

# **Guide to Developing Forest Conservation By-laws**

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*This document has been prepared by the Forest Conservation By-law Committee: a group of municipal and provincial staff and other interested agencies that meet informally to:*

- *provide support to municipal staff by providing a forum for discussion, information exchange, and input into Forest Conservation By-law related initiatives.*
- *encourage training opportunities, and improve competency in Forest Conservation By-law officers.*
- *encourage more effective and consistent application of Forest Conservation By-laws across Ontario.*

*This document is intended to assist in the development and upgrading of Forest Conservation By-laws. It is not legally verified information. This document is for discussion purposes only. Neither the Committee, its members, the Ministry of Natural Resources, nor the municipalities participating on the Committee provide any representation, warranty or guarantee of any kind as to the suitability, accuracy or validity, legal or otherwise, of the document, the information contained therein or the use of either. Any by-laws or action based on the use of this document should be undertaken only after consultation with municipal legal council.*

This document will be updated, as better information becomes available.

## **INTRODUCTION**

In Ontario both upper tier and lower tier municipalities can prohibit or regulate tree cutting on private land through powers granted under the Municipal Act. Municipalities can enact forest conservation by-laws that set a minimum standard for forest harvesting practices. These minimum standards are usually based on restricting cutting below certain circumference limits. Although this approach is widely considered to be bad forestry practices, it does prevent the total removal or destruction of forests and is relatively easy to enforce. The option to carry out good forestry practices is also found in most by-laws and is encouraged as much as possible. Good forestry practices should also be promoted and supported through other initiatives such as education and awareness opportunities and good stewardship programs.

When developing a forest conservation by-law, municipalities must consider what type of by-law would be most appropriate for the circumstances within their municipality. Consideration must be given to the sensitivity of landowners to a new by-law and to new requirements such as filing a Notice of Intent or applying for a Permit. Appropriate staff resources need to be allocated to enforcement and administration. Political will and atmosphere will have a significant influence over the perception and acceptance of a new by-law or a by-law amendment.

## **HOW TO USE THE TEMPLATES**

Various by-law templates using the four approaches discussed below have been prepared to assist municipalities considering a forest conservation by-law. These templates are provided as SAMPLES only and should not to be used "as is". Each

municipality MUST review the various sections and options in detail and tailor the clauses to suit their local situations.

Schedules to facilitate the administration of the by-law must developed, and recommendations of key areas to include have been provided. Municipalities may want to standardize where possible schedules and forms with surrounding municipalities to assist the forest industry working across municipal boundaries.

## **COMPONENTS OF A BY-LAW**

The main components of such a by-law are listed here and briefly explained to help municipalities gain a general understanding of how forest conservation by-laws work.

Each by-law begins with a statement of the locally determined purpose of the by-law. The main functional components consist of the following:

General Prohibition: sets out generally the requirements under which tree cutting can take place.

Exemptions: provides a list of situations not affected by the by-law. Some exemptions are mandatory as stated in the enabling legislation and others can be added by the municipality. A process is also prescribed to assist Councils to deal with applications for exemptions under special circumstances.

Notification and Applications: provides opportunity for the municipality to require notification in advance of tree cutting. The municipality can also chose a permit system where application must be made to obtain a permit to cut. An appeal process is also provided for the permit system.

Penalties and Enforcement: The ability of the municipality to appoint a by-law officer and the legislated fines are described here. The municipality may impose stop work orders and has the option of setting ticketable fines through the short forming process (contact the Provincial Attorney General's office for more information).

## **DIFFERENT APPROACHES TO BY-LAWS.**

There are different approaches to forest conservation by-laws. Each municipality must carefully consider the pro's and con's of each approach and decide which might suit their local situation best.

- ◆ A Basic By-law
- ◆ By-laws Requiring Notification in Advance of Cutting
- ◆ By-laws Using a Permit System
- ◆ By-laws Using a Combination of Notification and Permit System Depending on the Forest Management Approach Being Used.

## **The Basic Approach**

A basic by-law sets the requirements to cut trees, but would not impose any requirements on the owner to provide the municipality with advanced notice of tree cutting or an application to obtain a permit to cut. Enforcement would be carried out through random inspection or in response to complaints or concerns.

*Advantages: Administrative costs are greatly reduced. Citizens feel they are contributing and have a role in their community's environmental protection by reporting alleged infractions. This approach is clearly less onerous on the landowner and may also be perceived as less restrictive.*

*Disadvantages: Citizens may not wish to report on their neighbors. By-law Officer may not become aware of poor cutting practices occurring until damage is done. A municipality must provide sufficient education and awareness so that there is widespread knowledge that there is a Forest Conservation By-law and that citizens have a role in enforcing it.*

## **By-laws Requiring Notification in Advance of Cutting**

Many by-laws in the past have required the landowner to provide the municipality with advanced written notice of their intention to cut. This allows the municipality to make inspections to ensure cutting is consistent with the By-law.

*Advantages: This approach gives the municipality the advantage of advanced notice of tree cutting but it is not as onerous as a permitting process.*

*Disadvantages: The Notice does not give the municipality the opportunity to deny cutting. The cutting must first take place before a stop work order, or a ticket is issued, or a charge can be laid.*

## **By-laws using a Permit System**

An application for a Permit is required before cutting can begin.

*Advantages: The permit application process puts more accountability on the owner to show that thoughtful forest management is being conducted. A permit system makes enforcement easier because a review of the application may provide a good indication of the type of cutting that may take place. The municipality may set special conditions or deny cutting entirely where poor practices are proposed. The visible permit makes it easier for the public to be assured that the minimum standards of the by-law are being adhered to.*

*Disadvantages: Adequate administrative support is required to process, review and issue permits. In some municipalities, forest owners will feel that a permit requirement is too onerous.*

## **By-laws Using a Combination of Notification and Permit Systems**

A combination of approaches may be preferred. For instance, advanced notice of cutting is required when good forest practices are being planned, but an application for a permit is required when circumference limit cutting is being proposed.

*Advantages: The notice is less onerous for those using good forestry practices and still gives notification to municipalities. The permit provides the municipality with the option to accept, deny, or place conditions on all other types of cutting.*

*Disadvantages: This combination may not be as transparent to the public. The notice does not give the municipality the opportunity to deny cutting when “good forestry practices” are not to be employed. The cutting must first take place before a stop work order or a ticket is issued, or a charge can be laid.*

## **OTHER RESOURCES**

**The Ontario Woodlot Association** has developed the ***Forest Service Directory for Landowners*** Web site that contains numerous items of interest when considering Forest Conservation Bylaws, such as the template referred to above, the information for Successful Forest Conservation Bylaws, and contact information for other jurisdictions with tree cutting bylaws. The Web is located at [www.ontariowoodlot.com](http://www.ontariowoodlot.com)

**The Landowner Resource Centre** provides an extensive selection of publications including the Ministry of Natural Resources Extension Note Series. They can be reached at 613- 692-2390 or 1-800-387-5304 or on the Internet: at [www.lrconline.com](http://www.lrconline.com)

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