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**TO:** GENERAL COMMITTEE

**SUBJECT:** PRIVATE TREE BY-LAW ADMINISTRATIVE UPDATE

**PREPARED BY AND KEY CONTACT:** K. RANKIN, M.Sc.F., R.P.F. *KR*  
FORESTRY SUPERVISOR (EXT. 4754)

**SUBMITTED BY:** DAVE FRIARY  
DIRECTOR OF ROADS, PARKS AND FLEET *[Signature]*

**GENERAL MANAGER APPROVAL:** R. J. FORWARD, M.B.A., M.Sc., P. Eng.  
GENERAL MANAGER, INFRASTRUCTURE & GROWTH MANAGEMENT *[Signature]*

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** CARLA LADD  
CHIEF ADMINISTRATIVE OFFICER *[Signature]*

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**RECOMMENDED MOTION**

1. That By-law 2005-120, the Private Tree By-law be repealed and replaced with a by-law incorporating the proposed administrative revisions included in Appendix "A" to Staff Report RPF010-14.

**PURPOSE & BACKGROUND**

2. On May 16, 2005, City Council adopted Motion 05-G-261 regarding the update of Private Tree By-law 2002-12:  

"That the draft Private Tree By-law attached as Appendix "A" to Staff Report LTW020-05, to restrict and regulate the injury and destruction of trees by cutting, burning or other means within the City of Barrie be approved and that By-law 2002-12 be repealed."
3. Section 10 of the Municipal Act, 2001, provides that a single-tier municipality may pass by-laws respecting matters set out therein including, inter alia, the economic, social and environmental well-being of the municipality.
4. Section 135 of the Municipal Act, 2001, provides that a municipality may prohibit or regulate the destruction or injuring of trees.
5. On private property, all trees within an ecological woodlot of 0.2 ha (1/2 acre) or greater are protected under the provisions of the Tree Preservation By-law 2005-120 (by-law to prohibit or regulate the injuring or destruction of trees on private property in the City of Barrie).
6. Since 2005, changes have been made to the Municipal Act related to Municipal Tree By-laws. Internal restructuring has also taken place causing name changes to departments and reallocation of responsibilities for the administering of By-laws.

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**ANALYSIS**

7. The City of Barrie is approximately 10,000 hectares in area, and currently includes approximately 1,600 hectares of forested areas on private (64%) and public (36%) lands. The total forested area on private lands was reduced by approximately 50 hectares (-5%) over the last 5 years due to development, including the Melia residential subdivision, Big Bay Point Village industrial subdivision, Manhattan Development and the Park Place development. Staff and volunteer organizations attempt to reduce these impacts through naturalization and reforestation projects on public lands using City planting programs, community partnerships and Conservation Authority partnerships.
8. The City of Barrie has had a Private Tree By-law in place since 1990, with updates or revisions to the By-law made in 2002 and 2005. The current By-law regulates the injury or removal of trees that are part of a woodlot (defined in Section 2 of the By-law) that is 0.2 hectares (1/2 acre) or larger in area.
9. Since 2005, staff has issued approximately 20 Tree Removal Permits for woodlot management and/or single lot construction works and 35 Tree Removal Permits for subdivision or site plan developments. Staff has also reviewed and denied 14 (separate) permit application requests for clearing forest without having an approved site plan, subdivision or other approved development plan in place (since 2010, ten of these were in the newly annexed lands).
10. In the past 10 years, City of Barrie has taken two landowners to court as a result of the destruction of trees in a woodlot without a permit. One resulted in the court issuing a \$70,000 fine and a \$64,000 restoration order for the unauthorized clearing of approximately 8 acres of forest. The other unauthorized tree cutting matter is in the courts.
11. Fifteen administrative revisions have been recommended to the Private Tree By-law to bring it up to date with current naming conventions (departments, job titles) and to repeal one section of the By-law as a result of changes to the Municipal Act. Appendix "A" lists the current and proposed wording changes within the by-law. Appendix "B" includes the proposed changes included within the revised by-law.

**ENVIRONMENTAL MATTERS**

12. Trees and forests provide many valued services to the community including:
  - a) Reduction in heat island effect resulting in lower energy consumption in the summer;
  - b) Reduction in winter winds resulting in lower energy consumption in the winter;
  - c) Sequestering of greenhouse gases in trees;
  - d) Stabilization of slopes and natural areas;
  - e) Provision of wildlife habitat; and
  - f) Interception and absorption of rainfall and surface water flows, improving the water cycle.

## ALTERNATIVES

13. There are two alternatives available for consideration by General Committee:

**Alternative #1**

General Committee could maintain the existing By-law and associated policies with respect to protection of trees within the City of Barrie (*i.e.* Status Quo).

This alternative is not recommended as the existing Private Tree By-law (2005-120) is not up-to-date in terms of department names and titles and does not reflect changes to the Municipal Act related to OMB appeals.

**Alternative #2**

General Committee could alter the proposed recommendation by directing staff to make additional changes to By-law 2005-120 (*e.g.* recommend changes to make the By-law more or less restrictive).

This alternative is not recommended as the existing By-law has not been successfully challenged in any manner. Staff have completed a comprehensive review of the by-law to ensure the proposed changes are relevant and comparable with other municipalities' tree by-laws.

## FINANCIAL

14. There are no financial implications for the Corporation resulting from the proposed recommendation.

## LINKAGE TO COUNCIL STRATEGIC PRIORITIES

15. The recommendation included in this Staff Report support the following goal identified in the 2010-2014 City Council Strategic Plan:
- Manage Growth and Protect the Environment
16. Regulation or prohibition of the injury or destruction (removal) of woodlots in the City of Barrie provides a measure of protection, control and monitoring of essential environmental, social and economic services that forests provide to residents.

**APPENDIX "A"**

Pg.	Sect.	Existing	Change
1	1 (i)	"Director" means of the Director of the Leisure, Transit and Works Department for ..."	"Director" means a Director or Department Head for the Corporation of the City of Barrie ..."
2	1 (n)	(n) "qualified RLA" means a "Registered Landscape Architect" certified by the Ontario Association of Landscape Architects";	(n) "Landscape Architect" means a Landscape Architect who is a member, in good standing, of the Ontario Association of Landscape Architects or the Canadian Society of Landscape Architects;
2	All	"qualified RLA"	Replaced throughout the document with "Landscape Architect"
3	1 (y)	"Tree Protection Manual" means the manual maintained by the Director of...	"Tree Protection Manual" means the manual maintained by the City of Barrie... at <a href="http://www.barrie.ca">www.barrie.ca</a> ;
4	6 (b)	Each application shall be accompanied by the prescribed fee payable in accordance with the By-law 2004-146, as it may be amended	Each application shall be accompanied by the prescribed fee payable in accordance with the Fees By-law 2012-035, as it may be amended
4	5	Replace all exemptions with updated list of exemptions from the Municipal Act.	Section 135 (12) exemptions list direct from Municipal Act.
5	7 (a) (ii)	"... and there is no reasonable alternative to the injury or destruction of the tree(s)."	"... and the Director is satisfied that there is no reasonable alternative to the injury or destruction of the tree(s) and the application meets the minimum requirements as prescribed within the Tree Protection Manual."
6	10	<p><b>APPEALS FROM DECISIONS REGARDING PERMITS</b></p> <p>A person that has applied for a permit in accordance with this by-law may appeal to the Ontario Municipal Board:</p> <p>(a) if the Director refuses to issue a permit, within 30 days of the refusal;</p> <p>(b) if the Director fails to make a decision on the application, within 45 days after the application is received by the Clerk; or</p> <p>(c) if the applicant objects to a condition in the permit, within 30 days after the issuance of the permit.</p> <p>A copy of any notice of appeal to the Ontario Municipal Board shall be delivered to the Clerk who shall notify the Ontario Municipal Board.</p>	Repeal Section 10: Section 136 of the Municipal Act was repealed, no longer able to appeal municipal tree cutting by-laws to the OMB.

Pg.	Sect.	Existing	Change
7	12	During daylight hours and upon producing a Certificate of Designation,	During daylight hours and upon producing City of Barrie identification, ...
8	14. (a)	<p><b>PENALTY - Retitled to "OFFENCES"</b></p> <p>(a) Any person who contravenes any provision of this by-law, contravenes the terms or conditions of a permit, or an order issued under Section 8 is guilty of an offence and on conviction is liable.</p> <p>(i) On a first conviction to a fine of not more than \$10,000.00 or \$1,000.00 per tree, whichever is greater; and</p> <p>(ii) On any subsequent conviction to a fine of not more than \$25,000.00 or \$2,500.00 per tree, whichever is greater.</p>	<p>Every person who contravenes the provisions of any section of this by-law, or contravenes the terms or conditions of a permit or an Order issued under this By-law and every Director or Officer of a Corporation, who concurs in the contravention by the Corporation, is guilty of an offence is liable to a system of fines according to the Municipal Act.</p> <p>(i) A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000. However, a special fine may exceed \$100,000.</p> <p>(ii) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph (a), the total of all of the daily fines for the offence is not limited to \$100,000.</p> <p>(iii) In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.</p> <p>(iv) A special fine may be imposed in accordance with Subsection 429(2)(d) of the Municipal Act. In addition to a fine under clause (a) to (c) above, a special fine may be imposed in circumstances where there is an economic advantage or gain from the contravention of this By-Law or an order under Section 10 of this By-Law, and the maximum amount of the special fine may exceed \$100,000 pursuant to Subsection 429(3)(1) of the Municipal Act.</p>
8	14. (b)	Add new subsection:	(b) The City of Barrie designates that the destruction of each Tree is one offence in a series of multiple offences.

Pg.	Sect.	Existing	Change
8	14. (c)	If a person is convicted of an offence for contravening this By-law or an Order issued under section 14, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.	(c) If a person is convicted of an offence for contravening this By-law the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.
8	17	Reference to By-law 2002-12	Replace with By-law 2005-120.
11		Schedule B: Appointment of Officers.	In addition to Municipal Law Enforcement Officers, the following persons employed by the City of Barrie are designated as officers with authority to administer this by-law: <ul style="list-style-type: none"> <li>• A Director of the Corporation of the City of Barrie</li> <li>• Manager of Infrastructure Planning Group</li> <li>• Supervisor of Parks Planning and Development</li> <li>• Forestry Supervisor</li> <li>• Landscape Architectural Planners employed by the City of Barrie</li> <li>• Forestry Coordinator</li> <li>• Such other person(s) employed by the City of Barrie as may be appointed by a Director</li> </ul>

APPENDIX "B"



Bill No. ....

BY- LAW NUMBER 2014-

**A By-law of The Corporation of the City of Barrie to prohibit or regulate the injuring or destruction of trees on private property in the City of Barrie**

**WHEREAS**, Section 135 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits the enactment of a by-law by the Council of The Corporation of the City of Barrie for prohibiting or regulating the injuring or destruction of trees or any class of trees;

**AND WHEREAS**, Council may require that a permit be obtained for the injuring or destruction of trees or any class of trees specified in the by-law and prescribe the fees for the permit and the circumstances under which a permit may be issued;

**AND WHEREAS**, by Resolution 05-G-261, the Council of the Corporation of the City of Barrie has determined that it is desirable to enact such a by-law;

**AND WHEREAS** Council enacted By-law Number 2005-120 on the 6th day of June, 2005 to prohibit or regulate the injuring or destruction of trees on private property in the City of Barrie and the Council of The Corporation of the City of Barrie has determined that it is desirable to repeal By-law 2005-120 and enact a new by-law to prohibit or regulate the injuring or destruction of trees as authorized in accordance with the Municipal Act, 2001;

**NOW THEREFORE**, the Council of The Corporation of the City of Barrie enacts as follows:

**1. DEFINITIONS**

In this by-law:

- (a) "basal area" of a tree shall mean the area of a cross-section of the tree at "breast height" (1.37 metres or 4.5 feet) measured in square metres;
- (b) "basal area" of a woodlot shall mean the ratio of the sum of the basal areas of the trees within the woodlot in square metres to the area of the woodlot in hectares;
- (c) "breast height" refers to a point of measurement 1.37 metres above the highest point on the tree where the ground meets the stump;
- (d) "Building Permit" means a Building Permit issued under the *Building Code Act*, 1992, S.O. 1992, c23, as amended;
- (e) "City" and "City of Barrie" means the municipality of The Corporation of the City of Barrie;

- (e) "Clerk" means the Clerk of The Corporation of the City of Barrie;
- (f) "Council" means the Council of The Corporation of the City of Barrie;
- (g) "destroy" means the removal of trees or harm resulting in the death or ruin of trees by cutting, burning, uprooting, chemical application or other means including irreversible injury that may result from neglect, accident or design and the term "destruction" shall have a corresponding meaning;
- (h) "Diameter" means the diameter of the stem of a tree measured outside the bark at a specified point of measurement;
- (i) "Director" means a Director or Department Head for the Corporation of the City of Barrie or his or her designate, provided such designate is an Officer appointed under this by-law;
- (j) "DBH" means "diameter at breast height" and refers to the diameter of the stem of a tree measured at a point 1.37 metres (4.5 feet) above the highest point on the tree where the ground meets the stump;
- (k) "good forestry practices" means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitats, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;

And Good Forestry Practices permits the destruction or injuring of trees that:

- i) have been damaged by disease, insects, wind, ice, fire, lightning, or other natural causes to an extent that the health of such trees is likely to further deteriorate;
  - ii) should be cut or removed to prevent disease or insects from spreading to other trees;
  - iii) are cut in accordance with the Provincial Silvicultural Guidelines as referred to in the Forest Operations and Silviculture Manual and its revisions prepared under the authority of the *Crown Forest Sustainability Act*, S.O. 1994, c. 25. These Provincial Silvicultural Guidelines include, but are not limited, to: A Silvicultural Guide to Managing Southern Ontario Forests, Silvicultural Guide for the Tolerant Hardwood Forest in Ontario, A Tree Marking Guide for the Tolerant Hardwood Working Group in Ontario, A Silvicultural Guide for the Great Lakes – St. Lawrence Conifer Forest in Ontario;
  - iv) are marked and cut as part of a woodlands management plan approved by a Registered Professional Forester.
- (l) "Heritage Tree" means a tree that Council designates as being unique and of importance to the City in terms of distinctive form, size, age and/or historical significance;
  - (m) "Injure" means to harm, damage or impair trees and includes, but is not limited to, harm, damage or impairment caused by changing grades around trees, compacting soil over root areas, severing roots, proper application of chemicals, improper pruning or the removal of branches and bark and the term "injury" shall have corresponding meaning;
  - (n) "Landscape Architect" means a Landscape Architect who is a member, in good standing, of the Ontario Association of Landscape Architects or the Canadian Society of Landscape Architects;
  - (o) "Major Damage" to a tree shall mean any one of:



- (i) a wound greater than the square of the DBH of the tree (for example, a wound with an area of 100 square centimeters is major damage to a tree with a DBH of 10 cm.)
- (ii) any wound greater than 1000 square centimeters
- (iii) if the wound in paragraph 1(l)(i) or 1(l)(ii) contacts the ground then the wound shall be considered major damage if it is 60% of the size specified in paragraph 1(l)(i) or 1(l)(ii) respectively
- (iv) broken branches destroying more than 33% of the Crown
- (v) the exposure, severing or compaction of more than 25% of the root area
- (vi) the breaking off of any tree
- (vii) the noticeable tipping of any tree
- (p) "officer" means an individual designated in accordance with this bylaw for the administration and enforcement of this by-law;
- (q) "orchard" means a plantation of fruit or nut trees;
- (r) "owner" means the registered Owner(s) of the property;
- (s) "permit" means the authorization from the Director to injure or destroy trees pursuant to this by-law;
- (t) "person" means any individual, corporation, partnership, association, firm, trust, or other entity and includes anyone acting on behalf or under the authority of such entity;
- (u) "qualified forest technician" means someone who has graduated from a recognized College with a diploma in Forestry who is also certified as a tree marker by the Ontario Ministry of Natural Resources;
- (v) "Registered Professional Forester" as defined in the *Professional Foresters Act, 2000*, S.O. 2000, c.18;
- (w) "Silviculture" means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of management;
- (x) "tree" means a plant of any species of woody perennial plant including its root system which has reached or can reach a height of at least 4.5 metres (15 feet) at physiological maturity;
- (y) "Tree Protection Manual" means the manual maintained by the City of Barrie setting out standards for protection of trees in the City of Barrie as amended from time to time. Copies of which may be viewed and printed from the City of Barrie website at [www.barrie.ca](http://www.barrie.ca);
- (z) "woodlot" means a woodlot as defined in paragraph 2 of this by-law;
- (aa) "Zoning By-law" means the by-law regulating land use as provided for under the Planning Act within the City of Barrie;

## **2. DEFINITION OF WOODLOT**

- (a) For the purposes of this By-law a "woodlot" shall mean land of at least 0.2 hectares (0.5 acres) in area covered with a density of trees that is not less than:

- (1) 1000 trees of any size per hectare;
- (2) 750 trees, measuring over 5 centimeters in DBH per hectare;
- (3) 500 trees, measuring over 12 centimeters in DBH per hectare;  
OR
- (4) 250 trees, measuring over 20 centimeters in DBH per hectare;

as illustrated by the City of Barrie's Official Woodlot Map, as amended from time to time.

- (b) For the purposes of this by-law, a boundary woodlot shall be defined by the ecological limit of the woodlot and not by private property boundaries.
- (c) Notwithstanding paragraph 2(b), where a woodlot is dissected by a road, path or natural feature such as a creek, the boundary of the woodlot shall be deemed to cross the road, path or natural feature but the area of the woodlot shall be calculated exclusive of the area of the municipal road or natural feature.

### **3. APPLICATION OF BY-LAW**

Subject to Section 5, this by-law applies to all trees in woodlots within the boundaries of the City of Barrie.

### **4. PROHIBITIONS**

Subject to Section 5 of this by-law:

- (a) No owner, director or officer of a corporation for the owner shall cause or permit the injury or destruction of a tree that is on the owner's land without first obtaining a permit under this bylaw;
- (b) No person, whether or not the agent for the owner, shall injure or destroy a tree without first having obtained a permit under this by-law;
- (c) No person shall injure or destroy a tree other than in compliance with the terms and conditions of a permit issued under this by-law;
- (d) No person shall fail to comply with an Order issued under this By-law; and
- (e) No person shall pull down or deface any Order posted under this bylaw.

### **5. EXEMPTIONS FROM APPLICATION OF BY-LAW**

Notwithstanding paragraph 3 and 4, this by-law does not apply to:

- (a) activities or matters undertaken by the City of Barrie;
- (b) activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994;
- (c) the injuring or destruction of trees by a person licensed under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (d) the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the Planning Act or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;

- (e) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the Planning Act or as a requirement of an agreement entered into under the regulation;
- (f) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the Electricity Act, 1998, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (g) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act; or
- (h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
  - (i) that has not been designated under the Aggregate Resources Act or a predecessor of that Act, and
  - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act, 2001, c. 25, s. 135 (12); 2002, c. 17, Sched. A, s. 27 (3, 4).

## **6. APPLICATION FOR PERMIT TO INJURE OR DESTROY TREES**

Where a permit is required under this by-law:

- (a) The owner shall submit an application to the City containing the information set out in Schedule "A" to this by-law, in such form as may be approved by the Director;
- (b) Each application shall be accompanied by the prescribed fee payable in accordance with the Fees By-law, as it may be amended from time to time;
- (c) Every application shall be accompanied by a report from either:
  - (i) a Landscape Architect or Registered Professional Forester providing such information with respect to the woodlot as may be specified in Schedule "A" and certifying that the injury or destruction of tree(s) is required to permit the establishment or extension of a use permitted by the Zoning By-law and there is no reasonable alternative to the injury or destruction of the tree(s); OR
  - (ii) a Registered Professional Forester providing such information with respect to the woodlot as may be specified in Schedule "A" and, if applicable, certifying that the proposed injury to or destruction of the tree(s) is in accordance with good forestry practices.
- (d) No application shall be considered complete unless accompanied by the information and fee required in accordance with this by-law.

## **7. ISSUANCE OF PERMIT**

- (a) Subject to paragraph 7(b) the Director may issue a permit to injure or destroy tree(s) where the Director is satisfied that:
  - (i) The injury or destruction of the tree(s) is in accordance with good forestry practices, OR
  - (ii) The injury or destruction of tree(s) is required to permit the establishment or extension of a use permitted by the Zoning By-law and the Director is satisfied that there is no reasonable alternative to the injury or destruction of the tree(s) and the application meets the minimum requirements as prescribed within the Tree Protection Manual.

- (b) A Permit shall not be issued where:
- (i) an Application required under this By-law has not been submitted in full or the required fee has not been paid;
  - (ii) a report as required by paragraph 6(c) has not been submitted or in the opinion of the Director is not satisfactory;
  - (iii) the permit would result in the destruction of a tree that is an endangered species as defined in the Endangered Species Act, R.S.O. 1990, c. E.15, or successor legislation;
  - (iv) the permit would result in the destruction of a tree that is designated as a heritage tree by City Council;
  - (v) flood or erosion control, or the ecological integrity of a natural area, will be negatively affected;
  - (vi) the destruction of the tree would have the effect of reducing:
    - (1) the density of trees in the woodlot below the density of trees necessary to constitute a woodlot; or
    - (2) the basal area of the woodlot in which the tree stands below 20 square metres per hectare (85 square feet per acre), 15 square metres per hectare (65 square feet per acre) of which is contained in the size class, or classes 24 cm. (9.5 inches) DBH or greater, unless the reduction of the basal area of the woodlot below these standards is in accordance with good forestry practices.

## 8. CONDITIONS TO PERMIT

The following shall be deemed to be conditions to the issuance of every permit under this by-law:

### (a) Marking of Trees

At least 7 days prior to injuring or destroying any tree, but not prior to the issuance of the permit, the owner shall cause all trees which are to be removed or destroyed to be marked by a Registered Professional Forester, qualified forest technician or Landscape Architect with clearly visible marks of yellow paint at breast height and upon the stump to remain after cutting.

### (b) Notice of Intent

For at least 7 days prior to injuring or destroying any tree the owner shall post a sign, having dimensions of not less than 61 cm. (24 in.) x 91 cm. (36 in.) in a conspicuous place or places on the private land that is adjacent to all public roads abutting the property and at any other locations designated by the Director. The sign will remain in place in good, legible condition for a minimum of 60 days after the completion of tree removals and include the following information:

- (i) notice that the work will occur in accordance with this by-law;
- (ii) the name of the owner;
- (iii) the name of the person or company retained to work on the trees on the land; and
- (iv) the address and telephone number of a person acting on behalf of the owner from whom further information on the proposed tree work may be obtained.

**(c) Tree Preservation Measures**

- (i) The owner shall cause the implementation of tree preservation measures consistent with the City of Barrie's Tree Protection Manual.
- (ii) The owner shall cause the installation of all tree preservation measures to be completed under the supervision of the Landscape Architect or Registered Professional Forester and approved by the City of Barrie. Such measures shall be inspected on a regular basis by the Landscape Architect or Registered Professional Forester and a bi-monthly report made to the Director for the duration of the active period of construction.

**(d) Limitation of Damage to Residual Trees**

During the course of injuring or destroying trees within a woodlot pursuant to a permit issued in accordance with this by-law, no person shall:

- (i) cause Major Damage to trees forming more than 10% of the total residual basal area of the portion of the woodlot which is the subject of the permit;
- (ii) cause Major Damage to trees forming more than 15% of the residual basal area in the size class of 10 cm DBH or more in the portion of the woodlot which is the subject of the permit;
- (iii) cause major Damage to trees forming more than 15% of the residual basal area in the size class of 10 cm DBH or less in the portion of the woodlot which is the subject of the permit;
- (iv) create or permit skid trails covering more than 20% of the ground area in the portion of the woodlot that is the subject of the permit.

**(e) Conditions required by the Director**

- (i) In addition to the above conditions, the Director may attach conditions to the Permit which in the opinion of the Director are reasonable and related to the purposes of this By-law or the safety and convenience of the public.
- (ii) Prior to the commencement of any work that would result in injury to or destruction of trees authorized pursuant to this bylaw, the person causing such work to be carried out shall ensure that the permit is posted in a conspicuous place within the woodlot or is available on site and can be produced upon request by an officer. The failure to post or produce a permit as required shall constitute an offence.

**9. DURATION OF PERMIT**

- (a) Every permit shall be issued to the owner and shall expire twelve (12) months after issuance. For greater certainty, to the extent that the expiry date would occur during the restricted period between March 15 to April 15 in any year as provided in paragraph 9(b) below, the expiry date in the permit shall be deemed to have been extended to a date in the month next following the restricted period that would have the effect of granting the permit to an owner for a full twelve month period clear not including the restricted period.
- (b) All permits for the injury or destruction of trees within woodlots will be deemed not to be in effect during the period of March 15 to April 15. The Director may grant exemptions to this requirement in writing having regard to the potential for rutting of soil and subsequent damage to the ecology of the woodlot or designated area during the spring break up period.

- (c) The Director may extend the expiration date of a Permit if a written request for an extension is received by the Director a minimum of three (3) working days before the date the Permit expires. Any request which is received after this time may require the submission of a new application. Subject to paragraph 9(a), in no case shall the Director extend a Permit for a period of greater than one year.

#### **10. DESIGNATION OF OFFICERS**

In addition to Barrie's Municipal Law Enforcement Officers, who are deemed to be designated as Officers for the purposes of enforcing this bylaw, the individuals employed by Barrie and filling the positions set out in Schedule "B" are hereby designated as Officers pursuant to the provisions of this by-law.

#### **11. INSPECTIONS BY AN OFFICER OTHER THAN A MUNICIPAL LAW ENFORCEMENT OFFICER**

- (a) At a reasonable time and upon producing City of Barrie identification, an officer, other than a Municipal Law Enforcement Officer, may enter and inspect any land to which this by-law applies. A Municipal Law Enforcement Officer may enter and inspect any land to which this by-law applies at any time.
- (b) Any person who obstructs an officer in carrying out an inspection under this by-law is guilty of an offence.

#### **12. ENFORCEMENT**

- (a) This by-law may be enforced by any person designated as an officer for the purposes of this by-law;
- (b) An officer may, in carrying out an inspection be accompanied by an assisting person.

#### **13. ORDERS**

- (a) Where an officer is satisfied that a person has contravened any provision of this by-law, the officer may make an order requiring the person to stop the injuring or destruction of trees and shall set out the particulars of the contravention. The order shall set out the information contained in Schedule "C".
- (b) Where the Director is satisfied that a person has contravened any provision of this by-law, the Director may make a repair order requiring the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the Director considers appropriate, including any silvicultural treatment necessary to re-establish the trees.
- (c) An Order issued under this section may be served personally or served by sending it by mail to the last known address of;
- i) the owner of the Woodlands; and
  - ii) the person identified as injuring, destroying or harvesting a tree or trees.
- (d) Where service of an Order is made by mail, service shall be deemed to have been served on the fifth day after the order is mailed.
- (e) Where service cannot be carried under section 8, subsection (b), it is deemed sufficient if the Officer places a placard containing the terms of the Order in a conspicuous place on the affected lands and the placing of the placard shall be deemed to be sufficient service of the Order on the person to whom the Order is directed.

- (f) A person to whom an order under this section has been directed may appeal the order to Council by filing a written notice of appeal with the Clerk within 30 days after the date of the order. Council may confirm, alter or revoke the order.
- (g) As soon as practicable after a notice of appeal is filed, Council shall hear the appeal and may confirm, alter or revoke the order and the decision of Council shall be final.

#### 14. OFFENCES

- (a) Every person who contravenes the provisions of any section of this by-law, or contravenes the terms or conditions of a permit or an Order issued under this By-law and every Director or Officer of a Corporation, who concurs in the contravention by the Corporation, is guilty of an offence is liable to a system of fines according to the *Municipal Act*.
  - (i) A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000. However, a special fine may exceed \$100,000.
  - (ii) In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph (a), the total of all of the daily fines for the offence is not limited to \$100,000.
  - (iii) In the case of a multiple offence, for each offence included in the multiple offences, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph (a), the total of all fines for each included offence is not limited to \$100,000.
  - (iv) A special fine may be imposed in accordance with Subsection 429(2)(d) of the *Municipal Act*. In addition to a fine under clause (a) to (c) above, a special fine may be imposed in circumstances where there is an economic advantage or gain from the contravention of this By-Law or an order under Section 10 of this By-Law, and the maximum amount of the special fine may exceed \$100,000 pursuant to Subsection 429(3)(1) of the *Municipal Act*.
- (b) The City of Barrie designates that the destruction of each Tree is one offence in a series of multiple offences.
- (c) If a person is convicted of an offence for contravening this By-law the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may order the person to rehabilitate the land or to plant or replant trees in such a manner and within such period as the court considers appropriate, including any silvicultural treatment necessary to re-establish the trees.

#### 15. CONFLICT WITH OTHER BY-LAWS

- (a) If there is a conflict between this by-law and a by-law passed under the *Forestry Act* or *Municipal Act*, the provision that is most restrictive of the injuring or destruction of trees prevails;
- (b) Nothing in this by-law shall exempt any person from complying with the requirements of any by-law in force or from obtaining any license, permission, permit, authority or approval required under any by-law or legislation.

#### 16. ADMINISTRATION

- (a) Schedules "A – C" shall form part of this By-law.

- (b) 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 Sections 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 there from and continue in full force and effect unless and until similarly found illegal.
- (c) The short title of this By-law is the "Private Tree By-law".
- (d) By-law 2005-120 of the Municipality of the City of Barrie shall be repealed effective on the coming into force and effect of this By-law.
- (e) Despite subsection (d) of this section, By-law 2005-120 of the Municipality of the City of Barrie shall continue to apply to proceedings in respect of offences that occurred before its repeal.

**THAT** this By-law shall come into force and effect upon the day of passing thereof.

**READ** a first and second time this X<sup>th</sup> day of Month, 2014.

**READ** a third time and finally passed this X<sup>th</sup> day of Month, 2014.

**THE CORPORATION OF THE CITY OF BARRIE**

\_\_\_\_\_  
**MAYOR -**

\_\_\_\_\_  
**CLERK -**



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**SCHEDULE 'A'**

**Information Required for Application**

1. Name, address and telephone number of all owners.
2. Signature or authorization of all owners.
3. Name, address, and telephone number and qualifications of Landscape Architect, Registered Professional Forester or qualified forest technician submitting report as part of application.
4. Names, address, and telephone number of person retained to perform work on trees under permit, and contact name if corporation or company.
5. Fax numbers and e-mail addresses for the owner(s), Landscape Architect, Registered Professional Forester, qualified forest technician and person performing work on trees where available.
6. Municipal address of property (if assigned).
7. Legal description of property.

**AND EITHER**

8. A Tree Inventory and Preservation Plan signed and stamped by a Landscape Architect or Registered Professional Forester containing but not limited to:
  - (a) a general description of the history of use of the property;
  - (b) importance of the property to the surrounding landscape;
  - (c) a key map of the property showing the location of the property within the City of Barrie;
  - (d) a detailed inventory map of the property showing the property boundary, vegetation type boundaries, adjacent property vegetation, fences, road, access roads or trails, hydro lines, utility lines, windbreaks, watercourses, grass fields, railways, buildings, towers, bridges, quarries, dams, treed floods or swamps, mines, brush, marshes, debris piles, shallow rocky areas, orchards, hazard areas, developed agricultural lands, plantations, and woodland areas;
  - (e) details with respect to soil types, topography, physical features, water features, drainage, access, wildlife, existing grading and proposed grading and an inventory of trees and tree regeneration, and the method of assessing the inventory of trees with respect to each distinct area or compartment within the woodlot;
  - (f) an analysis and prescription for each vegetation area regarding preservation, conditional preservation, removals and revegetation in accordance with the establishment or extension of a use permitted by the Zoning By-law;
  - (g) a map showing the extents of the areas of preservation, conditional preservation, vegetation removals and restoration where applicable; and
  - (g) a prescription for tree preservation measures, including monitoring, notes, specifications and details for the duration of active development on the property.

**OR**

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9. A Woodlot Management Plan and/or Managed Forest Plan prepared in accordance with all applicable Federal, Provincial and Municipal laws which is certified by a Registered Professional Forester and includes, but is not limited to:
- (a) a general description of the history of use of the property;
  - (b) importance of the property to the surrounding landscape;
  - (c) a key map of the property showing the location of the property within the City of Barrie;
  - (d) a detailed map of the property showing the property boundary, vegetation type boundaries, fences, road, access roads or trails, hydro lines, utility lines, windbreaks, watercourses, grass fields, railways, buildings, towers, bridges, quarries, dams, treed floods or swamps, mines, brush, marshes, debris piles, shallow rocky areas, orchards, hazard areas, developed agricultural lands, plantations, and woodland areas;
  - (e) details with respect to soil types, topography, physical features, water features, drainage, access, wildlife, and inventory of trees and tree regeneration, and the method of assessing the inventory of trees with respect to each distinct area or compartment within the woodlot which may be subject to different considerations in accordance with good forestry practices;
  - (f) a description of the short term and long term objectives of the landowner with respect to environmental protection, income/investment from the woodlot, wildlife habitat, recreation, forest products, or other objectives, the priorities assigned to these objectives and the plans for accomplishing these objectives; and
  - (g) a silvicultural prescription for each forest compartment within the woodlot including a description of any trees to be injured, destroyed or removed, together with a statement that the silvicultural prescription is in accordance with good forestry practices.

**SCHEDULE 'B'**

**Appointment of Officers**

In addition to Municipal Law Enforcement Officers, the following persons employed by the City of Barrie are designated as officers with authority to administer this by-law:

- A Director of the Corporation of the City of Barrie
- Manager of Infrastructure Planning Group
- Manager of Roads and Parks Operations
- Supervisor of Parks Planning and Development
- Forestry Supervisor
- Landscape Architectural Planners
- Forestry Coordinator
- Such other person(s) employed by the City of Barrie as may be appointed by a Director

**SCHEDULE 'C'**

**STOP WORK ORDER**

**YOU ARE HEREBY DIRECTED AND ORDERED TO forthwith stop, halt, cease, and desist from any and all works associated with the destruction of trees or removal thereof from those lands comprising;**

**MUNICIPAL ADDRESS / LEGAL DESCRIPTION OF THE PROPERTY:**

\_\_\_\_\_

**LOT: \_\_\_\_\_ CONCESSION: \_\_\_\_\_ MUNICIPALITY: \_\_\_\_\_**

**OWNER / INDIVIDUAL RESPONSIBLE FOR DESTRUCTION OR INJURY OF TREES:**

**DESCRIPTION OF INFRACTION:**

**Date of Inspection: \_\_\_\_\_**

**Effective Order Date: \_\_\_\_\_ TO \_\_\_\_\_**

**Signature of Officer: \_\_\_\_\_ Date: \_\_\_\_\_**

**Pursuant to By-law 2005-120 Section 13, subsection (f) Where the person to whom the Order is directed has been served in accordance with this By-law is not satisfied with the terms of the Order, the person may appeal to Council by filing Notice of Appeal by personal service or certified mail to the Clerk within 30 days after the date of the Order.**

**{Contact Information, Phone Number}**

**Copy to: By-law Enforcement, Director, Consultant, Planning, Engineering, Clerks**