

The Regional Municipality of Hamilton-Wentworth

By-Law No. R00-054

Respecting:

WOODLAND CONSERVATION

To restrict and regulate the destruction of trees in the
Regional Municipality of Hamilton-Wentworth.

WHEREAS the Council of the Regional Municipality of Hamilton-Wentworth deems it necessary to preserve and enhance the native biodiversity, forest, water, and soil resources of the region by promoting the sustainable use and wise management of woodlands in the region.

AND WHEREAS Section 11 of the *Forestry Act, R.S.O. 1990*, as amended, authorizes the Council of the Regional Municipality of Hamilton-Wentworth to pass by-laws consistent with good forestry practices;

- a) restricting and regulating the destruction of trees by cutting, burning, or other means in woodlands of the size specified in this by-law;
- b) providing for the appointment of officers to enforce any by-law passed under this section; and
- c) providing for a process to authorize minor exceptions from the by-law in respect of such trees as, in its opinion, are desirable for the appropriate development or use of the land on which the trees are situate, if the general intent and purpose of the by-law is maintained.

AND WHEREAS the former County of Wentworth had enacted a Tree Cutting By-law as By-law No 2159, as amended by By-law No. 2400, and it is deemed advisable to repeal such by-laws in the event they have not previously been repealed.

NOW THEREFORE the Council of the Regional Municipality of Hamilton-Wentworth enacts as follows:

DEFINITIONS

1. For the purposes of this by-law:

- (a) "area municipality" means the municipality or corporation of The City of Stoney Creek, The City of Hamilton, The Town of Ancaster, The Town of Dundas, The Town of Flamborough, and The Township of Glanbrook;
- (b) "building permit" means a building permit as issued under the *Building Code Act, S.O. 1992, c.23*, as amended;
- (c) "circumference" means the measurement of the perimeter of the trunk or stem of the tree with such measurement including the bark of the stem or trunk;
- (d) "Community Planning and Development Division" means the Community Planning and Development Division of the Regional Municipality of Hamilton-Wentworth;
- (e) "Council" means the Council of the Regional Municipality of Hamilton-Wentworth;
- (f) "destroy" means any action which causes or results in the death of a tree, which includes but is not limited to cutting, burning, or knocking over a tree;
- (g) "diameter" means the measurement of the width of the stem or trunk of a tree with such measurement including the bark;
- (h) "good forestry practice" 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 the 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.
- (i) "own use" in respect of Section 4(a) does not include the sale, exchange, or other disposition of the tree that is destroyed;
- (j) "plantation" means a woodland where trees of a prescribed species have been planted or seeded in a pre-determined pattern or arrangement for the purpose of cultivation and sale at a later time;

- (k) “point of measurement” means that point on the tree trunk measured above the highest point of the ground in an undisturbed state on the base of the tree;
- (l) “prescribed species” means the species of trees listed in Schedule A attached to and forming part of this by-law;
- (m) “Tree By-law Committee” means the Tree By-law Committee of the Regional Municipality of Hamilton-Wentworth, consisting of members of Regional Council;
- (n) “woodlands” means land with at least:
 - (i) 1000 trees per hectare (405 trees per acre) of any size; or
 - (ii) 750 trees per hectare (303 trees per acre), measuring over 5 centimetres (2 inches) in diameter; or
 - (iii) 500 trees per hectare (202 trees per acre), measuring over 12 centimetres (5 inches) in diameter; or
 - (iv) 250 trees per hectare (101 trees per acre), measuring over 20 centimetres (8 inches) in diameter.

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees.

(2) For the purposes of the definition of “woodlands” in (1), all measurements of the trees are to be taken at 1.37 metres from the ground.

APPLICATION

2. (1) This by-law applies only to woodlands within the geographic boundaries of the Regional Municipality of Hamilton-Wentworth under the *Regional Municipality of Hamilton-Wentworth Act, R.S.O. 1990 c.R. 12*.

(2) This by-law does not apply to woodlands less than 0.81 hectares (2 acres) in area.

TREE DESTRUCTION RESTRICTIONS

3. (1) Except as provided in Section 4, no person shall destroy by cutting, burning,

or other means a tree:

- (i) if the tree is of a prescribed species listed in Schedule A and does not equal or exceed the measurements required for that tree species as set out in Schedule A at the point of measurement specified; and
- (ii) if the destruction of the trees has the effect of reducing the number of trees in woodlands below the number of trees necessary to constitute woodlands.

(2) When cutting or removing trees in woodlands, no person shall unnecessarily damage or injure any tree of a prescribed species that remains standing in the woodland or conduct their operations in such a manner that results in excessive damage to the soil, water bodies, wetlands, or other portions of the woodlands.

EXCEPTIONS

4. (1) Pursuant to the *Forestry Act, R.S.O. 1990 c.F.26* as amended, this by-law shall not be construed to:
- (a) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees on the land for the person's own use;
 - (b) interfere with any rights or powers conferred upon a municipality by the *Municipal Act R.S.O. 1990 c.M.45*, as amended;
 - (c) interfere with any rights or powers of any agency, board, or commission that is performing its functions for or on behalf of the Crown;
 - (d) apply to trees growing on any highway or on any opened road allowance;
 - (e) apply to trees destroyed in order to erect a building, structure, or thing in respect of which a building permit is issued by an area municipality provided no tree of a prescribed species is destroyed more than 10 meters (33 feet) from the outer edge of the building, structure, or thing;
 - (f) apply to trees planted for the production of Christmas trees;
 - (g) apply to trees that are destroyed in accordance with an approved Tree Preservation Plan or landscape planting plan imposed as a condition of a consent, plan of subdivision, plan of condominium or site plan approved by an area municipality pursuant to the *Planning Act, R.S.O. 1990, c.P.13*, as amended, or any successor thereof;

- (h) apply to trees 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, R.S.O. 1990, c.A.8*;
- (i) apply to trees cut by a person licensed under the *Surveyors Act, R.S.O. 1990, c.S.29* as amended, to engage in the practice of cadastral surveying or any person in his or her employ while making a survey;
- (j) apply to trees destroyed in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under the *Aggregate Resources Act, R.S.O. 1990, c.A.8* or a predecessor of that Act;
- (k) apply to trees that are cut in accordance with good forestry practice; or
- (l) apply to interfere with any rights or powers of a transmitter or distributor as defined in the *Electricity Act, 1998*.

MINOR EXCEPTIONS

5. (1) Any person who is the registered owner of the land where woodlands are located, or any person authorized in writing by such owner, may apply for a minor exception to Section 3 of this by-law.
 - (a) Applications for a minor exception shall be in the form as prescribed by Community Planning and Development Division and shall be submitted to the Community Planning and Development Division, completed in full, for consideration along with a fee of \$600. The applicant shall submit the following information with the application:
 - (i) the location of the land on which the minor exception is sought;
 - (ii) a description of the nature and extent of the trees on such land; and
 - (iii) the nature and purpose of the minor exception sought.
 - (b) The Director of Community Planning and Development Division will designate a staff person or persons to consider, issue, or refuse permits for minor exceptions, and to direct or conduct investigations into whether the exception applied for is minor, desirable for the appropriate development or use of the land on which the trees are situated, and if the general intent and purpose of the by-law is being maintained.

(c) Persons designated in (b) above will, upon receipt of a completed application and payment of the fee, make inquiries of the applicant, and arrange for an inspection or report dealing with the application, and consider whether the exception sought is:

- (i) minor in respect of the purpose and provisions of the by-law and the number of trees involved;
- (ii) desirable for the appropriate development or use of the land on which the trees are situate;
- (iii) the general intent and purpose of the by-law is being maintained, and
- (iv) in conformity with Regional Official Plan policies protecting natural areas (Section C(1)).

(d) Subject to (e), where the exception sought meets the tests in (c) and the fees required have been paid in full, the person designated in (b) may direct staff to issue a permit authorizing the minor exception to the by-law.

(e) Where the exception sought does not meet the tests in (c) and the fees required have been paid in full, but the person designated in (b) finds that the exception would meet the tests under reasonable terms or conditions, staff may issue the permit with the terms and conditions to be listed on or attached to the permit where the owner or applicant (if other than the owner), consent in writing to the terms and conditions on the permit.

(f) No owner or applicant to whom a permit is issued shall fail to comply with a term or condition imposed on the permit issued under this section.

(g) A decision to refuse an application for an exception under this section, shall be in writing, and be sent to the applicant by regular mail and shall be deemed received within seven (7) days of the date of mailing.

(h) Where the permit is refused by staff designated under this section, the applicant may, within fifteen (15) days of receipt of written notice under (g), request a hearing before a Tree By-law Committee appointed by Council, by writing to the Director of Community Planning and Development with the request and reasons for the appeal.

(i) Council may appoint up to five of its members as the "Tree By-law Committee", for the purpose of hearing applicants who are refused a permit for minor exception, and recommending whether the permit should be issued or denied under this section with or without terms and conditions.

(j) The parties to a hearing before the Tree Committee are the applicant for the minor exception and the Regional Municipality of Hamilton-Wentworth.

(k) Community Planning and Development Division shall schedule a meeting of the Tree By-law Committee and send notice of the date, time, and place of the appeal to the parties.

(l) Council may, upon receipt of the report of the Tree By-law Committee, without further hearing consider whether the exception sought is:

- (i) minor in respect of the purpose and provisions of the by-law and the number of trees involved;
- (ii) desirable for the appropriate development or use of the land on which the trees are situate;
- (iii) if the general intent and purpose of the by-law is being maintained, and
- (iv) in conformity with Regional Official Plan policies protecting natural areas (Section C(1)).

(m) If Council is of the opinion that the tests in (l) above are met by the application, or if the tests in (l) would be met if the permit were issued subject to terms and conditions, then Council may direct a permit be issued and impose terms or conditions on the permit. Otherwise, Council may reject the application for a minor exception.

(n) Where a permit with or without terms or conditions is issued under this section, subject to compliance with any terms or conditions imposed, the trees designated in the permit may be cut notwithstanding section 3 of this by-law.

NOTICE OF INTENT TO DESTROY TREES

6. (1) The landowner or any person acting on behalf of the landowner who is planning to cut, burn, or destroy by any other means trees from woodlands shall notify the Community Planning and Development Division in writing at least twenty (20) business days prior to the destruction, unless the destruction is under an exception provided for in Section 4 of this by-law or otherwise authorized as a minor exception under Section 5.

(2) Written notice in Section 6(1) is not effective unless addressed to and

received by the Community Planning and Development Division at its offices at least twenty business days prior to the destruction of trees and the notice includes the information required by the Community Planning and Development Division on the form it provides for the purpose.

(3) Notwithstanding Section 6(1), the landowner or anyone acting on behalf of the landowner who is planning to cut, burn, or destroy trees under Section 4(1)(k) shall notify the Community Planning and Development Division in the form as prescribed by the Community Planning and Development Division at least twenty business days prior to any destruction.

ENFORCEMENT

7. (1) (a) This by-law shall be enforced by a by-law enforcement officer duly appointed by the Council of the Regional Municipality of Hamilton-Wentworth.

(b) A by-law enforcement officer appointed under this by-law and any person acting under the by-law officer's instructions, may, at all reasonable times, enter upon the land of any person to:

(i) enforce this by-law;

(ii) determine compliance with an order made under subsection 8(2) of this by-law; or

(iii) examine the trees that might fall within a minor exception as provided for in Section 5 of this by-law.

PENALTY

8. Pursuant to the *Forestry Act, R.S.O. 1990, c.F.26* as amended:

(1) Every person who,

(a) alone or through any other person, contravenes any provision of this by-law;

(b) obstructs or interferes with an officer appointed under this by-law, or any person acting under the officer's instructions, in the discharge of the officer's duties; or

(c) fails, without just cause, to comply with an order made under subsection (2),

is guilty of an offence, and on conviction is liable to a fine of not more than \$20,000 or to imprisonment for a term of not more than three months, or to both.

(2) If a person is convicted of an offence referred to under Section 8 (1)(a) of this by-law, the Court shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the area to:

- (a) return the area on which trees have been destroyed to a suitable condition for replanting the trees in a manner the Court considers appropriate;
- (b) replant the trees, in the manner and within the time that the Court considers appropriate; and
- (c) adequately maintain the replanted trees in a manner the Court considers proper.

ADMINISTRATION

9. (1) 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 parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found illegal.

(2) By-laws Number 2159 and 2400 of the Corporation of the County of Wentworth shall be repealed effective on the coming into force and effect of this by-law.

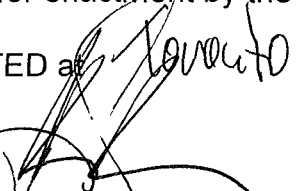
(3) Schedule "A" attached hereto shall form part of this by-law.

(4) This by-law shall come into force and take effect on the day it is approved by the Minister of Natural Resources and enacted by the Council of the Regional Municipality of Hamilton-Wentworth.

(5) The short title of this by-law is the "Woodland Conservation By-law".


Pursuant to the *Forestry Act, R.S.O. 1990* as amended, I hereby approve the above by-law for enactment by the Council of the Regional Municipality of Hamilton-Wentworth

DATED at Toronto this 13 day of May, 2000.



Minister of Natural Resources

By-law read and enacted by Council of the Regional Municipality of Hamilton-Wentworth this 4th day of July, A.D., 2000.



Regional Clerk Acting Municipal Clerk



Regional Chair

Approved
as to form

Legal
Services

SCHEDULE 'A'

PROTECTED TREE SPECIES

Minimum Circumferences and Diameters
By Tree Species and Groups

Group 1 Tree Species

| | |
|-----------------|---|
| Ash | Red (<i>Fraxinus pennsylvanica</i>) Green (<i>Fraxinus pennsylvanica</i> var. <i>subintegerrima</i>) White (<i>Fraxinus americana</i>) |
| Basswood | (<i>Tilia americana</i>) |
| Beech | American (<i>Fagus grandifolia</i>) |
| Butternut | (<i>Juglans cinerea</i>) |
| Cherry | Black (<i>Prunus serotina</i>) |
| Chestnut | American (<i>Castanea dentata</i>) |
| Elm | Rock (<i>Ulmus thomasi</i>) Slippery, Red (<i>Ulmus rubra</i>) White, American (<i>Ulmus americana</i>) |
| Gum | Black (<i>Nyssa sylvatica</i>) |
| Hackberry | (<i>Celtis occidentalis</i>) |
| Hickory | Bitternut (<i>Carya cordiformis</i>) Pignut (<i>Carya glabra</i>) Shagbark (<i>Carya ovata</i>) |
| Kentucky Coffee | (<i>Gymnocladus dioicus</i>) |
| Maple | Black (<i>Acer nigrum</i>) Red (<i>Acer rubrum</i>) Silver (<i>Acer saccharinum</i>) Sugar (<i>Acer saccharum</i>) |
| Mulberry | Red (<i>Morus rubra</i>) |
| Oak | Black (<i>Quercus velutina</i>) Bur (<i>Quercus macrocarpa</i>) Chinquapin (<i>Quercus muehlenbergii</i>) Hill's (<i>Quercus ellipsoidalis</i>) Red (<i>Quercus rubra</i>) Swamp White (<i>Quercus bicolor</i>) White (<i>Quercus alba</i>) |
| Pine | Red (<i>Pinus resinosa</i>) White (<i>Pinus strobus</i>) |
| Sycamore | (<i>Platanus occidentalis</i>) |
| Tulip | (<i>Liriodendron tulipifera</i>) |
| Walnut | Black (<i>Juglans nigra</i>) |

Group 1 Minimum Circumference and Diameter

Prescribed circumference or diameter for the species listed in Group 1 of this Schedule:

| Column 1 Point of Measurement | Column 2 Circumference | | Column 3 Diameter |
|----------------------------------|---------------------------|----|----------------------|
| 46 cm (18 in.) | 145 cm (57 in.) | or | 46 cm (18 in.) |
| 31 cm (12 in.) | 175 cm (69 in.) | or | 56 cm (22 in.) |
| 15 cm (6 in.) | 208 cm (82 in.) | or | 66 cm (26 in.) |
| 2.5 cm (1 inch) | 240 cm (96 in.) | or | 76 cm (30 in.) |

Group 2 Tree Species

| | |
|-----------|---|
| Ash | Black (<i>Fraxinus nigra</i>) |
| Birch | Yellow (<i>Betula alleghaniensis</i>) |
| Hemlock | Eastern (<i>Tsuga canadensis</i>) |
| Larch | European (<i>Larix decidua</i>) |
| Maple | Manitoba (<i>Acer negundo</i>) |
| Pine | Jack (<i>Pinus banksiana</i>) |
| | Scots (<i>Pinus sylvestris</i>) |
| Sassafras | (<i>Sassafras albidum</i>) |
| Spruce | White (<i>Picea glauca</i>) |
| | Black (<i>Picea mariana</i>) |
| | Norway (<i>Picea abies</i>) |

Group 2 Minimum Circumference and Diameter

Prescribed circumference or diameter for the species listed in Group 2 of this Schedule:

| Column 1 Point of Measurement | Column 2 Circumference | | Column 3 Diameter |
|----------------------------------|---------------------------|----|----------------------|
| 46 cm (18 in.) | 112 cm (44 in.) | or | 36 cm (14 in.) |
| 31 cm (12 in.) | 136 cm (54 in.) | or | 44 cm (17 in.) |
| 15 cm (6 in.) | 160 cm (63 in.) | or | 51 cm (20 in.) |
| 2.5 cm (1 in.) | 208 cm (83 in.) | or | 66 cm (26 in.) |

Group 3 Tree Species

| | |
|----------|--|
| Birch | White (<i>Betula papyrifera</i>) |
| Beech | Blue (<i>Carpinus caroliniana</i>) |
| Cedar | Red (<i>Juniperus virginiana</i>) |
| | White (<i>Thuja occidentalis</i>) |
| Cherry | Choke (<i>Prunus virginiana</i>) |
| | Pin (<i>Prunus pensylvanica</i>) |
| Fir | Balsam (<i>Abies balsamea</i>) |
| Ironwood | (<i>Ostrya virginiana</i>) |
| Tamarack | (<i>Larix laricina</i>) |
| Poplar | Trembling Aspen (<i>Populus tremuloides</i>) |
| | Large-toothed Aspen (<i>Populus grandidentata</i>) |
| | Eastern Cottonwood (<i>Populus deltoides</i>) |
| | Balsam (<i>Populus balsamifera</i>) |
| | Jack Aspen (<i>Populus balsamifera</i> X <i>Populus deltoides</i>) |
| Willow | Black (<i>Salix nigra</i>) |
| | Species. (<i>Salix</i> spp.) |

Group 3 Minimum Circumference and Diameter

Prescribed circumference or diameter for the species listed in Group 3 of this Schedule:

| Column 1 Point of Measurement | Column 2 Circumference | Column 3 Diameter |
|----------------------------------|---------------------------|----------------------|
| 46 cm (18 in.) | 64 cm (25 in.) | or 20 cm (8 in.) |
| 31 cm (12 in.) | 79 cm (31 in.) | or 25 cm (10 in.) |
| 15 cm (6 in.) | 88 cm (35 in.) | or 35 cm (14 in.) |
| 2.5 cm (1 in.) | 152 cm (60 in.) | or 49 cm (19 in.) |

Authority: Item 15, Economic Development
and Planning Committee
Report 010-001 (PDO02229(d))
CM: January 27, 2010

Bill No. 013.

CITY OF HAMILTON

BY-LAW NO. 10-013

To Amend: By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law 4401-96, the City of Stoney Creek Tree By-law; By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth

WHEREAS Council wishes to amend the appeal processes provided for in: By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law No. 4401-96, the City of Stoney Creek Tree By-law; By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law;

AND WHEREAS the *City of Hamilton Act, 1999* did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor the former Regional Municipality of Hamilton Wentworth;

AND WHEREAS the *City of Hamilton Act, 1999* provides that the by-laws of the former area municipalities and the former Regional Municipality of Hamilton Wentworth remain in force, in respect of the part of the municipal area to which they applied on

December 31, 2000, until they expire or are repealed or amended to provide otherwise;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

By-law No. 2000-118, the Town of Ancaster Tree Protection By-law

1. Subsection 9.1 of By-law No. 2000-118 of the Town of Ancaster is deleted and replaced with following new subsection 9.1:

9.1 APPEALS REGARDING PERMITS

- 9.1.1 An appeal of the conditions imposed on a Permit or of a Permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.

2. By-law No. 2000-118 of the Town of Ancaster is amended by adding the Appeal Schedule, attached to this By-law as Schedule A.
3. Subsections 8.2 and 9.2 of By-law No. 2000-118 of the Town of Ancaster are deleted.
4. Sections 3 and 4 of Schedule "G" or By-law No. 2000-118 of the Town of Ancaster referring to an appeal are deleted.

By-law No. 4513-99, the Town of Dundas Tree Protection By-law

5. By-law No. 4513-99 of the Town of Dundas is amended by adding following new section 5a after section 5:

5a. APPEALS

An appeal of the conditions imposed on a permit or of a permit refusal shall be

conducted as set out in the Appeal Schedule attached to and forming part of this By-law.

6. By-law No. 4513-99 of the Town of Dundas is amended by adding the Appeal Schedule attached to this By-law as Schedule A.

By-law No. 4401-96, the City of Stoney Creek Tree By-law

7. Sections 22 and 23 of By-law No. 4401-96 of the City of Stoney Creek are deleted and replaced by the following new section:

APPEAL TO THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE

22. An appeal of the conditions imposed on a Permit or of a Permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.
8. By-law No. 4401-96 of the City of Stoney Creek is amended by adding the Appeal Schedule attached to this By-law as Schedule A.
9. Subsections 29(h) and (i) and section 33 and 34 of By-law No. 4401-96 of the City of Stoney Creek are deleted.
10. The third and fourth recitals of Schedule "E" of By-law No. 4401-96 of the City of Stoney Creek referring to an appeal are deleted.

By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth

11. Subsections 5(h) to (m) inclusive of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth are deleted and replaced with the following new subsection:

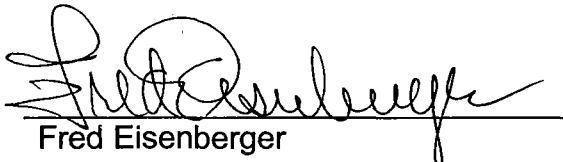
5(h) An appeal of a permit refusal shall be conducted as set out in the Appeal Schedule attached to and forming part of this By-law.

12. By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is amended by adding the Appeal Schedule attached to this By-law as Schedule A. as schedule 'B'.

General

13. This By-law comes into force on the day it is passed.

PASSED this 27th day of January, 2010


Fred Eisenberger
Mayor


Kevin C. Christenson
City Clerk

Schedule A

APPEAL SCHEDULE

1. For the purposes of this Schedule:
“**applicant**” means an applicant for a permit under this By-law;
“**City**” means the City of Hamilton incorporated as of January 1, 2001 under the *City of Hamilton Act, 1999*;
“**Economic Development and Planning Committee**” means the City of Hamilton’s Economic Development and Planning Committee or any successor committee; and
“**permit**” means a permit under this By-law.
2. An applicant for a permit who does not agree with the conditions imposed in a permit or with the refusal of a permit may appeal by requesting a hearing before the Economic Development and Planning Committee which, in the place of City Council, shall hear the appeal.
3. A request for a hearing by an applicant under section 2 shall be in writing, accompanied by the applicable fee and delivered to the Clerk of Economic Development and Planning Committee within 20 days of the date the permit is refused. The applicant shall also include the grounds for their appeal.
4. Where a request for a hearing meeting the requirements of section 3 has been delivered to the Clerk of the Economic Development and Planning Committee, the hearing shall be scheduled before the Economic Development and Planning Committee and notice of the hearing date shall be given to the applicant who requested the hearing. The notice of hearing shall include:
 - (a) a statement of the time, date and purpose of the hearing; and
 - (b) a statement that if the applicant does not attend the hearing, the

Economic Development and Planning Committee may proceed in their absence without notice to them.

5. The notice of hearing under section 4 may be given by delivering it personally or by sending it by prepaid registered mail to the last known address of the applicant on file with the City. Service by registered mail shall be deemed to have taken place 5 business days after the date of mailing unless the person to whom it is being given establishes that they, acting in good faith, through absence, accident, illness or other cause beyond their control did not receive the notice of appeal until a later date.
6. The Economic Development and Planning Committee shall hold a hearing pursuant to the *Statutory Powers Procedure Act* at the time, date and place set out in the notice of hearing and the Economic Development and Planning Committee may recommend to Council that a permit be refused or issued or that a condition be confirmed, rescinded, varied or imposed on a permit.
7. The Economic Development and Planning Committee shall have regard to the following matters, where relevant, as may be raised at a hearing:
 - (a) this By-law and other applicable law;
 - (b) circumstances and facts raised by the evidence of the parties; and
 - (c) whether strict application of the provisions of the By-law in the context of the circumstances and facts raised by the evidence of the parties would result in unusual hardship for the applicant or be inconsistent with the general intent and purpose of this By-law.
8. The Economic Development and Planning Committee shall forward a report to City Council on its final decision arising from each hearing or opportunity for a hearing.
9. City Council, after considering a report of the Economic Development and Planning Committee, may refuse or issue a permit or confirm, rescind, vary or

impose a condition on a permit, all without a hearing, having regard to the matters considered by the Economic Development and Planning Committee,

this By-law and other applicable law.

10. After City Council has made a decision in respect of a report of the Economic Development and Planning Committee, notice of that decision shall be sent to the applicant by personal delivery or by registered mail to the last known address of the applicant on file with the City.

Authority: Item 11, Planning Committee
Report: 14-012 (PD02229(f))
CM: August 15, 2014

Bill No. 213

**CITY OF HAMILTON
BY-LAW NO. 14-213**

To Amend: By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law 4401-96, the City of Stoney Creek Tree By-law; By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Conservation By-law

WHEREAS Council wishes to amend By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law; By-law No. 4401-96, the City of Stoney Creek Tree By-law; and By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law;

AND WHEREAS the City of Hamilton Act, 1999 did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor the former Regional Municipality of Hamilton Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the By-laws of the former area municipalities and the former Regional Municipality of Hamilton-Wentworth remain in force, in respect of the part of the municipal area to which they applied on December 31, 2000, until they expire or are repealed or amended to provide otherwise.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

By-law No. 2000-118, the Town of Ancaster Tree Protection By-law:

1. Section 3.3 of By-law No. 2000-118 of the Town of Ancaster Tree Protection By-law is deleted and replaced with the following new Section 3.3:

3.3 COMPLIANCE WITH OTHER STATUTES AND BY-LAWS

- 3.3.1 The provisions of this By-law apply in addition to the provisions contained in any other applicable By-laws of the City of Hamilton or applicable provincial or federal statutes or regulations.
- 3.3.2 In the event of a conflict between this By-law and any other applicable By-law of the City of Hamilton:
- (i) where one or more conflicting provisions provides for public health or safety, then the provision which is most protective of public health or safety prevails; or,
 - (ii) where none of the conflicting provisions provides for public health or safety, then the provision which is most protective of trees prevails.

By-law No. 4513-99, the Town of Dundas Tree Protection By-law:

2. Section 3 of By-law No. 4513-99 of the Town of Dundas is amended by adding the following new Sub-section 3(g):
- (g) (i) The provisions of this By-law apply in addition to the provisions contained in any other applicable By-laws of the City of Hamilton or applicable provincial or federal statutes or regulations.
 - (ii) In the event of a conflict between this By-law and any other applicable By-law of the City of Hamilton:
 - 1. where one or more conflicting provisions provides for public health or safety, then the provision which is most protective of public health or safety prevails; or,
 - 2. where none of the conflicting provisions provides for public health or safety, then the provision which is most protective of trees prevails.

By-law No. 4401-96, the City of Stoney Creek Tree By-law:

3. The first Recital of By-law No. 4401-99 of the City of Stoney Creek is amended by deleting the words "and prescribing fees for the permit".
4. Section 4 of By-law No. 4401-99 of the City of Stoney Creek is deleted and replaced by the following new Section 4:

4. (a) The provisions of this By-law apply in addition to the provisions contained in any other applicable By-laws of the City of Hamilton or applicable provincial or federal statutes or regulations.
- (b) In the event of a conflict between this By-law and any other applicable By-law of the City of Hamilton:
 - (i) where one or more conflicting provisions provides for public health or safety, then the provision which is most protective of public health or safety prevails; or,
 - (ii) where none of the conflicting provisions provides for public health or safety, then the provision which is most protective of trees prevails.
5. Section 17 of By-law No. 4401-99 of the City of Stoney Creek is deleted and replaced with the following new section 17:
 17. Where the person injuring or destroying the trees is not the owner, the applicant for a permit under this by-law shall provide proof of public and general liability insurance to the satisfaction of the City Clerk upon submitting the application.
6. Section 36 of By-law No. 4401-99 of the City of Stoney Creek is deleted.
7. Schedule "A" of By-law No. 4401-99 of the City of Stoney Creek is deleted.
8. Schedule "C" of By-law No. 4401-99 of the City of Stoney Creek is amended by deleting the words "and shall pay the required fees as set out in Schedule "A" of this by-law" from the third paragraph.

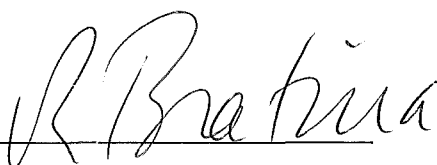
By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth:

9. Section 2 of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is amended by adding the following new Sub-section 2(3):
 - (3) (a) The provisions of this By-law apply in addition to the provisions contained in any other applicable By-laws of the City of Hamilton or applicable provincial or federal statutes or regulations.
 - (b) In the event of a conflict between this By-law and any other applicable By-law of the City of Hamilton:
 - (i) where one or more conflicting provisions provides for public health or safety, then the provision which is most protective of public health or safety prevails; or,

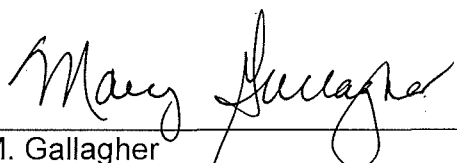
- (ii) where none of the conflicting provisions provides for public health or safety, then the provision which is most protective of trees prevails.

10. This By-law comes into force on the date of its passing.

PASSED this 15th day of August, 2014.



R. Bratina
Mayor



M. Gallagher
Acting City Clerk

Authority: Item 6, Planning Committee
Report 17-009 (PED17084)
CM: May 24, 2017
Ward: City Wide

Bill No. 094

CITY OF HAMILTON

BY-LAW NO. 17-094

To Amend By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law; By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law 4401-96, the City of Stoney Creek Tree By-law; By-law No. 4513-99, the Town of Dundas Tree Protection By-law

WHEREAS Council wishes to amend By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law; By-law No. 2000-118, the Town of Ancaster Tree Protection By-law; By-law No. 4401-96, the City of Stoney Creek Tree By-law; and By-law No. 4513-99, the Town of Dundas Tree Protection By-law;

AND WHEREAS the *City of Hamilton Act, 1999* did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is successor to the following former area municipalities: The Corporation of the Town of Ancaster, The Corporation of the Town of Dundas, The Corporation of the Town of Flamborough, The Corporation of the Township of Glanbrook, The Corporation of the City of Hamilton, and The Corporation of the City of Stoney Creek; and the successor to the former Regional Municipality of Hamilton Wentworth;

AND WHEREAS the *City of Hamilton Act, 1999* provides that the By-laws of the former area municipalities and the former Regional Municipality of Hamilton-Wentworth remain in force, in respect of the part of the municipal area to which they applied on December 31, 2000, until they expire or are repealed or amended to provide otherwise.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

By-law No. R00-054, the Regional Municipality of Hamilton-Wentworth:

1. Section 3 of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is deleted and replaced with the following:

TREE DESTRUCTION RESTRICTIONS

3. (1) Except as provided in Section 4, no person shall destroy or permit the destruction by cutting, burning, or other means one or more trees in a woodlands if:
 - (a) one or more of the trees destroyed is of a prescribed species listed in Schedule A and does not equal or exceed the measurements required for that tree species as set out in Schedule A at the point of measurement specified; or
 - (b) the destruction of one or more of the trees has the effect of reducing the number of trees in the woodlands below the number of trees necessary to constitute a woodlands.
- (2) When cutting or removing or permitting the cutting or removing of one or more tree in woodlands, no person shall:
 - (a) unnecessarily damage or injure any tree of a prescribed species that remains standing in the woodlands; or
 - (b) conduct their operations in such a manner that results in excessive damage to the soil, water bodies, wetlands, or other portions of the woodlands.
2. Section 8 of By-law No. R00-054 of the Regional Municipality of Hamilton-Wentworth is deleted and replaced with the following:

PENALTY

- 8.(1)(a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:
 - (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.
- (b) Despite paragraph 8(1)(a), where the person convicted is a corporation:

- (i) the maximum fines in subparagraph 8(1)(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 8(1)(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 8(1)(a) or 8(1)(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
8. (2) Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 2000-118, the Town of Ancaster Tree Protection By-law:

3. Section 10 of By-law No. 2000-118 of the Town of Ancaster is deleted and replaced with the following:

SECTION 10: PENALTIES FOR NON-COMPLIANCE WITH BY-LAW

10.1.1 Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:

- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
- (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.

10.1.2 Despite paragraph 10.1.1, where the person convicted is a corporation:

- (i) the maximum fines in subparagraph 10.1.1(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 10.1.1(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- 10.1.3 Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 10.1.1 or 10.1.2, to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
- 10.2 Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 4401-96, the City of Stoney Creek Tree By-law:

4. Section 37 of By-law No. 4401-96 of the City of Stoney Creek is deleted and replaced with the following:

PENALTY

- 37 (a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:
- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.

- (b) Despite paragraph 37(a), where the person convicted is a corporation:
 - (i) the maximum fines in subparagraph 37(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 37(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
- (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 37(a) or 37(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.

5. Section 38 of By-law No. 4401-96 of the City of Stoney Creek is deleted and replaced with the following:

PROHIBITION ORDER

38. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

By-law No. 4513-99, the Town of Dundas Tree Protection By-law:

6. Section 6 of By-law No. 4513-99 of the Town of Dundas is deleted and replaced with the following:

OFFENCE

- 6.(1)(a) Every person who contravenes any provision of this By-law and every Director or Officer of a corporation who knowingly concurs in the corporation's contravention of the provision is, upon conviction, guilty of an offence and is liable:

- (i) on a first conviction, to a fine of not more \$10,000 or a fine of \$1,000 per tree injured or destroyed, whichever is greater; and
 - (ii) on any subsequent conviction, to a fine of not more than \$25,000 or a fine of \$2,500 per tree injured or destroyed, whichever is greater.
 - (b) Despite paragraph 6(1)(a), where the person convicted is a corporation:
 - (i) the maximum fines in subparagraph 6(1)(a)(i) are \$50,000 or \$5,000 per tree injured or destroyed; and
 - (ii) the maximum fines in subparagraph 6(1)(a)(ii) are \$100,000 or \$10,000 per tree injured or destroyed.
 - (c) Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under paragraphs 6(1)(a) or 6(1)(b), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
6. (2) Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted;
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
7. This By-law comes into force on the day it is passed.

PASSED this 24th day of May, 2017

F. Eisenberger
Mayor

R. Caterini
City Clerk