



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 316-2012

A by-law to conserve and protect woodlots within the City of
Brampton and to repeal By-law No. 402-2005

RECITALS

Subsection 135(1) of the *Municipal Act, 2001*, R.S.O. 2001, c. 25, as amended (the "Act"), provides that a local municipality may prohibit or regulate the destruction or injuring of trees;

Subsection 135(2) of the Act provides that an upper-tier municipality may by by-law prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law;

Subsection 135(8) of the Act provides that an upper-tier municipality may delegate all or part of its power to pass a by-law respecting the destruction or injuring of trees in woodlands to one or more of its lower-tier municipalities with the agreement of the lower-tier municipality;

The Region of Peel Council delegated its authority pursuant to Subsection 135(8) of the Act to the City of Brampton on December 15, 2005;

Subsection 135(7) of the Act provides that the by-law may require that a permit be obtained to injure or destroy trees and may impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees;

Council has determined that it is desirable to enact such a by-law to achieve the objectives of the City's Official Plan and sustain a healthy natural heritage system with regard for good forestry practices;

NOW THEREFORE, the Council of The Corporation of the City of Brampton
ENACTS AS FOLLOWS:

PART I – TITLE, SCOPE AND INTERPRETATION

1. The short title of this by-law is the “Woodlot Conservation By-law”.
2. This by-law applies to all Woodlots in the City of Brampton, subject to the exemptions noted in Part III of this by-law.
3. For the purposes of this by-law:
 - a. Wherever a word is used with its first letter capitalized, the term is being used as it is defined in Part II of this by-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
 - b. Wherever a word defined in Part II of this by-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
 - c. References to items in the plural include the singular as the context requires.

PART II - DEFINITIONS

4. For the purposes of this by-law:
 - a. “Act” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
 - b. “Certified Tree Marker” means:
 - i. an individual who has successfully completed the Ontario Ministry of Natural Resources Certified Tree Marker course; or
 - ii. a Qualified Ontario Professional Forestry Association Member.
 - c. “City” means The Corporation of the City of Brampton or the land within the municipal boundaries of the City of Brampton, as the context requires;
 - d. “Council” means the Council of The Corporation of the City of Brampton;
 - e. “Commissioner” means the Commissioner of the Planning, Design and Development Department of the City of Brampton or his or her designate;

- f. "DBH" or "diameter at breast height" means the Diameter of the stem or trunk of a Tree at a point measured 1.37 metres (137 centimetres) at the highest point on the ground touching the tree trunk;
- g. "Destroy" means any action which causes or results in injury or death of a Tree including to remove or cut down a Tree;
- h. "Diameter" means a straight line passing through the center of a cross section of a Tree trunk that is measured outside the bark at a specified point of a Tree stem or trunk;
- i. "Emergency Work" means any work necessary to protect life or property from imminent danger related to any Tree including, to the extent not otherwise addressed by applicable law, repairs related to soil erosion, utilities, buildings or drainage works;
- j. "Farming Business" means a farming business within the meaning of the Federal Income Tax Act;
- k. "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;
- l. "Hazardous Tree" means a destabilized or structurally compromised tree, or a tree with pest infestation, that may cause damage or injury to life or property;
- m. "Injure" means to injure or Destroy a Tree by any action that causes physical, biological or chemical damage or death to a Tree, but does not include pruning or removing branches for maintenance purposes;
- n. "Normal Farm Practice" means activity that is consistent with common agricultural practices, Good Forestry Practices and prioritizes retention of existing woodland cover;
- o. "Nursery" means a lot on which the principal active business is the growing of plants, shrubs and trees for sale to the public;

- p. "Officer" means an individual appointed by Council for the administration and enforcement of municipal by-laws;
- q. "Orchard" means a lot on which the principal active business is the growing of fruit for sale to the public;
- r. "Order" means any Order authorized by the Act;
- s. "Owner" means a person having any right, title, interest or equity in land or any such person's authorized representative and includes the person managing or receiving the rent of the land and includes a lessee or occupant of the land;
- t. "Permit" means a valid permit to Injure Trees issued pursuant to Section 5 of this by-law;
- u. "Person" includes an individual, an association, a partnership, or a corporation;
- v. "Qualified OPFA Member" means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association under the *Professional Foresters Act* 2000, R.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;
- w. "Silviculture" means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of forest management;
- x. "Silvicultural Prescription" means a site specific operational plan or woodlot management plan that describes the existing forest conditions and the ecosystem management objectives for both the forest community and the natural heritage system, and which prescribes the methods for harvesting the existing forest stand and a series of silvicultural treatments that will be carried out to establish a free growing stand in a manner that protects other natural heritage resource values as identified;
- y. "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 metres at physiological maturity. For clarity, where multiple stems grow from

the same root system, the number of Trees shall be the number of stems that can be counted at a point of measurement 1.37 metres from the highest point on the ground touching the trunk;

- z. "Woodlots" means land at least 0.2 hectares in area with at least:
- i. 200 trees, of any size, per 0.2 hectare;
 - ii. 150 trees, measuring over five (5) centimetres DBH, per 0.2 hectare;
 - iii. 100 trees, measuring over twelve (12) centimetres DBH, per 0.2 hectare; or
 - iv. 50 trees, measuring over twenty (20) centimetres DBH, per 0.2 hectare;
- and includes Woodlands as defined in the Act, but does not include a cultivated fruit or nut orchard or plantation established and maintained for the purpose of producing Christmas trees.

PART III – PROHIBITIONS

5. No person shall Injure, cause or permit the injuring of a Tree growing in Woodlots:
- a. unless exempted pursuant to Part IV of this by-law; or
 - b. except in accordance with a Permit issued pursuant to Part V of this by-law.
6. No Person shall:
- a. contravene the terms or conditions of a Permit issued under this by-law; or
 - b. cause or permit the contravention of the terms or conditions of a Permit issued under this by-law.
7. Every person shall comply with an Order issued under this by-law.
8. No person shall remove or deface any Order that has been posted pursuant to this by-law.

PART IV – EXEMPTIONS

9. This by-law does not apply to:
- a. Hazardous Trees;
 - b. Injury to a Tree that is necessary for Emergency Work; or

- c. Injury to a Tree by a Farming Business as part of an agricultural operation that constitutes a Normal Farm Practice as defined in this by-law.

10. Despite any other section of this by-law, this by-law does not apply to activities exempted by Subsection 135(12) of the Act as follows:

- 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*, or
- 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*.

11. Despite any other section of this by-law, an Owner may request an exemption to this by-law from Council and upon such request Council may:

- a. grant an exemption;
- b. grant an exemption subject to conditions; or
- c. refuse an exemption.

12. When evaluating a request for an exemption, Council shall consider if the proposed activity conflicts with City natural heritage and environmental policies, any other relevant City policies and the appropriate use of the land.
13. If granting an exemption, Council may impose such conditions as it deems appropriate and shall have regard for:
 - a. the manner and timing of the injuring of a Tree;
 - b. the qualifications of persons authorized to Injure a Tree;
 - c. the species, size, number and location of replacement trees to be planted; and
 - d. measures to mitigate the effects of the injuring of a Tree on the natural environment including to protect trees on adjacent lands.
14. An Owner requesting an exemption to this by-law shall at least six (6) weeks before the proposed injuring of Trees to submit to the City Clerk a completed, signed request form with the fee prescribed by the City.
15. The City Clerk shall notify the Owner and all owners of lands abutting the subject property of the exemption request at least seven (7) days prior to Council considering the requested exemption.
16. The Clerk shall notify the Owner in writing of Council's decision.

PART V - PERMITS

17. The City hereby delegates to the Commissioner the power to issue a Permit and to impose conditions to such Permits in accordance with Good Forestry Practices and Part V of this by-law.
18. The Commissioner may issue a Permit to Injure Trees within Woodlots provided that the applicant for a Permit demonstrates that:
 - a. the injuring of Trees shall be conducted in accordance with Good Forestry Practices as prescribed in a Silvicultural Prescription prepared by a member in good standing of the Ontario Professional Foresters Association who is authorized to prepare Silvicultural Prescriptions;
 - b. the Trees to be injured shall be marked, in accordance with the Silvicultural Prescription, by a Certified Tree Marker;
 - c. the injuring of the Trees shall be conducted in the manner prescribed by the Permit application;
 - d. the date(s) and time(s) when the injuring of Trees may be occur has been identified to the City;

- e. those Persons authorized to Injure Trees have been identified to the City;
- f. the species, size, number and location of replacement Trees to be planted have been identified to the City's satisfaction; and
- g. measures to mitigate the direct and indirect effects on the natural environment from the injuring of Trees shall be implemented to the City's satisfaction.

19. The Commissioner may impose conditions to a Permit to address:

- a. any matters identified in Section 18 of this by-law;
- b. the manner and timing of the injuring of Trees;
- c. the qualifications of Persons authorized to Injure Trees;
- d. the species, size, number and location of replacement trees to be planted;
- e. measures to mitigate the effects of the injuring of Trees on the natural environment including to protect trees on adjacent lands; and
- f. any other conditions relevant to the injuring of Trees.

PART VI - APPLICATION

20. A Person who intends to Injure a Tree within a Woodlot shall file an application for a Permit by submitting the following to the Commissioner:

- a. a complete application in the form required by the City, signed by the Owner of the Woodlots and the party responsible for the injuring of Trees;
- b. information relevant to the conditions of a Permit required in Part V of this by-law; and
- c. the applicable fee as prescribed in the City's User Fee By-law 380-2003, as amended.

21. Upon receipt by the Commissioner of an application for a Permit, the Owner shall permit an Officer to enter upon his or her property and undertake such site inspections as may be required to consider the application. An Officer may undertake a site inspection prior to, during and after the proposed activity.

22. A Permit issued pursuant to this by-law shall expire one (1) year after the date of issuance and the Commissioner may, upon the request of the Owner prior to expiry, renew the Permit for a further period of one (1) year.

23. A decision regarding an application for a Permit shall not be made by the Commissioner until such time as all the required documents have been filed,

the applicable fee has been paid and any required inspections have been completed.

PART VII - ORDERS

24. Where an Officer believes that a contravention of this By-law has occurred, the Officer may issue:

- a. an Order to discontinue the contravening activity; or
- b. a work Order to correct the contravention including but not limited to the planting or re-planting of trees.

25. The Orders contemplated in Section 24 shall set out:

- a. the name of the Owner and the municipal address or the legal description of the land;
- b. reasonable particulars of the contravention;
- c. the date by which there must be compliance with the Order;
- d. the work to be done and the date by which the work must be done, if applicable; and
- e. a statement as applicable that if work is not done in compliance with the Order within a specified time period, the City may have the work done at the expense of the Owner, if applicable.

26. An Order issued under this by-law may be served personally or served by mail to the last known address of the Owner and such other persons affected by it as determined by the Officer and a copy of the Order may be posted on the land.

27. If an Order is served by registered mail, the service shall be deemed to have been made five (5) days after mailing.

28. Where service cannot be carried out in accordance with the process in Section 25 of this by-law, the Officer shall place a placard containing the terms of the Order in a conspicuous place on the Owner's property, and the placing of the placard shall be deemed to be sufficient service of the Order on the Person or persons to whom the Order is directed.

PART VIII - ENFORCEMENT

29. The provisions of this by-law may be enforced by an Officer of the City.

30. An Officer may, at any reasonable time, enter and inspect any land to determine whether this by-law, an Order under this by-law, a condition to a

Permit or a court Order pursuant to Section 431 of the Act is being complied with.

31. An Officer performing a duty under this By-law may be accompanied by a Person under his direction.
32. 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.
33. Any Person who provides false information to an Officer shall be deemed to have hindered or obstructed the Officer in the execution of his or her duties.

PART IX - PENALTIES

34. Any Person who contravenes any provision of this by-law including an Order issued pursuant to this by-law or Sections 444 or 445 of the Act is guilty of an offence.
35. Any person who obstructs an Officer in carrying out an inspection under this by-law is guilty of an offence.
36. All contraventions of the by-law or Order issued pursuant to this by-law are designated multiple and continuing offences pursuant to Subsection 429(2) of the Act.
37. Upon conviction of an offence under this by-law, a Person is liable to a fine as follows:
 - a. the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;
 - b. in the case of a continuing offence, in addition to the penalty mentioned in clause (a), for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000, and the total of all daily fines for the offence is not limited to \$100,000;
 - c. in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000; and
 - d. If a Person is convicted of an offence under this by-law, the potential for economic advantage from the injury of Trees on the affected lands may be considered an aggravating factor for sentencing purposes

which may attract a special fine and the maximum amount of the special fine may exceed \$100,000 or such other maximum amount permitted by the Act.

38. If a Person is convicted of an offence under this by-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an Order:

- a. prohibiting the continuation or repetition of the offence by the Person convicted; and
- b. requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate, including any Silvicultural treatment necessary to re-establish the woodland community.

PART X - GENERAL

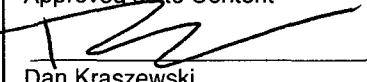
39. If any section, subsection or part or parts thereof are declared by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision shall be deemed to be severable and the remainder of this by-law shall be declared to be separate and independent and enacted as such.

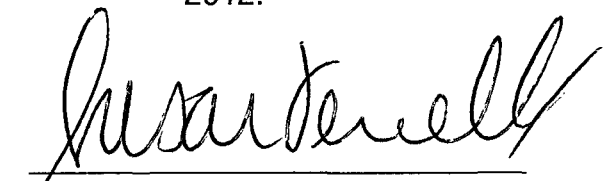
40. By-law No. 402-2005 is repealed effective on the date this by-law is adopted.

41. Despite Section 41 of this by-law, By-law No. 402-2005, as amended shall continue to apply to proceedings in respect of matters that were initiated prior to its repeal.

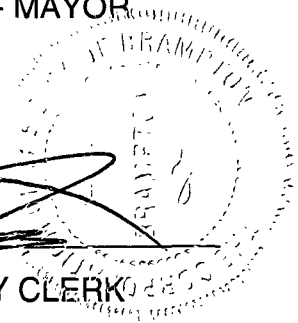
42. This by-law shall come into effect on November 14, 2012.


READ a FIRST, SECOND and THIRD TIME, and PASSED in OPEN COUNCIL, this 14TH day of November, 2012.

Approved as to Content

 Dan Kraszewski
 Acting Commissioner, Planning,
 Design and Development


 SUSAN FENNELL - MAYOR


 PETER FAY - CITY CLERK



APPROVED
 AS TO FORM
 LAW DEPT.
 BRAMPTON

 DATE 31 10 12