

# Property Maintenance Chapter 763 Trees - Protection Privately-Owned Lands

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WHEREAS section 135 of the *Municipal Act, 2001*, c. 25 authorizes a municipality to prohibit or regulate the destruction or injuring of trees.

AND WHEREAS the Council of The Corporation of the City of Woodstock are desirous of passing a by-law to protect certain trees from injury or destruction on privately-owned lands within the municipality.

## **Article 1 - Interpretation**

### **763.1.1 dbh - defined**

"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 undisturbed ground at the base of the tree.

### **763.1.2 Destroy - defined**

"destroy" means the removal or killing of trees by cutting, burning, uprooting, chemical application or other means.

### **763.1.3 Injure - defined**

"injure" means to harm, damage, or impair and includes the injury of trees by changing grades around trees, compacting soils over root areas, severing roots, and the improper application of chemicals, improper pruning, or the removal of bark.

### **763.1.4 Tree - defined**

"tree" means a tree with a dbh of greater than 10 centimetres (4 inches), but does not include shrubs or trees pruned to grow as hedges or topiary sculptures.

### **763.1.5 Woodlot - defined**

"woodlot" means a group of trees, not necessarily located on or within a

single separately assessed parcel of land, situated on or within the lands identified on the attached Schedule 'B'.

#### **763.1.6 Specified properties - defined**

"specified properties" means each of the lots identified on the attached Schedule 'B'. By-law 7979-04, March 18, 2004.

### **Article 2 - Prohibition**

#### **763.2.1 Injury - destruction - trees - areas**

No person shall injure or destroy any living tree within or upon any of the following lands within the City of Woodstock:

- a) a woodlot;
- b) lands upon which there is pending an application for any of the following development approvals;
  - (i) a plan of Subdivision; or
  - (ii) a description under the *Condominium Act, 1998*;
- c) lands depicted on Schedule W-1 of the County of Oxford Official Plan as within an Environmental Protection Policy Area or within an Open Space Policy Area; or
- d) specified properties in Schedule 'B'. By-law 7979-04, March 18, 2004; By-law 8205-06, June 1, 2006.

#### **763.2.2 Injury - destruction - tree - species - Schedule 'A'**

No person shall injure or destroy any living tree of the species set forth in Schedule 'A' to this Chapter at any location within the City of Woodstock.

### **Article 3 - Exceptions**

#### **763.3.1 Activities - by City - local board**

The prohibitions in Article 2 do not apply to activities or matters undertaken by the City or a local board of the City.

#### **763.3.2 Crown Forest areas**

The prohibitions in Article 2 do not apply to activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*.

#### **763.3.3 Surveyors**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or agent while making a survey.

#### **763.3.4 Site plan approval - plan of subdivision - consent**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees imposed as a condition to the approval of a site plan, a plan of

subdivision or a consent under the *Planning Act*, or as a requirement of a site plan agreement or subdivision agreement entered into pursuant to the *Planning Act*.

#### **763.3.5 Development permit**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees imposed as a condition to a development permit authorized by regulation made under the *Planning Act* or as a requirement of an agreement entered into under a Regulation.

#### **763.3.6 Electricity transmission system**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in 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 Act.

#### **763.3.7 Pit or quarry permit**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*.

#### **763.3.8 Pit or quarry - enlargement**

The prohibitions in Article 2 do not apply to the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land:

- a) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act; and
- b) on which a pit or quarry is a permitted land use under a by-law passed under the *Planning Act*. By-law 7979-04, March 18, 2004.

#### **763.3.9 Permit issued - by Director of Parks and Recreation**

Where a permit has been issued by the Director of Parks and Recreation, or designate, allowing the injury or destruction of a tree or trees, provided any conditions imposed within any such permit have been observed.

#### **763.3.10 Request for permit - in writing - information required**

Requests for a permit shall be made in writing to the Clerk in a format which may, from time to time, be prescribed by the Director of Parks and Recreation or designate. Permits shall include the following information:

- a) a description of the tree or trees which is or are proposed to be injured or destroyed, including a plan or diagram showing the location of the tree or trees, all of which shall be prepared by a Registered Professional Forester or Certified Arborist;

- b) the reasons for which approval is sought, provided that where such reason or reasons are that the tree is dangerous or diseased, there shall be included a written supporting opinion from a Registered Professional Forester or Certified Arborist attesting to such dangerous or diseased condition; and
- c) any other supporting information or documents in respect of the application for a permit, provided that the Director of Parks and Recreation, or designate, shall be authorized to exempt applicants from the requirement that they provide any or all of the items in (a), (b), or (c) where he/she has determined that the information is unnecessary in the circumstances of the particular application. By-law 7979-04, 18 March, 2004; By-law 8763-12, 17 May, 2012.

#### **763.3.11 Tree on municipal land**

The prohibitions in Article 2 do not apply to where the tree is located on lands owned by The Corporation of the City of Woodstock, The Corporation of the County of Oxford, or the Crown in right of Ontario or Canada.

#### **763.3.12 Approval - federal - provincial - regulation – licence**

The prohibitions in Article 2 do not apply to where the injury or destruction of a tree is authorized by a provincial or federal statute, regulation, licence, or approval.

#### **763.3.13 Manitoba maples**

The prohibitions in Article 2 do not apply to the injuring or destruction of Manitoba Maples.

#### **763.3.14 Commercial orchard - tree farm**

The prohibitions in Article 2 do not apply to where the tree is located within a commercial orchard or tree farm.

### **Article 4 - Permit Applications**

#### **763.4.1 Fee - fixed by Council**

Permit applications pursuant to Sections 763.3.9 and 763.3.10 shall be subject to any fee which might hereinafter be fixed by Council resolution and such fee may be amended from time to time by further resolutions of Council. By-law 7979-04, March 18, 2004.

#### **763.4.2 Application to Clerk - forwarded to Director**

After having been received by the Clerk, permit applications made pursuant to Sections 763.3.9 and 763.3.10 shall be forthwith forwarded to the Director of Parks and Recreation.

### **763.4.3 Council - authority to overrule decision**

Council may overrule a decision of the Director of Parks and Recreation in respect of a permit application made pursuant to Sections 763.3.9 and 763.3.10 and may substitute its disposition for that of the Director of Parks and Recreation. By-law 7979-04, March 18, 2004; By-law 8763-12, May 17, 2012.

### **763.4.4 Right of appeal**

Any remedy in Section 763.4.3 is in addition to and not in substitution for the statutory rights of appeal available to an applicant pursuant to the provisions of the *Municipal Act, 2001*. By-law 7979-04, March 18, 2004.

## **Article 5 - Officers**

### **763.5.1 Appointment**

The following persons are appointed officers for the enforcement of this Chapter:

Director of Parks and Recreation

Supervisor of Parks

By-law Officers. By-law 7979-04, March 18, 2004; By-law 8763-12, May 17, 2012.

## **Article 6 - Enforcement**

### **763.6.1 Fine - for contravention**

Any person, including any subdivider, developer or builder who fails to disclose to a purchaser of property affected by this Chapter who contravenes any provision of this Chapter or who contravenes an order made by an officer appointed under Article 5, is guilty of an offence and on conviction is liable,

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

## **Article 7 - Enactment**

### **763.7.1 Effective date**

This Chapter shall come into effect on March 18, 2004. By-law 7979-04, March 18, 2004.

## Schedule

### Schedule 'A' - Protected tree species

The following tree species in naturally occurring populations are protected.

Common Tree Name	Scientific Name
White Fir	Abies Concolor
Red Maple	Acer Rebrum
Sugar Maple	Acer Saccharum
Downy Serviceberry	Amelanchier Laevis
Yellow Birch	Betula
Blue Birch	Carpinus
Shagbark Hickory	Carva Ovata
Hackberry	Celtis Occidentalis
Redbud	Cercis Canadensis
Turkish Hazel	Corylus Colurna
Cockspur Hawthorn	Crataegus Crus-gali
American Beech	Fagus Granifolia
European Beach	Fagus Sylvatica
White Ash	Fraxinus Americana
Green Ash	Fraxinus
Maidenhair Tree	Ginkgo Biloba
Juniper Varieties	Juniperus spp.
Eastern Red Cedar	Juniperus Virginiana
Tulip Tree	Liriodendron
Ironwood	Ostrya Virginiana
White Spruce	Picea Glauce
White Pine	Pinus Strobes
Black Cherry	Prunus Serotina
Chinquapin Oak	Quercus
Red Oak	Quercus Rubra
Shumard Oak	Quercus Shumardii

<b>Common Tree Name</b>	<b>Scientific Name</b>
White Cedar	Thuja Occidentalis
Basswood	Tilia Americana
Eastern Hemlock	Tsuga Canadensis
White Elm (Only DED)	Ulmus Americana

By-law 8569-09- November 5, 2009.



## **Schedule 'B' - Lots**

Lot 51-83 Draft Plan Subdivision #32T-02001 (Revised)

Lots 6 through 23, inclusive, Plan 41M-164 (for reference, these lots are on the north side of Pember's Pass)

Part of Block 27, Plan 41M-164 and designated as Parts 1 & 2, 41R-M-164 and designated as Parts 1 & 2, 41R-6439 and Parts 1 through 13, inclusive, 41R-6515 (south side of Pember's Pass)

Lots 32 through 44, inclusive, Plan 41M-176 (north side of Potter's Way)

Lots 7 through 22, inclusive, Plan 41M-176 (south side of Potter's Way)

Lots 4 through 11, inclusive, Plan 41M-189 (north side of Forestway Trail)

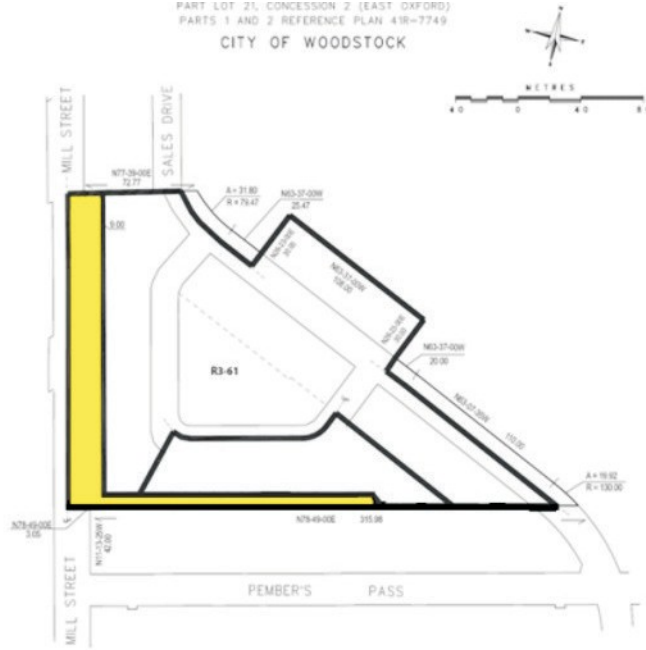
An area more or less 9 metres in width, bordering the east side of Mill Street, between  $N78^{\circ} 49'E$  and  $N77^{\circ} 39'E$ , part of blocks 20, 21 and 22, on Parts 1 and 2 of Plan 41R-7749, as highlighted on the attached sketch (B-1).

An area more or less 7.5 metres in width, bordering the north side of Pember's Pass, starting at  $N11^{\circ} 13' 25'' W$  and extending 345.993 metres east, part of blocks 17 and 20 on Parts 1 and 2 of Plan 41R-7749, as highlighted on the attached sketch (B-1).

By-law 7979-04, March 18, 2004; Schedule 'B'; By-law 8205-06, June 1, 2006; By-law 8569-09, November 5, 2009.

# Schedule 'B' - Lots

PART LOT 21, CONCESSION 2 (EAST OXFORD)  
PARTS 1 AND 2 REFERENCE PLAN 41R-7749  
CITY OF WOODSTOCK



By-law 8569-09, November 5, 2009, Schedule 'B (1).'