



The Corporation of the Town of Fort Erie By-law 27-2026

Being a By-law to Regulate the Destruction and Injuring of Trees and Repeal By-law 33-2024

Whereas subsection 5(3) of the *Municipal Act, 2001*, provides that a municipal power shall be exercised by by-law; and

Whereas section 9 of the *Municipal Act, 2001* provides that a local municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas subsection 135(1) of the *Municipal Act, 2001* provides that a local municipality may prohibit or regulate the destruction or injuring of trees; and

Whereas pursuant to subsection 135(7) of the *Municipal Act, 2001*, without limiting sections 9 and 10, a municipality may require that a permit be obtained to injure or destroy trees, and 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; and

Whereas subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons; and

Whereas section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the statute is guilty of an offence; and

Whereas sections 429, 431, 444 and 445 of the *Municipal Act, 2001* provide for a system of fines and other enforcement orders; and

Whereas section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws; and

Whereas the Council of The Corporation of the Town of Fort Erie deems it necessary and desirable to enact a by-law to generally prohibit the injury and destruction of protected trees, to regulate such activities through a permit system in limited circumstances, and to encourage the preservation and planting of trees within the Town;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. SHORT TITLE

1.1. This By-law may be cited as the "Tree By-law".

2. DEFINITIONS

2.1. In this By-law,

2.1.1. "**Administrative Penalty**" means a monetary penalty imposed by the Town in accordance with this By-law and the Town's Administrative Penalty By-law;

2.1.2. "**Agricultural Operation**" has the same meaning as in the *Farming and Food Production Protection Act, 1998*, as amended;

- 2.1.3. **“Agricultural Use”** means farm-related commercial and farm-related industrial uses that are small in scale, directly related to agriculture and requiring proximity to farm operations and includes such uses as animal husbandry services, produce or grain storage facilities or farm machinery sales and service outlets;
- 2.1.4. **“Applicant”** means a Person who submits an Application for a Permit under this By-law, and includes the Owner of the Property on which the Tree(s) are located or a Person authorized in writing by the Owner to act on their behalf;
- 2.1.5. **“Application”** means an application submitted to the Town for a Permit under this By-law, in the form prescribed by the Town, and includes all required plans, documents, studies and information necessary to evaluate the request;
- 2.1.6. **“Application Fee”** means the fee required to be paid upon submission of an Application, as established by the Town from time to time, including any applicable fees set out in the Town’s Fees and Charges By-law;
- 2.1.7. **“Arborist”** means a person who:
 - 2.1.7.1. is qualified as an arborist under the Ontario Ministry of Training, Colleges and Universities;
 - 2.1.7.2. is certified by the International Society of Arboriculture;
 - 2.1.7.3. is a consulting arborist registered with the American Society of Consulting Arborists;
 - 2.1.7.4. is a Registered Professional Forester; or
 - 2.1.7.5. is otherwise qualified to the satisfaction of the Director;
- 2.1.8. **“Arborist Report”** means a written report by an Arborist that shall contain the following information:
 - 2.1.8.1. the location, species, size, Tree Protection Zone and condition of Trees that will be Injured or Destroyed Trees and those Trees located within one Tree length of the Tree to be Injured or Destroyed, included in tabular format and as shown on a map;
 - 2.1.8.2. a drawing of the Site showing any proposed development, construction, works, excavation or site alteration that may require the Tree Injury or Destruction, and a schedule for this proposed activity, including start and end dates;
 - 2.1.8.3. the Arborist’s opinion why a Tree should be Injured or Destroyed, and whether it represents Good Arboricultural Practices or Good Forestry Practices;
 - 2.1.8.4. a description of how the Tree is proposed to be Injured or Destroyed;
 - 2.1.8.5. an analysis and description of any reasonable alternatives to the Tree Injury or Destruction or an analysis and description as to why there are no reasonable alternatives to the Tree Injury or Destruction;
 - 2.1.8.6. confirmation of any other matters, including past or current Planning Act applications or other approvals, agreement, or restrictions affecting the land on which the Tree(s) are located or proposed to be Injured or Destroyed;

- 2.1.8.7. the calculation of the number of Replacement Trees that can be planted on the Site based on Schedule “B”, and suggest the species and location;
- 2.1.8.8. where Trees are proposed to be retained and may be subject to potential impact from the proposed activity, a description of Tree protection measures, mitigation strategies, and maintenance practices to be implemented; and
- 2.1.8.9. the professional accreditation of the Arborist;
- 2.1.9. “**Boundary Tree**” means a Tree where any part of its trunk is located on the boundary between adjoining properties, and for the purpose of this definition, “trunk” means the main stem of the Tree extending from the ground level to the point at which it branches;
- 2.1.10. “**Building Permit**” means a permit issued under the *Building Code Act, 1992*, as amended, authorizing any construction, erection, installation, extension, alteration, repair, removal, or demolition of a building or structure;
- 2.1.11. “**Cash-in-lieu**” means a monetary payment required in place of replanting trees, where replanting on the subject lands or within the vicinity is not feasible, as determined by the Town, due to site constraints or insufficient planting capacity;
- 2.1.12. “**Consent**” means approval under the *Planning Act* for the creation of a new lot, a lot addition, or the establishment of an easement or other interest in land;
- 2.1.13. “**Conservation Authority**” has the same meaning as in the Conservation Authorities Act;
- 2.1.14. “**Construction**” means the erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, laying of pipe and conduit (whether below or above ground level), street and highway building, application of concrete, equipment installation and alteration, and structural installation of construction components and materials, in any form or for any purpose;
- 2.1.15. “**Coppice Growth**” means clump growth where more than one Tree stem grows from a single Tree Stump and the point of measurement for such growth means that point on each stem measured immediately above the point of fusion, provided such point of fusion is less than 1.37 metres above the highest point of undisturbed ground at the base of the coppice or clump growth;
- 2.1.16. “**Council**” means the Council of The Corporation of the Town of Fort Erie;
- 2.1.17. “**Critical Root Zone**” means the distance from the trunk of the Tree that equals one centimeter for every centimeter of the Tree’s diameter;
- 2.1.18. “**DBH**” or “**Diameter at Breast Height**” means the diameter of the stem of a Tree measured at a point that is 1.37 metres above the ground
- 2.1.19. “**Dead Tree**” means a Tree that as a result of any cause, is dead or, is in advanced and irreversible decline in health or condition;
- 2.1.20. “**Destroy**” means to cut down, remove, uproot, unearth, topple, sever, girdle, burn, bury, flood, poison, apply chemicals, compact soil, or otherwise damage or alter a Tree or its Critical Root Zone in any manner that results in, or is likely to result in, the decline or death of the Tree, and includes any act or omission that causes such result, whether immediate or delayed, but does not include

death caused by natural causes. The terms “**Destroy**”, “**Destroyed**”, “**Destroying**”, “**Destruction**”, “**Injure**”, “**Injured**”, “**Injuring**” and “**Injury**” have corresponding meanings.

- 2.1.21. “**Developer**” means a Person undertaking or proposing development of land, including a Person who applies for or obtains approval for a Planning Application, Building Permit, or other approval authorizing development, site alteration, or construction;
- 2.1.22. “**Diameter**” means the diameter of the stem of a Tree measured at the Point of Measurement with such measurement including the bark of the stem;
- 2.1.23. “**Director**” means the Town’s Director of Planning, Building and By-law Services or any person appointed or otherwise delegated authority of administration of this By-law;
- 2.1.24. “**Emergency Services**” means fire, police, ambulance, or other emergency response services of the Town or other governmental authority, when responding to an emergency situation;
- 2.1.25. “**Exemption Letter**” means a written notice issued by the Town, in its sole discretion, confirming that a specified Tree Injury or Tree Destruction is not subject to the requirements of this By-law;
- 2.1.26. “**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;
- 2.1.27. “**Good Arboricultural Practices**” means the proper implementation of maintenance renewal and removal activities known to be appropriate for individual trees to minimize detrimental impacts on urban forest value;
- 2.1.28. “**Good Forestry Practices**” means:
 - 2.1.28.1. the proper implementation of harvest, renewal, and maintenance activities known to be appropriate for the forest and environmental conditions in which they are applied, and that minimize adverse impacts on forest values, including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health, and the aesthetic and recreational values of the landscape;
 - 2.1.28.2. the cutting and removal of hazardous, severely damaged, diseased and insect infested trees which must be removed in order to prevent contamination or infestation of other trees or because they no longer contribute to the achievement of forest values;
 - 2.1.28.3. in the case of hazardous, damaged, diseased or insect-infested trees, the maintenance of a Woodland after the cutting and removal is completed unless it is determined through a report prepared by Qualified OPFA Member that trees must be removed and a Woodland would not be maintained; and
 - 2.1.28.4. the forestry management practices set out in the Ministry of Natural Resources publication entitled “A Silvicultural Guide to Managing Southern Ontario Forests,” as amended or replaced from time to time;
- 2.1.29. “**Harvesting**” means the cutting, felling, removal, or other deliberate Injury or Destruction of a Tree, whether by manual, mechanical, chemical, or other

means, and includes any associated activity that results in or is intended to result in the removal or death of a Tree. The terms “**Harvest**,” “**Harvested**,” and “**Harvesting**” have corresponding meanings;

- 2.1.30. “**Hazardous**” means, in respect of a Tree, a condition of instability or structural defect such that failure is likely or imminent and presents a foreseeable risk of injury, death, or property damage;
- 2.1.31. “**Heritage Tree**” means a Tree having historical or community significance and designated by Council under Part IV of the *Ontario Heritage Act*;
- 2.1.32. “**Imminent Threat**” means a condition or circumstance posing an immediate and substantial risk of serious harm to persons or significant damage to property;
- 2.1.33. “**Injury**” means to cut down, remove, uproot, unearth, topple, sever, girdle, burn, bury, flood, poison, apply chemicals, compact soil, or otherwise damage or alter a Tree or its Critical Root Zone in any manner that results in, or is likely to result in, the decline or death of the Tree, whether directly or indirectly, and includes any act or omission that causes such result, whether immediate or delayed, but does not include death caused by natural causes. The terms “**Injure**,” “**Injured**,” “**Injuring**,” “**Injury**,” “**Destroy**,” “**Destroyed**,” “**Destroying**” and “**Destruction**” have corresponding meanings;
- 2.1.34. “**Inspector**” means an inspector appointed by the Town for the purpose of enforcing the *Building Code Act*, 1992, S.O 1992, c. 23;
- 2.1.35. “**Landscape Plan or Planting Plan**” means a plan prepared by or under the direction of a Landscape Architect who is a full member in good standing with the Ontario Association of Landscape Architects (or equivalent), which illustrates proposed and existing vegetation, planting details, and landscape features as required by this By-law and associated development applications;
- 2.1.36. “**Natural Heritage System**” means a system of natural features and areas, including wetlands, woodlands, valleylands, watercourses, wildlife habitat, and associated components such as linkages, buffers, supporting features and enhancement areas, as identified in the Town’s Official Plan or other applicable planning document. For clarity, where trees are located on lands identified as part of the Town’s Natural Heritage System in the Official Plan or other applicable planning documents, such trees shall be deemed to be part of the Natural Heritage System and are subject to the applicable provisions of this By-law, regardless of whether the lands are in the Urban or Rural Area;
- 2.1.37. “**Niagara Region**” or “**Region**” means The Regional Municipality of Niagara;
- 2.1.38. “**Normal Farm Practice**” means a practice that is recognized by the Normal Farm Practices Board which is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar Agricultural Operations under similar circumstances, or makes use of innovative technology in a manner consistent with proper advanced farm management practices;
- 2.1.39. “**Officer**” means a Municipal Law Enforcement Officer, a member of the Niagara Regional Police Service, a member of the Ontario Provincial Police and any other Provincial Offences Officer designated under the Provincial Offences Act, R.S.O. 1990, c. P.33 (“Provincial Offences Act”) or any person appointed or otherwise delegated the authority of enforcement of this By-law;
- 2.1.40. “**Official Plan**” means the Official Plan of The Corporation of the Town of Fort Erie;

- 2.1.41. **“Order”** means an Order to Discontinue Activity or an Order to Comply;
- 2.1.42. **“Owner”** or **“Property Owner”** means the registered owner of a Property;
- 2.1.43. **“Penalty Notice”** means a notice issued by an Officer under this By-law imposing an Administrative Penalty in accordance with the Town’s Administrative Penalty By-law;
- 2.1.44. **“Permit”** means a permit issued by the Town under this By-law authorizing the Injury or Destruction of Trees;
- 2.1.45. **“Permit Holder”** means the Person to whom a Permit has been issued under this By-law, and includes any Person who is named on the Permit or who is responsible for carrying out or ensuring compliance with the terms and conditions of the Permit;
- 2.1.46. **“Person”** means an individual, corporation, partnership or association and their respective heirs, executors, administrators or other duly appointed representatives;
- 2.1.47. **“Personal Use”** means use of Trees or Tree materials for non-commercial purposes and does not include any sale, trade, barter, distribution, or other commercial disposition, whether direct or indirect, of Trees that are Injured or Destroyed;
- 2.1.48. **“Planning Application”** means an application made under the Planning Act, R.S.O. 1990, c. P.13, as amended or successor legislation, including but not limited to an Official Plan amendment, Zoning By-law amendment, plan of subdivision, plan of condominium, consent, minor variance, or site plan approval;
- 2.1.49. **“Point of Measurement”** means the point on a Tree trunk measured above the highest point at which the ground meets the Tree. For Coppice Growth the point of measurement shall be at the point on the Tree trunk where the Tree stems separate provided that such point of separation is less than 1.37 metres from where the ground meets the Tree;
- 2.1.50. **“Pre-Consultation Meeting”** means a preliminary meeting between the Town and a Property Owner or their designate held for the purpose of discussing a proposed development and identifying information, studies, and requirements that may be required by the Town in connection with a Planning Application;
- 2.1.51. **“Property”** means any land or premises within the Town of Fort Erie;
- 2.1.52. **“Pruning”** means the removal of live or dead branches from a tree.
- 2.1.53. **“Qualified Person”** means a person who, in the opinion of the Director, has satisfactory qualification, experience, education or knowledge to be an expert in the matter;
- 2.1.54. **“Replacement Tree”** means a Tree of a size and type determined by the Town, required to be planted in replacement of a Tree Injured or Destroyed under this By-law or as a condition of a Permit;
- 2.1.55. **“Security”** means a financial deposit in a form of an irrevocable letter of credit or other type(s) of financial security acceptable to the Town from a financial institution to specify and submit a sum of money to the Town as determined by the Director as a condition of a Permit;

- 2.1.56. **“Sensitive Natural Areas”** means areas within a Provincially Significant Wetland, Provincial Life Sciences Area of Natural Scientific Interest, or Significant Woodland, as defined in the Town’s Official Plan or the Official Plan of The Regional Municipality of Niagara;
- 2.1.57. **“Site”** means the Property on which activities subject to this By-law are proposed or undertaken, and where a tract of land includes more than one landholding, each individual landholding shall be considered a separate Site;
- 2.1.58. **“Town”** means The Corporation of the Town of Fort Erie or the geographic area of the municipality, as the context requires;
- 2.1.59. **“Tree”** means any living 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;
- 2.1.60. **“Tree Preservation and Replacement Guide”** means a non-binding reference document prepared by the Town of Fort Erie that provides plain-language guidance on the interpretation and application of this By-law, including the Tree permit application process, preservation measures, and replacement requirements;
- 2.1.61. **“Tree Preservation Plan”** means a plan, prepared by a Qualified OPFA Member or Certified Arborist, for the purpose of protecting and preserving Trees on properties where development or disturbance of Trees is to occur;
- 2.1.62. **“Tree Protection Zone”** means the area around a Tree that must be protected from disturbance to preserve the Tree's health and structural stability, measured as a minimum radial distance from the outside edge of the trunk in accordance with the requirements set out in Schedule “F”;
- 2.1.63. **“Tree Stump”** means the remaining base portion of a Tree trunk and its roots that is left in the ground after the main stem and canopy have been removed or have fallen and includes situations where a Tree has been removed in its entirety, including the base and root system;
- 2.1.64. **“Urban Boundary”** means the Urban Growth Boundary as shown on Schedule A of the Town’s Official Plan;
- 2.1.65. **“Woodland”** means land on one or more properties that meets at least one of the following density thresholds:
- 2.1.65.1. 1,000 Trees of any size per hectare;
 - 2.1.65.2. 750 Trees measuring greater than five (5) centimetres DBH per hectare;
 - 2.1.65.3. 500 Trees measuring greater than twelve (12) centimetres DBH per hectare; or
 - 2.1.65.4. 250 Trees measuring greater than twenty (20) centimetres DBH per hectare;
- and does not include:
- 2.1.65.5. a cultivated fruit or nut orchard;
 - 2.1.65.6. a plantation established for the purpose of producing Christmas Trees that is actively managed and harvested for its intended purpose, except where such plantation has not been actively

managed or harvested for that purpose for a period of fifteen (15) years or more;

2.1.65.7. a bona fide Tree nursery that is actively managed and harvested for the purpose for which it was established; or

2.1.65.8. a hedgerow or windrow less than twenty (20) metres in width;

2.1.66. **“Zoning By-law”** means the Town’s zoning by-law, as amended or replaced from time to time.

3. SCOPE

3.1. This By-law applies to private Property in the Town in respect of:

3.1.1. Trees greater than 10 centimetres DBH located within the Natural Heritage System;

3.1.2. Trees greater than or equal to 30 centimetres DBH located within the Urban Boundary;

3.1.3. Trees designated as a Heritage Tree under Part IV or Part V of the Ontario Heritage Act;

3.1.4. Trees of any size located on lands upon which there is a pending Planning Application;

3.1.5. Trees of any size located on lands in respect of which a Pre-Consultation meeting has been held with the Town respecting a Planning Application, provided that the Pre-Consultation Meeting occurred no more than one year prior;

3.1.6. Trees of any size identified in a Tree Preservation Plan submitted in connection with a Planning Application; and

3.1.7. Replacement Trees planted as a condition of a Permit issued under this By-law.

3.2. This By-law applies to public Property in the Town in respect of:

3.2.1. Trees of any size.

4. EXEMPTIONS

4.1. This By-law does not apply to:

4.1.1. activities or matters undertaken by a municipality or a local board of a municipality;

4.1.2. activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994;

4.1.3. the Injury 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;

4.1.4. the Injury 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;

- 4.1.5. the Injury or Destruction of Trees imposed after December 31, 2002, as a condition of 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;
- 4.1.6. the Injury 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;
- 4.1.7. the Injury 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;
- 4.1.8. the Injury or Destruction of Trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land;
- 4.1.9. the Injury or Destruction of Trees that has not been designated under the Aggregate Resources Act or a predecessor of that Act;
- 4.1.10. the Injury or Destruction of Trees on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act;
- 4.1.11. the Injury or Destruction of a Tree that is located within a building, solarium, rooftop garden, interior courtyard, actively managed golf course, cemetery, actively managed cultivated orchard, Tree farm or plant nursery;
- 4.1.12. Woodlands one hectare or greater in size as defined by the Niagara Region Woodland Conservation By-law, or any successor by-law regulating the Injury or Destruction of Trees in Woodlands in the Niagara Region;
- 4.1.13. the Injury or Destruction of Trees undertaken by a Conservation Authority;
- 4.1.14. the Injury or Destruction of Trees at the direction of Emergency Services;
- 4.1.15. Pruning that is necessary to maintain the health and condition of a Tree and provided the work is carried out in accordance with Good Arboricultural Practices;
- 4.1.16. Trees located on lands operated by a railway;
- 4.1.17. Trees subject to a Property Standards Order or Lot Maintenance Order issued by an Officer for the removal of a Hazardous Tree; and
- 4.1.18. the Injury or Destruction of Trees to the extent that such Injury or Destruction was expressly authorized by and carried out in accordance with a Building Permit, Planning Application or other approval authorizing development, site alteration, construction or development agreement, issued or approved on or before May 26, 2024, under the Planning Act or the Building Code Act, 1992, or any successor legislation, and in accordance with the conditions of such approval.

5. GENERAL PROHIBITIONS

- 5.1. Subject to Section 8.0, and notwithstanding Section 4.0, no person shall Injure or Destroy a Tree, or cause or permit the Injury or Destruction of a Tree, without a Permit or Exemption Letter.
- 5.2. No person shall Injure or Destroy a Tree or cause or permit the Injury or Destruction of a Tree that is not in accordance with a Permit and this By-law.

- 5.3. No person shall fail to protect a Tree in accordance with all conditions of a Permit.
- 5.4. No person shall fail to comply with all conditions of a Permit.
- 5.5. No person shall fail to protect a Tree marked for preservation on an approved Tree Protection Plan submitted as part of a Planning Application;
- 5.6. No person shall fail to comply with an Order issued under this By-law.
- 5.7. No person shall provide false or misleading information on an Application.
- 5.8. No person shall remove an Order that has been posted to the affected land(s) without approval from the issuing Office.
- 5.9. No person shall fail to notify the Town within 48 hours of the change of registered ownership of the Property within one year from the date that a Permit has been issued.
- 5.10. No person shall obstruct or hinder, or attempt to obstruct or hinder, an Officer in the exercise of a power or the performance of a duty under this By-law.
- 5.11. No person shall fail to replant a Replacement Tree or pay Cash-in-Lieu as directed in a Permit.
- 5.12. No person shall Injure, Destroy, or remove a Tree Stump of a regulated Tree without a Permit or Exemption Letter.
- 5.13. Where a Tree Stump has been Injured, Destroyed or removed in contravention of this By-law, the measurements for compensation shall be based on the maximum size requirements under this By-law.

6. EXCEPTIONS

- 6.1. Despite Section 5.1 a Permit is not required under this By-law for the following activities provided that a written Exemption Letter is issued by the Town:
 - 6.1.1. The Injuring or Destruction of any of the following invasive species listed from 6.1.1.1 to 6.1.1.16:
 - 6.1.1.1. *Morus alba* (White Mulberry)
 - 6.1.1.2. *Rhamnus Cathartica* (Common Buckthorn)
 - 6.1.1.3. *Rhamnus frangula* (Glossy Buckthorn)
 - 6.1.1.4. Black Alder (*Alnus glutinosa*)
 - 6.1.1.5. *Ailanthus altissima* (Tree of Heaven)
 - 6.1.1.6. *Acer platanoides* (Norway Maple)
 - 6.1.1.7. *Acer negundo* (Manitoba Maple)
 - 6.1.1.8. *Aesculus hippocastanum* (Horse Chestnut)
 - 6.1.1.9. *Betula pendula* (Silver birch or European White birch)
 - 6.1.1.10. *Elaeagnus angustifolia* (Russian Olive)
 - 6.1.1.11. *Elaeagnus umbellate* (Autumn Olive)
 - 6.1.1.12. *Picea abies* (Norway Spruce)

- 6.1.1.13. *Pinus sylvestris* (Scots or Scotch Pine)
- 6.1.1.14. *Populus alba* (White Poplar)
- 6.1.1.15. *Robinia pseudoacacia* (Black Locust)
- 6.1.1.16. *Ulmus pumila* (Siberian Elm)
- 6.1.2. Invasive species Trees located within a woodlot may be subject to compensation requirements. Invasive species, as identified in Section 6.1.1, shall be evaluated on a site-specific basis in relation to a Planning Application, having regard to site-specific ecological conditions, including potential canopy and habitat functions.
- 6.1.3. The Harvesting, Injuring or Destruction of Trees by a Farmer for the purpose of clearing land for Agricultural Use, provided that:
 - 6.1.3.1. the land is owned by the Farmer performing the clearing, or by a farm operation or farm corporation that has been in existence for at least three (3) years prior to the clearing;
 - 6.1.3.2. the clearing is carried out in accordance with Normal Farm Practices, as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended;
 - 6.1.3.3. the land that is cleared is put into Agricultural Use within three (3) years from the commencement of clearing; and
 - 6.1.3.4. the land being cleared for Agricultural Use is located outside the Urban Boundary, and is designated in the Official Plan and zoned for Agricultural Use in the Zoning By-law;
- 6.1.4. Prior to clearing Trees for Agricultural Use under subsection 6.1.3, the Farmer shall notify the Town and obtain an Exemption Letter from the Director.
- 6.1.5. The Harvest of Trees located within a Woodland by the Owner of a Property for the purpose of heating a dwelling situated on the Property or for personal use on the Property, provided that:
 - 6.1.5.1. the Owner has been the registered Owner of the Property for a minimum of two years immediately preceding the date of the Harvest;
 - 6.1.5.2. the Harvest is conducted in accordance with Good Forestry Practices; and
 - 6.1.5.3. no more than 10 Trees per hectare are Harvested, Injured or Destroyed in a calendar year.
- 6.2. Notwithstanding subsection 6.1.1, where invasive species Trees are located within a Woodland, the Town may require compensation for the Injury or Destruction of such Trees where removal is proposed in connection with a Planning Application.
 - 6.2.1. For the purposes of subsection 6.2, invasive species Trees identified under subsection 6.1.1 shall be evaluated on a site-specific basis, having regard to ecological conditions including canopy cover and habitat function, in relation to a Planning Application.

7. APPLICATION FOR PERMITS

- 7.1. Where an Owner proposes to Injure or Destroy one or more Trees on the Owner's Property, or to undertake any activity that may result in the Injury or Destruction of one

or more Trees, and where no exemptions or exceptions under this By-law applies, the Owner shall submit an Application to the Town in accordance with this By-law.

- 7.2. An Application for a Permit shall not be processed unless:
 - 7.2.1. the Application form has been completed in full, duly signed and submitted to the Director; and
 - 7.2.2. all required supporting documentation and information have been submitted.
- 7.3. Where the Tree is a Boundary Tree, the Applicant shall submit, with the Application, the written consent of the adjacent property owner.
- 7.4. An Application that does not meet the requirements of this By-law shall be deemed incomplete, shall not be processed, and shall be returned to the Applicant within 30 days of receipt.

8. PERMIT ISSUANCE

- 8.1. A permit may be issued to Injure or Destroy a Tree including the removal of the Tree Stump where:
 - 8.1.1. the Application is complete;
 - 8.1.2. the Application Fee has been paid; and
 - 8.1.3. the Director is satisfied that one or more of the following grounds apply:
 - 8.1.3.1. the Tree is a Dead Tree or Hazardous Tree;
 - 8.1.3.2. based upon the opinion of an Arborist, removal is necessary due to safety concerns;
 - 8.1.3.3. based on the opinion of the Director, the Tree is causing or is likely to cause structural damage to load-bearing or roof structures;
 - 8.1.3.4. based upon the opinion of a Qualified Person, the Tree Injury or Destruction is required to remediate contaminated soil;
 - 8.1.3.5. the Tree Injury or Destruction is required pursuant to a Building Permit where there are no reasonable alternatives to locating utilities or infrastructure;
 - 8.1.3.6. based on the opinion of an Arborist and/or a Registered Professional Forester, the Tree Injury or Destruction is consistent with Good Arboricultural Practices and/or Good Forestry Practices.
- 8.2. For the purposes of Section 6.1.1 and 8.1, the Owner of a residential lot may submit an Application or may make a request for an Exemption Letter together with evidence of the condition of the Tree, in a form satisfactory to the Director. The Director shall determine whether an Arborist Report or inspection is required to process the Application or request for Exemption Letter, and, where an inspection is required, the Town Arborist shall be deployed to inspect the Tree and report his/her findings to the Director.
- 8.3. In determining whether to issue a Permit under section 8.1, the Director shall consider the following criteria:
 - 8.3.1. the condition of the Tree, including but not limited to its diameter, height, health, and structural integrity as assessed by an Arborist;

- 8.3.2. the location of the Tree;
- 8.3.3. the species of the Tree;
- 8.3.4. the Crown Coverage of the ground;
- 8.3.5. the protection of ecological systems and their functions, including the protection of native flora and fauna;
- 8.3.6. erosion and sedimentation of watercourses and flood control; and
- 8.3.7. impacts on surrounding properties including loss of shade, vistas or privacy.

9. PERMIT CONDITIONS

- 9.1. Every Permit issued under this By-law is subject to the following conditions, as determined by the Director, all of which shall be complied with by the Permit Holder:
 - 9.1.1. the planting of Replacement Tree(s) in accordance with Schedule “B”, or as otherwise determined by the Town having regard to existing canopy coverage on the subject Site;
 - 9.1.2. all required Replacement Trees shall be planted on the same Site by the date specified in the Permit, including the species or approved species selection, size, and location of such trees;
 - 9.1.3. where there is insufficient space on the Site to accommodate all required Replacement Trees, the maximum number of Replacement Trees that can reasonably be accommodated on the Site shall be replanted and payment shall be made in accordance with Schedule “C” for all Replacement Trees that cannot be accommodated (Fee for Off-Site Tree Planting);
 - 9.1.4. Replacement Trees shall meet the following minimum standards:
 - 9.1.4.1. a deciduous tree with a caliper of thirty-five (35) millimetres, or
 - 9.1.4.2. a coniferous tree with a height of one hundred and fifty (150) centimeters; and

shall be supplied as a container-grown stock (minimum five (5) gallon), balled and burlapped stock, or wire basket stock; and
 - 9.1.5. security shall be provided to the Town in an amount sufficient to cover the cost of Replacement Trees and their maintenance for a period of up to two (2) years, in accordance with Schedule “C”, except where, in the case of a residential lot, the Permit Holder has agreed as a condition of the Permit to replace any Replacement Tree that fails to survive for a period of two (2) years following planting.
- 9.2. Notwithstanding any other provision of this By-law, the Director may impose additional special terms and conditions on any Permit at issuance or at any time during the term of the Permit, including but not limited to:
 - 9.2.1. the manner, timing, sequencing or scheduling of the Injury or Destruction of a Tree;
 - 9.2.2. the species, size, number and location of Trees to be Injured or Destroyed, or planted;
 - 9.2.3. requirements for the identification or marking of Trees to be Injured or Destroyed, including the use of paint or other marking methods;

- 9.2.4. the submission of additional information, reports, or documentation prior to the Permit taking effect or during its term;
 - 9.2.5. measures to be implemented to mitigate the direct and indirect impacts of the Tree Injury or Destruction;
 - 9.2.6. where Trees are proposed to be retained, and an Arborist Report is required, the submission of a Tree Protection Plan identifying the location, species and size of all Trees on the Site, together with protective measures, including barriers and hoarding, to prevent the Injury or Destruction of Trees to be retained;
 - 9.2.7. where there is a discrepancy in the assessment of the condition or health of a Tree proposed to be Injured or Destroyed, the submission of a written evaluation of the Tree's condition prepared by an Arborist, where determined necessary by the Town;
 - 9.2.8. any conditions recommended by a Qualified Person that the Director considers appropriate; and
 - 9.2.9. measures to mitigate the direct and indirect impacts of Tree Injury or Destruction on Sensitive Natural Areas, having regard to broader ecological impacts beyond individual Trees.
- 9.3. A Permit issued under this By-law shall be valid only for the period specified on the Permit and shall not be transferable. Unless expressly stated on the face of the Permit, all Permits issued under this By-law shall expire six (6) months after issuance.
 - 9.4. A Permit may be renewed by the Director for up to two (2) additional one-year terms contiguous with the expiry date of the original Permit and after a written request from the Owner for renewal is made to the Director, who must be satisfied that there are reasonable grounds for the renewal.
 - 9.5. A Permit issued under this By-law does not relieve the Owner of any other applicable municipal, provincial, or federal by-laws, regulations or requirements.

10. RESPONSIBILITY OF THE PERMIT HOLDER

- 10.1. The Permit Holder Shall:
 - 10.1.1. pay all fees associated with this By-Law;
 - 10.1.2. ensure the use of the Property is permitted or conforms with the uses permitted under the applicable Zoning By-Law or is a legal non-conforming use;
 - 10.1.3. meet all of the conditions of the Permit;
 - 10.1.4. ensure they remain in compliance with all applicable law(s), including but not limited to the Migratory Birds Convention Act, 1994, and the Endangered Species Act, 2007;
 - 10.1.5. ensure that the Permit is posted in a public location for a time period before, during and after the Tree Injury or Destruction;
 - 10.1.6. ensure that measures are implemented to protect any retained Trees;
 - 10.1.7. ensure that the Town is notified within 48 hours of change registered Ownership of the Property;
 - 10.1.8. provide and maintain security in a form and amount acceptable to the Town, which may be drawn upon by the Town in whole or in part in the event of a

contravention of this By-law, non-compliance with the Permit or its conditions, or where the Town is required to undertake restoration of all or part of the Property;

10.1.9. ensure they comply with any requirements to protect or relocate wildlife; and

10.1.10. ensure they implement any measures outlined in an Arborist Report submitted with the Application within a period of time specified by the Town.

11. PERMIT REFUSAL, SUSPENSION, OR REVOCATION

11.1. The Town may deny, suspend or revoke a Permit, or impose additional terms or conditions, on any one or more of the following grounds:

11.1.1. the Tree is an endangered species or threatened species as defined in the Endangered Species Act, 2007, S.O. 2007, c. 6, or the Species at Risk Act, S.C. 2002, c. 29;

11.1.2. the Tree is designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18;

11.1.3. migratory birds or their nests are present in the Tree, or the Tree is otherwise being used by migratory birds in a manner protected under the Migratory Birds Convention Act, 1994, S.C. 1994, c. 22;

11.1.4. the Tree Injury or Destruction would adversely impact the protection and preservation of ecological systems and their functions, including the protection and preservation of native flora and fauna;

11.1.5. the Tree Injury or Destruction would result in erosion, flood control issues or sedimentation of watercourses;

11.1.6. the Application or supporting documents contain false, misleading, or inaccurate information;

11.1.7. the Applicant, Owner or any Person working under the authority of the Owner fails to comply with any condition of the Permit or this By-law;

11.1.8. the Applicant, Owner or any Person acting under the authority of the Owner is carrying on activities that are in contravention of this By-law;

11.1.9. there are reasonable grounds to believe that an Application or other documents provided to the Town by or on behalf of the Owner contains a false statement;

11.1.10. an Planning Application respecting the land on which the Tree(s) is located has been submitted to the Town, but has not received final approval;

11.1.11. the required permit pursuant to the Niagara Region Woodland Conservation By-law has not been obtained;

11.1.12. the Application is inconsistent with an approved Tree Protection Plan;

11.1.13. the Permit was issued in error;

11.1.14. the Owner requests, in writing, that it be revoked;

11.1.15. the change in the legal ownership of the Property;

11.1.16. the material change in circumstances in connection with or on the Site and the Town is satisfied that the Permit needs to be revoked to avoid further Injury or Destruction of a Tree or Trees;

- 11.1.17. a Tree has been determined to be a Town Tree, and it has not been determined to be a Dead Tree, Hazardous or part of an approved Planning Act or Building Permit application;
 - 11.1.18. none of the criteria listed in Section 8.1 (permit issuance criteria) are satisfied;
 - 11.1.19. the permit has been inactive for a period of six (6) months; or
 - 11.1.20. a Planning Application is applied for concurrently with the Tree Permit.
- 11.2. When denying, suspending or revoking a Permit, the Director shall notify the Applicant in writing and provide reasons for their decision to the Applicant.

12. ORDER TO DISCONTINUE ACTIVITY

- 12.1. Where a contravention of this By-law has occurred, an Officer may issue an Order requiring the Property Owner or any Person who has contravened this By-law, or who has caused or permitted the Injury or Destruction of a Tree(s) to immediately cease the Injury or Destruction of the Tree(s).
- 12.2. An Order issued under section 12.1 shall set out:
- 12.2.1. the municipal address or the legal description of the land;
 - 12.2.2. particulars of the contravention; and
 - 12.2.3. the period within which there must be compliance with the Order.
- 12.3. An Order issued under this By-law may be served on the Person to whom it is directed by:
- 12.3.1. personal service;
 - 12.3.2. regular or registered mail to the Person's last known address; or
 - 12.3.3. electronic mail to the Person's last known email address.
- 12.4. Service of an order shall be deemed to have been effected:
- 12.4.1. on the date of personal service;
 - 12.4.2. on the fifth (5th) day after the date of mailing, where service is made by regular or registered mail; or
 - 12.4.3. on the date of electronic mail is sent, where service is made by electronic mail.
- 12.5. In addition to any other method of service, an Officer may post a copy of the Order in a conspicuous location on the affected lands, and such posting shall be deemed to constitute effective service of the Order on the Person to who it is directed on the date of posting.
- 12.6. An Order posted under section 12.5 shall not be removed except with the approval of the Officer.

13. ORDER TO COMPLY

- 13.1. Where a contravention of this By-law has occurred, an Officer may issue an Order to Comply requiring the Property Owner or any Person who has contravened this By-law, to restore the land to its condition prior to the commencement of the work, or to plant, replant or replace any Tree, as directed by the Town.

- 13.2. The Order may be served in accordance with the service provisions contained in subsections 12.3, 12.4 and 12.5, and shall include the following information:
- 13.2.1. the name of the Owner and the municipal address or the legal description of the land;
 - 13.2.2. the particulars of the contravention;
 - 13.2.3. the work to be done and the date by which there must be compliance with the Order;
 - 13.2.4. a statement that, if the required work is not completed within the specified time period to bring the property into compliance, the Town may carry out the work at the expense of the Owner in accordance with this By-law; and
 - 13.2.5. the contact information of the Officer.
- 13.3. Where a Person fails to comply with an Order issued under this Section, the Town may, at any reasonable time and in accordance with this By-law, enter onto the land for the purpose of carrying out the work required to bring the land into compliance, including any inspection or rehabilitation specified in the Order, at the Owner's expense.
- 13.4. Where the Town carries out work pursuant to subsection 13.3, the Town may recover all costs incurred by adding such costs to the tax roll of the Property and collecting them in the same manner as municipal taxes.

14. OFFENCES AND PENALTIES

- 14.1. Every person who contravenes any provision of this By-law is guilty of an offence, and upon conviction, is liable to such penalties, as are provided for in the *Provincial Offences Act*, and the *Municipal Act, 2001*.
- 14.2. In addition to any other remedy or enforcement mechanism available to the Town, where an Officer is satisfied that a Person has contravened any provision of this By-law, the Officer may issue a Penalty Notice imposing an Administrative Penalty in the amount set out in schedule "A" to this By-law.
- 14.3. Administrative Penalties issued under this By-law shall be subject to the provisions of the Town's Administrative Penalty By-law 111-2019, as amended or replaced from time to time.
- 14.4. A Person who is issued a Penalty Notice under this By-law shall be liable to pay the Administrative Penalty in accordance with the Town's Administrative Penalty By-law 111-2019, as amended or replaced from time to time.

15. ADMINISTRATION AND ENFORCEMENT

- 15.1. This By-law shall be administered and enforced by the Town and any person or Officer appointed for that purpose.
- 15.2. An Officer may, at any reasonable time and in accordance with applicable law, enter upon land to inspect the land for the purpose of determining compliance with this By-law.
- 15.3. For the purposes of an inspection under subsection 15.2, an Officer may:
- 15.3.1. require the production of documents or things relevant to the inspection;
 - 15.3.2. inspect and remove documents or things for the purpose of making copies or extracts;

- 15.3.3. require information from any Person concerning a matter related to the inspection;
 - 15.3.4. take photographs, measurements, samples or recordings; and
 - 15.3.5. be accompanied by a Person possessing special or expert knowledge.
- 15.4. An Applicant or Owner may appeal:
- 15.4.1. the refusal of a Permit or Exemption Letter;
 - 15.4.2. any condition imposed on a Permit; or
 - 15.4.3. any decision of the Director or Town made under this By-law,
- to the Property Standards Committee in accordance with the procedures established by the Town.

16. GENERAL

- 16.1. Where a provision of this By-law conflicts with the provision of another by-law of the Town, the provisions of this By-law shall prevail.
- 16.2. If any provision or part of a provision of this By-law is declared by a court of competent jurisdiction to be invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.
- 16.3. Nothing in this By-law relieves any Person from complying with any other applicable federal or provincial statute, regulation, or other municipal by-law.
- 16.4. Schedules “A”, “B”, “C”, “D”, “E” and “F” attached to this By-law form part of this By-law.
- 16.5. In this By-law:
- 16.5.1. words in the singular include the plural, and words in the plural include the singular;
 - 16.5.2. words importing one gender include all genders; and
 - 16.5.3. headings are for convenience only and do not affect the interpretation of this By-law.
- 16.6. Any reference in this By-law to legislation or a municipal by-law shall be read as a reference to that legislation or by-law, as amended, replaced, reenacted, or consolidated from time to time.
- 16.7. By-law 33-2024, and all amendments thereto, is hereby repealed.
- 16.8. Despite subsection 16.7, By-law 33-2024, as amended, shall continue to apply to:
- 16.8.1. proceedings in respect of offences that occurred prior to its repeal; and
 - 16.8.2. any Permit or Exemption Letter issued under By-law 33-2024 prior to its repeal, which shall remain valid and continue to be governed by the terms and conditions under which it was issued.
- 16.9. Any Application, Order, notice, or enforcement proceeding commenced under By-law 33-2024, as amended, prior to its repeal may be continued and completed as if that By-law had not been repealed.

- 16.10. Any reference in the Town's Administrative Penalty By-law 111-2019, as amended or replaced, to By-law 33-2024 shall, upon the coming into force of this By-law, be deemed to be a reference to this By-law.
- 16.11. The Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 27th day of April 2026.

Mayor

Clerk