

**The Corporation of the Municipality of Powassan Woodlands
Conservation By-Law no. 2005-35**

A By-law to prohibit or regulate the destruction or injuring of trees in woodlands

WHEREAS Council desires to enact a By-law for the purposes of promoting good forestry practices that sustain healthy woodlands, minimizing the destruction and injuring of trees, contributing to human health and quality of life through the maintenance of healthy urban and rural woodland cover, and protecting the unique diversity and character of the Municipality's tree resources because of their cultural, economic, and ecological value;

AND WHEREAS the Corporation of the Municipality of Powassan, pursuant to sections 2, 8 through 11, and 135 through 138 of the Municipal Act, R.S.O. 2001, chapter 25, as amended, may enact by-laws for purposes which include fostering the current and future economic, social and environmental well being of the municipality, and specifically for regulating or prohibiting the destruction or injuring of trees;

AND WHEREAS Council has considered good forestry practice, which practice may require the cutting or destruction of trees, and has incorporated recognition of such practice in this by-law;

AND WHEREAS every landowner or person acting on behalf of the landowner intending to commercially cut or destroy trees on woodlands within the Municipality of Powassan shall notify the Municipality prior to carrying out any such intentions;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF POWASSAN HEREBY ENACTS AS FOLLOWS:

1. Definitions

For the purposes of this By-law:

- (1) **"Building Permit"** means a Building Permit issued under the *Building Code Act*, 1992, S.O. 1992, c23, as amended;
- (2) **"Business day"** means any day falling on or between Monday and Friday of each week but does not include statutory holidays.
- (3) **"Circumference"** means the circumference measurement of the stem of a tree made outside the bark of the tree.
- (4) **"Diameter"** means the diameter measurement of the stem of a tree measured outside the bark of the tree;
- (5) **"Council"** means the Council of the Corporation of the Municipality Powassan.

- (6) **“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;
- (7) **“By-law Enforcement Officer and/or Officer”** means an individual appointed by Council for the administration and enforcement of this By-law.
- (8) **“Landowner”** means a person having any right, title, interest or equity in land.
- (9) **“Own Use”** means use that does not include a sale, exchange or other disposition of trees destroyed or injured.
- (10) **“Point of Measurement”** means:
- (i) Where more than one tree stem grows from a single tree stump, the point on the tree trunk where the tree stems separate provided that such point of separation is closer than 1.37 metres (4.5 feet) to the highest point of the ground in an undisturbed state at the base of the tree;
 - (ii) In all other cases, that point of the tree trunk measured above the highest point of the ground in an undisturbed state at the base of the tree;
- (11) **“Registered Professional Forester”** as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c.18.
- (12) **“Certified Tree Marker”** means an individual who has full certification in good standing for marking under the Ontario Ministry of Natural Resources Program and has demonstrated experience to mark according to Good Forestry Practice with the Municipality Powassan
- (13) **“Sensitive Natural Areas”** includes the following:
- (iii) Earth Science Areas and Life Science Areas identified within the Municipality and spanning into adjacent municipalities:
 - (a) Sausage Lake Forest Conservation Reserve;
 - (b) South River Conservation Reserve;
 - (c) Nipissing Ridge Beach Scarps and Shoreline; and
 - (d) Graham Hill Earth Science Area
 - (iv) Any portion of woodlands located within a wetland features/flood plain, lake, river, stream and creeks as identified in Schedule ‘B’ “Environmental

Features" Map, found in By-law No. 2003-37 (Official Plan)

- (14) **"Woodlands"** means land at least one hectare and more in area with at least:
- (v) 1000 trees, of any size, per hectare;
 - (vi) 750 trees, measuring over five (5) centimetres in diameter at DBH, per hectare;
 - (vii) 500 trees, measuring over twelve (12) centimetres, in diameter at DBH, per hectare; or
 - (viii) 250 trees, measuring over twenty (20) centimetres, in diameter at DBH, per hectare; but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.
- (15) **"Tree"** means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity.

2. APPLICATION OF THE BY-LAW

- (1) This by-law shall apply to all lands within the Municipality of Powassan, subject to any general or specific exemptions outlined in section 7 and 8 of this by-law.

3. REGULATIONS – CUTTING

- (1) No person through their own actions or through any other person shall cut or destroy a tree located in an identified Sensitive Natural Area;
- (2) Cutting of trees located within a wetland features/flood plain, as identified on the Environmental Features Map attached hereto as Schedule "C" (which Schedule is derived from the Municipality's Official Plan) shall comply with the following requirements:
- (i) no skidding within 5 metres of treed edge
 - (ii) no debris of any description is to be deposited in any water-bodies
 - (iii) no logging roads shall be established.
- (3) Cutting of trees located adjacent to lakes, rivers, streams and creeks shall include the following slope dependent protection as measured from the treed edge:

0-8 degree slope = 15m reserve

9-17 degree slope = 25m reserve

18-24 degree slope = 35m reserve

>24 degree slope = 45m reserve

For the purpose of this section “reserve” means no cutting or destroying of trees within the prescribed slope dependent area

- (4) Any portion of woodlands located adjacent to public roadways shall be left in a natural state for a minimum distance of 60 metres measured from the edge of the publically owned lands.

4. REGULATIONS – TREE SIZE

- (1) Except as hereinafter provided no person shall destroy or shall allow or cause or permit the destruction of by cutting, burning, bulldozing or other means, any living tree listed in this section that has not attained the circumference or diameter measurement specified herein at the point of measurement:

SPECIES A	
ASH, WHITE MAPLE – hard (sugar maple) & soft (red maple)	
BASSWOOD, OAK – red & white	
BEECH , WHITE PINE	
BIRCH – yellow	
HEMLOCK	
Point of Measurement	
Diameter	Circumference
38 cm (15 inches)	36 cm (14 inches) 112 cm (44 inches)
30 cm (12 inches)	38 cm (15 inches) 119 cm (47 inches)
20 cm (8 inches)	43 cm (17 inches) 132 cm (52 inches)
10 cm (4 inches)	51 cm (20 inches) 160 cm (63 inches)

SPECIES B	
ASH – green & black ELM	
BALSAM FIR, PINE – red, jack	
BIRCH – white POPLAR	
CEDAR, SPRUCE – white, red, black	
CHERRY	
Point of Measurement	DiameterCircu mference
30 cm (12 inches)	20 cm (8 inches)64 cm (25 inches)
20 cm (8 inches)	28 cm (11 inches)84 cm (33 inches)
10 cm (4 inches)	36 cm (14 inches)109 cm (43 inches)

- (2) The regulations in Section 4(1) herein shall not apply to the thinning of red pine plantations.

5. NOTICE OF INTENT TO DESTROY TREES

- (1) Every landowner or person acting on behalf of the landowner intending to cut or destroy trees on woodlands within the Municipality of Powassan shall notify the Municipality prior to carrying out any such intentions. The information required for all notification is found in Schedule “A” Form 1 of this by-law and shall be mailed, faxed or delivered to Municipality of Powassan office at 466 Main Street, Ontario P0H 1Z0 , so that it is received not less than five (5) days prior to the commencement of the cutting or destruction of the trees.
- (2) Upon receiving a notice of intent pursuant to section 5(1), the property owner may make a proposal (with supporting justification) to the By-law Enforcement Officer for a reduction or modification as the case may be, of/to the requirements set out in subsection 3(2) and 3(3), and whereupon the Officer is satisfied that the proposal maintains the intent of such requirements, or in the case of section

3(2)(iii) where no reasonable alternative exists, the Officer may grant such reductions or modifications as deemed appropriate.

6. GENERAL EXEMPTIONS FROM APPLICATION OF BY-LAW

- (1) The following are exempt from the application of this by-law:
 - (i) activities or matters undertaken by a municipality or a local board of a municipality; or
 - (ii) activities or matters undertaken under a licence issued under the *Crown Forestry Sustainability Act, 1994*; or
 - (iii) 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; or
 - (iii) the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51, or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections; or
 - (iv) the injuring or destruction of trees imposed as a condition to a development Permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation; or
 - (v) the injuring or destruction of trees by a *transmitter or distributor, as those terms are defined in Section 2 of the Electricity Act, 1998*, for the purpose of construction and maintaining a transmission system or a distribution system, as those terms as defined in that Section; or
 - (vi) 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*; or
 - (vii) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (viii) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act; and
 - (ix) on which a pit or quarry is a Permitted land use under a By-law passed under section 34 of the *Planning Act*.

7. SPECIFIC EXEMPTION FROM REQUIREMENTS

- (1) Notwithstanding section 2(1) the following are exempt from the regulations and requirements of sections 3, 4 and 5 of this by-law:
 - (i) The landowner of the woodlands intends to cut or destroy trees for his or her own use;
 - (ii) Trees growing in a woodland that is less than 4 hectares (10 acres) in area;
 - (iii) Trees which have been cut or destroyed in order to construct any building, structure or thing in respect of which a building permit has been issued in accordance with the provisions of the Building Code Act;
- (2) Notwithstanding section 2(1) the following are exempt from the regulations and requirements of sections 3 and 4 of this by-law:
 - (i) Cutting done in accordance with a specific Silvicultural Prescription prepared by a Registered Professional Forester or a Certified Tree Marker and in accordance with the standards and guidelines of the Silvicultural Manuals for Ontario and the prescription is included in the landowners notification;
 - (ii) The cutting is done under a Managed Forest Tax Incentive Program Plan

Provided that the person proposing to cut, remove or destroy any trees or trees in accordance with a Silvicultural prescription described in section 2 (2) (iv) or under a plan described in section 2 (2) (v), has filed a complete copy of the prescription, or plan with the Municipality at the time the Notice of Intent (required under section 5) is filed.

8. ORDERS TO DISCONTINUE ACTIVITY

- (1) Where an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an Order requiring the person who contravened the By-law or who caused or Permitted the injuring or destruction of trees in contravention of the By-law to stop the injuring or destruction of trees. The order shall set out the information contained in Schedule “B”.
- (2) An Order issued under this section may be served personally or served by sending it by mail to the last known address of;

- (i) the owner of the Woodlands; and
 - (ii) the person identified as injuring, destroying or harvesting a tree or trees.
- (3) Where service of an Order is made by mail, service shall be deemed to have been served on the fifth day after the order is mailed.
 - (4) Where service cannot be carried under section 8, subsection (2), it is deemed sufficient if the Officer places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placing of the placard shall be deemed to be sufficient service of the Order on the person to whom the Order is directed.
 - (5) If the person to whom the Order is directed is not satisfied with the terms of the Order, the person may appeal to Council by filing a Notice of appeal by personal service or certified mail to the Clerk within 30 days of the date of the Order.
 - (6) Where an appeal has been filed, Council shall hear the appeal and have all the powers and the functions of the Officer.
 - (7) Before conducting a hearing under this section, the Clerk shall give notice to such persons or direct that notice be given to such persons as the Clerk considers should receive notice and in the manner directed by the Clerk.
 - (8) After hearing an appeal, Council may confirm or revoke any Order issued under this By-law provided that in the opinion of the Council, the general intent and purpose of this By-law has been maintained.
 - (9) The proceedings at the hearing held by the Council shall be in accordance with the provisions of the *Statutory Powers Procedures Act*, R.S.O. 1990, c.22. The decision of the Council under this section is final.

9. COMPLIANCE WITH/REMOVAL OF ORDER

- (1) No person shall fail to comply with an Order issued under this By-law, or remove or deface any Order that has been posted pursuant to this By-law, or cause a failure to comply with an Order or the removal or defacing of any Order, posted pursuant to this by-law.

10. PENALTY

- (1) Any person who contravenes any provision of this By-law, including any Order issued under section 8 is guilty of an offence and is liable:
 - (i) on first conviction, to a fine of not more than \$10,000 or \$1,000 per tree, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree, whichever is greater.
- (2) Despite subsection (a) above, where the person convicted is a corporation,
 - (i) the maximum fines in clause (a) (i) are \$50,000.00 or \$5,000.00 per tree; and
 - (ii) the maximum fines in clause (b)(ii) are \$100,000.00 or \$10,000.00 per tree.
- (3) If a person is convicted of an offence for contravening this By-law or an Order issued under section 8, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any Silvicultural treatment necessary to re-establish the trees.

11. ENFORCEMENT

- (1) Council for the Corporation of the Municipality of Powassan may appoint by By-Law an Officer to enforce the provisions of this By-law for such term and on such conditions as Council considers appropriate.
- (2) An Officer may at any reasonable time enter and inspect any land to determine whether this By-law is being complied with.
- (3) Any person, who obstructs or interferes with an Officer in the discharge of his or her duties under this By-law, shall be considered in violation of this By-law.

12. ADMINISTRATION

- (1) Sections 1-11 and Schedules “A, B, and C” shall form part of this By-law.
- (2) If any section or sections of this By-law or parts thereof are found by any Court to be illegal or beyond the power of the Council to enact, such Section or Sections or

- (3) The short title of this By-law is the “Woodlands Conservation By-law”.
- (4) This By-law shall become effective on the day it is adopted by Council.

READ a first time and a Second and Third time and adopted by Council December 20, 2005.

Bob Young
MAYOR

Roger Labelle
CLERK

Schedule ‘A’ – Form 1

NOTICE OF INTENT

Pursuant to By-Law No. 2005-35 (Good Forestry Practice by-law)

(PLEASE PRINT CLEARLY)

Property Owner:	Telephone No:
Postal Address:	
Civic Address:	Postal Code:

Property Description:

Lot:	Concession:	Geographic Township:	Total Size of Woodlands:
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Expected Starting Date:	Expected Completion Date:
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Person in charge of cutting (e.g. Contractor – if different from property owner):

Name:	Telephone No:
Address	
	Postal Code:

Species of trees to be cut:	
Total Size of Cut: Comments:	

Where the Applicant proposes to claim an exemption under section 7(2) of this by-law, the following statements must be completed.

The cutting will be done in accordance with a prescription written by a Registered Professional Forester (R.P.F.) or Certified Tree Marker (C.T.M.), a copy of which is attached hereto.

Name of R.P.F.: _____

Name of C.T.M.: _____

Land is under the Managed Forest Tax Incentive Program

Plan Number: _____

Name of Plan Approver: _____

I agree that all tree cutting operations will be conducted in accordance with the Municipality of Powassan Good Forestry Practice By-Law and that I am familiar with the contents and requirements of that by-law and acknowledge having received a copy thereof.

Signature of Property Owner _____ Date _____

In signing this Notice, I am acting with the full authority and permission of the property owner on his/her behalf.

Signature of Person in Charge of Cutting _____ Date _____

This notice is required to be mailed, faxed or delivered not less than 14 days prior to the commencement of the cutting or destroying of trees to:

The Municipality of Powassan, 466 Main Street Powassan, ON P0H 1Z0

Phone: (705) 724-2813 Fax: (705)724-5533

THIS DOCUMENT IS DEEMED TO BE A PUBLIC DOCUMENT IN ACCORDANCE WITH THE
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, R.S.O. 1990.

SCHEDULE B

STOP WORK ORDER

YOU ARE HEREBY DIRECTED AND ORDERED TO forthwith stop, halt, cease, and desist from any and all works associated with the destruction of trees or removal thereof from those lands comprising;

MUNICIPAL ADDRESS / LEGAL DESCRIPTION OF THE PROPERTY:

LOT: _____ CONCESSION: _____ MUNICIPALITY: _____

OWNER / INDIVIDUAL RESPONSIBLE FOR DESTRUCTION OR INJURY OF TREES:

DESCRIPTION OF INFRACTION:

Date of Inspection: _____

Effective Order Date: _____ TO _____

Signature of Officer: _____ Date: _____

Pursuant to By-law {2005-35} Section 6, subsection (e) Where the person to whom the Order is directed has been served in accordance with this By-law is not satisfied with the terms of the Order, the person may appeal to Council by filing Notice of Appeal by personal service or certified mail to the Clerk within 30 days after the date of the Order.

