trees in Woodlands;
- minimizing and guarding against conditions which may result in Injury;
- protecting, promoting and enhancing the aesthetic value of Woodlands;
- contributing to ecosystem health, human health, recreation, enjoyment and quality of life through the maintenance of Woodland cover; and
- contributing to the mitigation of and adaptation to climate change.

Now therefore, the Council of the Regional Municipality of Durham hereby enacts as follows:

#### 1. Definitions

##### 1.1 In this By-law:

- (a) "Agricultural Operation" means the commercial production of crops or raising of livestock, and includes cultivation, seeding, and harvesting;
- (b) "Area Municipality" means any one of the area municipalities within the Regional Municipality of Durham;
- (c) "Areas of Natural and Scientific Interest (ANSI)" means areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study or education, as defined by the Provincial Policy Statement 2020, as amended;
- (d) "Bona Fide Farmer" means a Person who has a current and valid farm registration number under the Farm Registration and *Farm Organizations Funding Act*, 1993, S.O. 1993, c.21, as amended;
- (e) "Building Permit" means a building permit issued by an Area Municipality under the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- (f) "Business Day" means any day falling on or between Monday and Friday of each week but does not include a statutory holiday;

- (g) "Certified Tree Marker" means a Person currently certified to mark Trees through the Ontario Certified Tree Marker Program;
- (h) "Clear Cut/Clear Cutting" means the Destruction of all Trees within all or a portion of a Woodland, where the area to be cut exceeds 0.1 hectare.
- (i) "Conservation Authority" means any one of the Conservation Authorities within the jurisdiction of Regional Municipality of Durham;
- (j) "Commenting Agency" means any Conservation Authority, provincial Ministry, area municipality, utility, or agency as determined by the Region within its jurisdiction;
- (k) "Commissioner" means the Commissioner of Planning and Economic Development of the Regional Municipality of Durham or designate;
- (l) "Cumulative Removal" means the incremental or continuous removal of Trees in a Woodland since 2012, with or without a Permit;
- (m) "DBH" or "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;
- (n) "Destruction" means the clearing, and/or removal of Trees in all or part of a Woodland;
- (o) "Environmental Report" means an Environmental Impact Study, or a scoped Environmental Impact Study under the Durham Regional Official Plan, a natural heritage evaluation under the Oak Ridges Moraine Conservation Plan, or other report required by the Region, Area Municipality, Conservation Authority, or consulting agency that analyzes the natural environment and makes recommendations regarding mitigation of impacts from Tree removal;
- (p) "Farm Related Use" means the use of Trees by a Bona Fide Farmer for farm related activity such as the heating of an accessory barn, post and rail fencing, farm construction on-site, but does not include Clear Cutting;
- (q) "Fence Row" or "Hedge Row" means a linear strip of Trees less than 1 hectare in size that defines a laneway or boundary between fields or properties;
- (r) "Forest Management Prescription" means the site specific operational plan prepared and signed by, or under the direction of and signed by, a Qualified OPFA Member that describes existing Woodland conditions, Woodland management objectives and the proposed methods for harvesting a Woodland;
- (s) "Good Forestry Practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the Woodland and environmental conditions under which they are being applied and that minimize detriments to Woodland values, including: significant ecosystems; important fish and wildlife habitat; soil and water quality and quantity; forest productivity and health and the aesthetic and recreational opportunities of the landscape;
- (t) "Hedge Row" means a linear strip of Trees less than 1 hectare in size that defines a laneway or boundary between fields or properties;
- (u) "Injury" means lasting damage to a Tree which may include, but is not limited to:
  - i. broken branches in the crown of any Tree;
  - ii. the breaking off or splitting of the stem of any Tree;

- iii. the noticeable leaning of any Tree;
  - iv. the splitting of, removal of, or damage to the bark of any Tree; or
  - v. damage to the root structure of any Tree.
- (v) “Key Natural Heritage Feature” or “Key Hydrologic Feature” means lands containing sensitive and/or significant natural features and functions as defined by the Greenbelt Plan 2017, as amended, including but not limited to the following:
- i. Wetlands;
  - ii. Significant Woodlands; or
  - iii. Significant wildlife habitat (including habitat of special concern species)
- (w) "Multiple Offence" means an offence in respect to two or more acts or omissions each of which separately constitutes an offence and is a contravention of this By-law;
- (x) “Normal Farm Practices” means farm practices as defined by the Greenbelt Plan 2017, as amended. Normal Farm Practices also includes part of an Agricultural Operation, which retains existing Woodland cover, and includes activities such as:
- i. the removal of Trees for Personal Use;
  - ii. Farm-Related Uses such as fence posts and rails; or
  - iii. the removal of Fence Rows or Hedge Rows where required.

Normal Farm Practices does not include Clear Cutting.

- (y) "Officer" means an individual appointed by Regional Council for the administration and enforcement of this By-law;
- (z) "Owner" means any Person or Persons who is the registered owner on title to the land;
- (aa) "Permit" means the written authorization from the Officer or the Commissioner issued under Section 5 or 6 of this By-law;
- (bb) "Person" or "Persons" means any individual or individuals, or any corporation or corporations, their respective heirs, executors, administrators or other duly appointed representatives;
- (cc) “Personal Use” means the use of Trees by a Bona Fide Farmer for home heating or other home related uses, but does not include Clear Cutting; and does not include a sale, exchange, or other disposition of Trees;
- (dd) “Qualified OPFA Member” means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association (OPFA) under the *Professional Foresters Act*, S.O. 2000, c. 18, as amended, 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;
- (ee) “Qualified Arborist” means an expert in the care and maintenance of trees and includes an arborist certified by the Ontario Ministry of Training, Colleges and Universities or the International Society of Arboriculture, or a consulting arborist registered with the American Society of Consulting Arborists;
- (ff) "Region" means the Regional Municipality of Durham;
- (gg) “Regional Council” means the Council of the Regional Municipality of Durham;

- (hh) "Rural Settlement Area" means an area as defined and identified within the Durham Regional Official Plan and/or the Official Plan of an Area Municipality;
- (ii) "Sensitive Natural Area" means lands within a Woodland that includes any
  - i. land that is designated or identified as a Key Natural Heritage Feature or a Key Hydrological Feature in either the Oak Ridges Moraine Conservation Plan, Greenbelt Plan, and Growth Plan for the Greater Golden Horseshoe, Durham Regional Official Plan, or an area municipal zoning by-law.
- (jj) "Significant" means lands that are classified as per the Greenbelt Plan 2017, as amended
- (kk) "Tree" or "Trees" means any living species of woody perennial plant in a Woodland, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity;
- (ll) "Urban Area Boundary" means an area as defined and identified within the Durham Regional Official Plan and/or the Official Plan of an Area Municipality;
- (mm) "Wetland" or "Wetlands" means an area of land that is seasonally or permanently covered by shallow water, as well as land 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. Periodically soaked or wet land being used for agricultural purposes which no longer exhibit wetland characteristics are not considered to be a wetland for the purposes of this definition, as defined by the *Greenbelt Plan 2017*, as amended. Wetlands are further identified, by the Ministry of Natural Resources and Forestry or by any other person, according to evaluation procedures established by the Ministry of Natural Resources and Forestry, as amended from time to time;
- (nn) "Woodland" or "Woodlands" means an area of land one hectare in size or greater on one or more properties with a minimum density of:
  - i. 1,000 Trees, of any size, per hectare;
  - ii. 750 Trees, measuring over five (5) centimetres at DBH, per hectare;
  - iii. 500 Trees, measuring over twelve (12) centimetres, at DBH, per hectare; or
  - iv. 250 Trees, measuring over twenty (20) centimetres, at DBH, per hectare.

For the purposes of this By-law, "Woodland" or "Woodlands" does not include:

- v. a cultivated fruit or nut orchard;
- vi. a plantation established for the purpose of producing Christmas Trees and which is being actively managed and harvested for the purposes for which it was planted, except that this does not include plantations that have ceased being managed or harvested for their intended purpose for a period of 15 years or more;
- vii. a bona fide Tree nursery that is being actively managed and harvested for the purposes for which it was planted;

- viii. a Fence Row or Hedge Row; or
- ix. land previously cleared and used for agricultural purposes, which has become overgrown with young and early successional Tree species common on disturbed fields (e.g. Sumac, Hawthorn, Apple, Scots Pine, Poplar, White Birch, Ash) and which is intended to be used again as part of an Agricultural Operation.

## **2. Application of the By-law**

- 2.1 This By-law shall apply to all Woodlands and any Sensitive Natural Areas within Woodlands in the Region. The By-law applies to all lands within and outside the Urban Area Boundary.
- 2.2 Applicants are encouraged to consult with the Officer prior to the submission of any Permit application.

## **3. General Prohibitions**

- 3.1 No Person shall through their own action or through any other Person, cause Injury or Destruction to any Tree located in a Woodland, unless:
  - (a) Such Injury or Destruction is exempted under Section 4 of this By-law; and
  - (b) Such Person is in possession of a valid Good Forest Practice Permit issued under Section 5 of this By-law, has had their Permit requirement waived by the Officer under Section 5.1, or a Clear Cutting Permit issued under Section 6 of this By-law, and pursuant to any applicable terms or conditions.
- 3.2 No Person shall through their own action or through any other Person:
  - (a) Contravene any term or condition of a Permit issued under this By-law or cause or permit the contravention of any term or condition of a Permit issued under this By-law;
  - (b) Fail to comply with an Order issued under Section 7 of this By-law; or
  - (c) Remove or deface any Order that has been posted pursuant to Section 7 of this By-law.

## **4. Exemptions**

- 4.1 This By-law, shall not apply to:
  - (a) Any activity or matter undertaken by an Area Municipality or the Region;
  - (b) Any activity undertaken by a Conservation Authority on land owned or managed by such Authority;
  - (c) Any activity or matter undertaken under a licence issued under the *Crown Forest Sustainability Act*, 1994, S.O. 1994, c.25, as amended;
  - (d) Any activity undertaken by a Person licensed under the *Surveyors Act*, R.S.O. 1990, c. s.29, as amended, to engage in the practice of cadastral surveying or his or her agent, while making a survey;
  - (e) Any activity imposed after December 31, 2002:
    - i. as part of a Tree Preservation Plan required as a condition of approval of a plan of subdivision that received draft approval under Section 51 of the *Planning Act*, R.S.O. 1990, c. P. 13.;
    - ii. as part of a Tree Preservation Plan required as a condition of a consent approved under Section 53 of the *Planning Act*, R.S.O., 1990, c.P.13;

- iii. as part of a Tree Preservation Plan required as a condition of a Minor Variance approved under Section 45 of the *Planning Act*, R.S.O, 1990, c.P.13;
  - iv. as a requirement of a Tree Preservation Plan approved and included in a site plan agreement under Section 41 of the *Planning Act*, R.S.O, 1990, c.P.13, or a development agreement between an Owner and the applicable Area Municipality or the Region; or
  - v. as a condition of a Community Planning Permit authorized by regulation made under Section 70.2 of the *Planning Act*, R.S.O, 1990, c.P.13, or as a requirement of an agreement entered into under such regulation.
- (f) Any activity by a transmitter or distributor, for the purpose of constructing and maintaining a transmission system or a distribution system defined in the *Electricity Act*, S.O. 1998, c.15, as amended;
  - (g) Any activity by a gas line company, for the purposes of constructing and maintaining such infrastructure defined in the *Canada Oil and Gas Operations Act*, R.S.C. 1985, c.0-7;
  - (h) Any activity 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*, R.S.O. 1990, c. A.8, as amended;
  - (i) Any activity that is required in order to erect any building, structure or thing, including yard areas, in respect of which a Building Permit has been issued, provided that no Tree is removed that is located more than 15 metres from the outer edge of a building, structure or thing and that only those Trees necessary to accommodate the building, structure or thing, including yard areas, are removed;
  - (j) Any activity that is required in order to install and provide utilities to the construction or use of a building, structure or thing, including the installation of a primary septic bed, in respect of which a Building Permit has been issued;
  - (k) Any activity that is required in order to install, provide or maintain a single lane driveway for vehicular access to a building, structure or thing in respect of which a Building Permit has been issued;
  - (l) Any activity required for the purpose of a licensed waste disposal site that has been approved, where applicable, under the *Environmental Protection Act*, R.S.O. 1990, c.E.19, as amended; the *Ontario Water Resources Act*, R.S.O. 1990, c.O.40, as amended; the *Environmental Assessment Act*, R.S.O. 1990, c.E.18, as amended; and the *Planning Act*, R.S.O. 1990, c.P.13;
  - (m) Any forestry management activity which, in the opinion of a Qualified OPFA member or a Qualified Arborist:
    - i. results in the removal of one or more Trees which are dead; or are significantly diseased; or
    - ii. results in the removal of one or more Trees which pose a hazard to human safety or property.
  - (n) Any Normal Farm Practice as part of an Agricultural Operation.

## 5. Good Forestry Practice Permits

- 5.1 5.1 Any Person who intends to Cause Injury or Destruction to one or more Trees in a Woodland, in a manner that does not constitute Cumulative Removal or Clear Cutting, shall first complete and submit to the Region, an application for a Good Forestry Practice Permit. Such an application will be

circulated to the Area Municipality, Conservation Authority and/or Commenting Agencies for comment and/or information purposes at the Region's discretion. The Officer may, at their sole discretion, waive the requirement for a Good Forestry Practice Permit where the Tree removal being proposed involves a small number of Trees and the impact of the removal is deemed to be negligible or imperceptible to the integrity of the overall Woodland. In consultation with the Conservation Authority having jurisdiction, the requirement for a Good Forestry Practice Permit may be waived in circumstances where Trees are entirely within a regulated area containing a wetland subject to the Conservation Authorities Act.

5.2 Each Good Forestry Practice Permit application must be accompanied by the following:

- (a) a copy of the completed application form signed by the Owner;
- (b) the required fee;
- (c) such additional information as the Officer may require;
- (d) for applications which propose to cause Injury or Destruction to more than 50 Trees, a Forest Management Prescription is required;
- (e) for applications which propose to cause Injury or Destruction to 50 Trees or less, a plan showing the location of the Trees to be affected, together with a description of how Good Forestry Practices are to be followed should the application be approved. A Forest Management Prescription may be required at the discretion of the Officer; and
- (f) unless the requirement for a Good Forestry Practise Permit has been waived pursuant to Section 5.1, and if the Woodland to which the application applies is located in a Sensitive Natural Area, a Forest Management Prescription shall be submitted, regardless of the number of Trees to be injured, destroyed or removed.

5.3 A Forest Management Prescription, at a minimum, shall include:

- (a) a detailed map of the property, the Woodland and the area of proposed Tree removal (Tree marking must be completed by a Certified Tree Marker);
- (b) a description of the existing forest conditions;
- (c) the short and long term forest management objectives for the area;
- (d) prescribed methods for harvesting the existing forest stand;
- (e) next recommended silvicultural intervention to achieve long-term objectives;
- (f) identification of any Sensitive Natural Area and the environmental protection measures necessary to protect the Sensitive Natural Area feature; and
- (g) compliance with applicable legislation including but not limited to the *Ontario Endangered Species Act 2007*, the *Migratory Birds Convention Act 1994*, and the *Species at Risk Act 2002*.

5.4 Upon review and consideration of an application and having received a clearance to proceed from the Conservation Authority having jurisdiction in circumstances where Trees located within a Woodland form part of a Wetland subject to the Conservation Authorities Act, an Officer may issue a Good Forestry Practice Permit to permit the Injury, Destruction or removal of Trees in a Woodland. The Permit will be circulated to any other such Person or agency as the Region and/or Officer deems appropriate.

5.5 The Officer may impose conditions on the Permit that relate to, but are not restricted to:

- (a) the location, number, size and type of Trees that are proposed to be the subject of Injury or Destruction;
- (b) the manner and timeframe within which the affected Trees are proposed to be the subject of Injury or Destruction;
- (c) the marking, with paint or other material, of the Trees that are proposed to be the subject of Injury or Destruction;
- (d) the qualifications of the Persons authorized to cause Injury or Destruction in accordance with the Permit;
- (e) the measures to be implemented to mitigate the direct and indirect effects of Injury or Destruction of Trees on a Woodland, Sensitive Natural Area, or any other sensitive species, habitat, and/or environmental features;
- (f) a requirement that the Owner notify the Region and the Area Municipality at least two Business Days prior to Tree removal being scheduled to commence; and
- (g) such additional information as may be required by the Commissioner or Officer in respect to such Permit.

5.6 Prior to any Injury or Destruction of any Tree pursuant to the Permit, a copy of the Permit shall be posted and displayed in a prominent location as identified on a map filed with the Permit application, to the satisfaction of the Officer. The posted Permit is to remain on display until the work for which the Permit was issued has been completed.

5.7 A Good Forestry Practice Permit shall be in effect for a period of two years from the date of approval 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.

5.8 Prior to the expiry of the Permit, the Owner may request in writing that the Permit be renewed. Such requests shall not be unreasonably denied. Permits may be extended one time only for an additional period of not more than one year.

5.9 Where a Good Forestry Practice Permit application has been denied, the Officer will notify the applicant in writing by registered mail within 10 Business Days of the decision and shall provide reasons for the denial.

## **6. Clear Cutting Permits**

6.1 Clear Cutting is prohibited except in accordance with the following:

- (a) Every Person who intends to Clear Cut shall first complete and submit to the Region, an application for a Clear Cutting Permit;
- (b) Clear Cutting activity shall not commence prior to the Person receiving written approval from the Commissioner;
- (c) Approval shall only be granted following circulation to the applicable Area Municipality, Conservation Authority, and any Commenting Agency for comment and in circumstances where the Trees form part of a wetland subject to the *Conservation Authorities Act*, approval shall only be granted following confirmation that a clearance to proceed has been provided by the Conservation Authority having jurisdiction;
- (d) Only a Bona Fide Farmer that owns the subject lands may be permitted to Clear Cut within an Urban Area Boundary or within a Rural Settlement Area;
- (e) Any application for Clear Cutting of 1 hectare or less is subject to the approval and any condition(s) of the Commissioner; and

- (f) Any application for Clear Cutting greater than 1 hectare is subject to the approval of Regional Council.
- 6.2 A Clear Cutting Permit application shall not be approved unless accompanied by the following:
- (a) a copy of the completed application form signed by the Owner or the applicant as authorized by the Owner;
  - (b) the required fee;
  - (c) a plan or drawing having sufficient detail to clearly show the number, location, species, and approximate age of the Trees to be Clear Cut;
  - (d) the rationale for the proposed Clear Cutting;
  - (e) a map depicting the proposed location where the Permit will be posted;
  - (f) such additional information as the Commissioner may require;
  - (g) an Environmental Report to assess whether any portion of the Woodland to which the application applies contains a Sensitive Natural Area and any other sensitive species, habitat, and/or environmental features; and
  - (h) A Conservation Authority permit for applications within areas forming part of a wetland subject to the Conservation Authorities Act.
- 6.3 At the discretion of the Commissioner, a public meeting may be required for an application less than 1 hectare in area, if Cumulative Removal and the area of Clear Cutting exceeds 1 hectare.
- 6.4 Any required Environmental Report shall be prepared by a qualified natural heritage expert/qualified person which, at a minimum, shall include:
- (a) a baseline inventory of environmental features and functions;
  - (b) the location, area and approximate number of Trees proposed to be Clear Cut;
  - (c) an assessment of the potential impacts of the proposed Clear Cutting on the long-term health and ecological integrity of the Sensitive Natural Area;
  - (d) an examination of historical records to identify whether Tree removal had occurred since 2012, for the purposes of determining Cumulative Removal;
  - (e) an evaluation of the potential impact of the proposed Clear Cutting within the context of Provincial, Regional, and Area Municipal policy;
  - (f) recommendations that support the long term protection of environmental features and functions as may be necessary to protect the subject Sensitive Natural Area;
  - (g) a description of the Woodland proposed to be preserved;
  - (h) any recommended mitigation measures to address impacts of the proposed Clear Cutting on environmental features and functions; and
  - (i) compliance with applicable legislation including but not limited to the *Ontario Endangered Species Act 2007*, the *Migratory Birds Convention Act 1994*, and the *Species at Risk Act 2002*.
- 6.5 The Commissioner may impose any such condition on a Clear Cutting Permit as the Commissioner deems appropriate, and may include:
- (a) the location, area of land and number of Trees permitted to be Clear Cut;

- (b) the manner and timeframe within which the Trees are permitted to be Clear Cut;
- (c) the marking with paint or other material, the location of the Trees permitted to be Clear Cut;
- (d) the qualifications of the Persons authorized to Clear Cut the Trees;
- (e) any measure to be implemented to mitigate the direct and indirect effects of the Clear Cutting on a Woodland, Sensitive Natural Area; or and any other sensitive species, habitat, and/or environmental features;
- (f) the re-planting of Trees;
- (g) a requirement that any Clear Cutting for farm purposes must be put into agricultural use within a specified time period (e.g. 3 years);
- (h) a requirement that the Owner notify the Region and Area Municipality within two Business Days of Tree removal being scheduled to commence;
- (i) a requirement to provide any additional information as may be required before the Permit becomes effective;
- (j) a requirement to implement any recommendations included within an Environmental Report, to the satisfaction of the Region;
- (k) a requirement to implement any condition of an Area Municipality or Commenting Agency as may be applicable;
- (l) a requirement to post a copy of the Permit in a prominent location as identified on a map as part of the Permit application, to the satisfaction of the Officer. The posted Permit is to remain on display until the work for which the Permit was issued has been completed; and
- (m) A time limitation period of up to one year which is not transferable. If any Clear Cutting for which the Permit was issued has not taken place within the one-year period, the Permit shall lapse and shall be of no effect. Notwithstanding the above, and only prior to the expiry of the Permit, the Person may request in writing that the Permit be renewed for a period of up to one additional year from the date of the original Permit. Permits may only be renewed one time.

6.6 Where a Clear Cutting Permit application has been denied, the Commissioner shall notify the applicant in writing by registered mail within 10 Business Days of the decision, and shall provide reasons for the denial.

6.7 Any application that proposes to Clear Cut an area greater than 1 hectare in size shall be subject to the approval of Regional Council, in accordance with the following:

- (a) Regional Council shall have regard to any delegation heard at a public meeting;
- (b) Within 30 days of receipt of such application, the Commissioner or his designate shall send by regular mail or by personal delivery, written notice of the public meeting to the applicant, to all assessed Owners of each parcel of land that abuts the subject property from which Trees are proposed to be Clear Cut, and to any other such Person or agency as the Commissioner deems appropriate;
- (c) At least 20 days prior to the public meeting, the applicant shall erect a public notice sign at a location and on the form approved by the Commissioner;
- (d) Upon review and consideration of the application, and at least 20 days prior to the public meeting, the Commissioner shall prepare a report which shall make a recommendation on the application, the reasons for

the recommendation, and any conditions that may be recommended to be applied, if any;

- (e) At the public meeting, the applicant and any interested Person shall be afforded an opportunity to address the Committee. Any public meeting shall be subject to the Region's Procedural By-law; and
- (f) Where Council directs the Commissioner not to issue a Clear Cutting Permit, the applicant will be notified in writing by registered mail within 10 Business Days following the Council meeting, and such notice shall provide reasons for the denial.

6.8 The Clear Cutting Permit will be circulated to any other such Person or agency as the Region deems appropriate.

## **7. Enforcement**

7.1 An Officer, or any person authorized by an Officer, may at all reasonable times enter upon and inspect any land and Woodland for the purposes of enforcing this By-law, determining compliance with this By-law, determining compliance with terms and conditions of a Permit issued under this By-law, or laying charges under this By-law.

7.2 Where an Officer has determined that a contravention of this By-law has occurred, the Officer may make an Order requiring any Person who contravened this By-law or who caused or permitted the injuring or destruction of Trees in contravention of this By-law, to stop the injuring or destruction of Trees. The Order shall set out:

- (a) the municipal address or the legal description of the land;
- (b) reasonable particulars of the contravention; and
- (c) the period within which there must be compliance with the Order.

7.3 Where an Officer has determined that a contravention of this By-law has occurred, the Officer may make an Order requiring the Person who contravened this By-law or who caused or permitted the Injury or Destruction of Trees in contravention of this By-law, to remedy such contraventions, which may include one or more measures to rehabilitate the land or Woodland, to plant or replant Trees or other measures to the satisfaction of the Commissioner. The Order shall set out:

- (a) the municipal address or the legal description of the land;
- (b) the particulars of the contravention;
- (c) the work to be done and the period within which there must be compliance with the Order; and
- (d) Should the work not be done in compliance with the Order, the Region may have the work done at the expense of the Owner.

7.4 No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person including an Officer or Commissioner who is exercising a power or performing a duty under this By-law.

## **8. Penalty**

8.1 Any person who contravenes any provision of this By-law, or an Order issued under Section 7, is guilty of an offence and is liable for each occurrence of the contravention, infraction or violation:

- (a) on a first conviction, to a maximum fine of \$10,000 or \$1,000 per Tree, whichever is greater; and
- (b) on any subsequent convictions, to a maximum fine of \$25,000 or \$2,500 per Tree, whichever is greater.

- 8.2 Any corporation who contravenes any provision of this By-law, or an Order issued under Section 7, is guilty of an offence and is liable for each occurrence of the contravention, infraction or violation:
- (a) on a first conviction, to a maximum fine of \$50,000 or \$5,000 per Tree, whichever is greater; and
  - (b) on any subsequent convictions, to a maximum fine of \$100,000 or \$10,000 per Tree, whichever is greater.
- 8.3 If a person or corporation is convicted of an offence for contravening this By-law or an Order issued under Section 7, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, in addition to any monetary penalty may order the person or corporation to rehabilitate the land, to plant or replant comparable species and size Trees in such a manner and within such period as the court considers appropriate and to maintain the replanted Trees as appropriate, including any Silvicultural treatment necessary to re-establish the Trees.
- 8.4 Part 1 *Provincial Offences Act* offences and set fines may apply to specific contraventions of the By-law as indicated in "Schedule B" to the By-law.

## **9. Administration**

- 9.1 Schedule "A" and "B" shall form part of this By-law.
- 9.2 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- 9.3 The short title of this By-law is the "Regional Woodland By-law".
- 9.4 An Owner of a property shall be presumed to have injured or destroyed or caused or permitted to be injured or destroyed a Tree growing in a Woodland, or contravened or cause or permitted the contravention of the terms or conditions of a Permit issued under this By-law, as the case may be, which presumption may be rebutted by evidence to the contrary on a balance on probabilities.
- 9.5 By-law 31-2012 of the Regional Municipality of Durham and any amendments thereto, are hereby repealed.
- 9.6 Despite subsection 9.5, By-law 31-2012 shall continue to apply to:
- (a) proceedings in respect of offences that occurred before its repeal; and,
  - (b) Permits in compliance with By-law 31-2012, which were made prior to its repeal.

This By-law Read and Passed on the 29<sup>th</sup> day of July, 2020.

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J. Henry, Regional Chair and CEO

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R. Walton, Regional Clerk

**SCHEDULE A**

Fees

Application for Good Forestry Practices Permit	\$50.00
Application for a Clear Cutting Permit (Between 0.1 Ha and 1 Ha)	\$500.00
Application for Clear Cutting Permit (Greater than 1Ha)	\$1000.00 Excluding Advertising Costs of a Public Meeting

Permit fees for Normal Farm Practices are waived for Bona Fide Farmers.

## SCHEDULE B

### 10. Set Fine Schedule

**The Regional Municipality of Durham  
Part I Provincial Offences Act  
By-law 30-2020: Regional Woodland Conservation and Management By-law**

<b>Item</b>	<b>Column 1 Short Form Wording</b>	<b>Column 2 Provision Creating or defining offence</b>	<b>Column 3 Set Fine</b>
<b>1.</b>	Injure or destroy a tree without a permit	3.1	\$350.00
<b>2.</b>	Cause or permit the contravention of the terms or conditions of a Permit	3.2(a)	\$350.00
<b>3.</b>	Fail to comply with an Order	3.2(b)	\$500.00
<b>4.</b>	Remove or deface an Order	3.2(c)	\$350.00
<b>5.</b>	Hinder or obstruct or attempt to hinder or obstruct a by-law enforcement officer	7.4	\$500.00

NOTE: THE PENALTY PROVISION FOR THE OFFENCES INDICATED ABOVE IS Sections 8.1 and 8.2 of By-law 30-2020, a certified copy of which has been filed, and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P. 33.