

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO AMEND BY-LAW 2020-79 BEING A BY-LAW TO PROHIBIT AND REGULATE DESTRUCTION OR INJURING OF TREES IN THE REGIONAL MUNICIPALITY OF NIAGARA

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WHEREAS Section 135(2) of the Municipal Act, 2001, S.O. 2001, c. 25, (the “Act”), as amended, provides that Regional Council may by bylaw prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law;

WHEREAS Section 135(7) of the Municipal Act provides that the by-law may require that a permit be obtained to injure or destroy trees in woodlands as designated in the by-law and impose conditions on a permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy trees;

WHEREAS Regional Council deems it desirable to enact a by-law for the purposes of:

- conserving and improving the Woodlands in the Regional Municipality of Niagara through Good Forestry Practices;
- promoting Good Forestry Practices that sustain healthy Woodlands and related natural habitats and environments;
- Ensuring the long- term health and productivity of Woodlands;
- regulating and controlling the removal, maintenance and protection of trees in Woodlands;
- protecting, promoting and enhancing the values of Woodlands;
- contributing to human health, recreation, enjoyment and quality of life through the maintenance of Woodland cover;
- enhancing biodiversity and forest resilience to help our communities adapt to climate change;

WHEREAS on October 22, 2020 By-law No. 2020-79 was passed by Regional Council and this By-law has been in place to prohibit or regulate the destruction or injuring of trees in Woodlands in the Region; and

WHEREAS Regional Council deems it desirable to amend By-law 2020-79 being a By-law to Prohibit or Regulate the Destruction or Injuring of Trees in The Regional Municipality of Niagara.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That Section 1.1 of By-Law No. 2020-79 be deleted and be replaced with the following:
  - 1.1 "Agricultural Use" means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated onfarm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.
2. That Section 1.14 of By-Law No. 2020-79 be deleted.
3. That Section 1.26a of By-Law No. 2020-79 be deleted and be replaced with the following:
  - 1.26a Within a Provincially Significant Wetland, Provincial Life Sciences Area of Natural Scientific Interest, or Significant Woodland, as those terms are defined in the Regional Official Plan, or, in the case where there is no Regional Official Plan, as defined in the Official Plan of the relevant Area Municipality; or
4. That Section 4.15 of By-Law No 2020-79 be deleted and be replaced with the following:

The Harvesting, Injuring or Destruction of Trees by a Farmer that involves the clearing of all or part of a Woodland for Agricultural Use on land that is owned by the Farmer doing the clearing, provided that:

  - 4.15.a The land upon which the clearing is to occur is part of a farm operation or farm corporation that has existed for at least three (3) years prior to such clearing;
  - 4.15.b the land that is cleared is put into Agricultural Use within three (3) years of the date on which such clearing commences;

- 4.15.c prior to the clearing, the Farmer advises the Officer of the proposed clearing. For the purposes of this section the marking of Trees, a Forest Management Plan or a Silvicultural Prescription, a fee and a Permit are not required;
  - 4.15.d the land being cleared for Agricultural Use is:
    - (i) outside the Urban Area; and
    - (ii) is designated and zoned for Agricultural Use, with no Environmental Overlays,

in the Official Plan and Zoning By-law of the Area Municipality, and, where applicable, in the Niagara Escarpment Plan; and
  - 4.15.e the Injuring or Destruction of Trees does not involve a Sensitive Natural Area.
5. That the following wording be added to Section 4 of By-Law No. 2020-79 following Section 4.15 as a new section.
- 4.16 The Injuring or Destruction of Trees as a result of a 'Normal Farm Practice' carried on as part of an 'Agricultural Operation' as such terms are defined in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c.1, as amended, or any successor legislation;
6. That Section 5.4 of By-Law No. 2020-79 be deleted and be replaced with the following:
- 5.4 Notwithstanding Sections 5.2 and 5.3, a Good Forestry Practices Permit may be issued where an exclusion provision under the *Professional Foresters Act* 2000, c.18, as amended, applies and a qualified member of the Ontario Professional Foresters Association provides an opinion that the Harvesting of Trees is consistent with Good Forestry Practices.
7. That Section 9.4 of By-Law No. 2020-79 be deleted.

8. That Section 9.5 of By-Law No. 2020-79 be deleted.
9. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: < >