

THE CORPORATION OF THE MUNICIPALITY OF CALLANDER

BY-LAW 2006-1009

Being a by-law to prohibit the cutting of trees on municipal property.

WHEREAS Section 9, Subsection (1), paragraphs (a) and (b) of the Municipal Act, S.O. 2001, c.25 permits a municipality to pass by-laws to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 135 Subsection (1) of the Municipal Act, S.O. 2001, c.25 permits a municipality to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Section 138(1) of the Municipal Act, S.O. 2001, c.25 provides that any person who contravenes the by-law is guilty of an offence and is liable;

AND WHEREAS Section 138(2) of the Municipal Act, S.O. 2001, c.25 provides for any person who is convicted of an offence for contravening a by-law passed under Section 135, 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 replant trees in such manner and within such period as the court considers, including any silvicultural (the care and cultivation of forest trees; forestry) treatment necessary to re-establish the trees;

AND WHEREAS the Council of the Corporation of the Municipality of Callander recognizes the ecological and aesthetic value of trees and is desirous of managing the injuring and destruction of trees.

NOW THEREFORE be it resolved that the Corporation of the Municipality of Callander enacts as follows:

Section 1 Definitions:

1. **“Certified Arborist”** shall mean a specialist in the care of individual trees.
2. **“Destroy”** shall mean the removal, harm or ruin of trees by cutting, burning, uprooting, chemical application or other means including irreversible injury which may result from neglect, accident or design.
3. **“Injure”** shall mean to harm, damage or impair and includes the injuring of trees by changing grades around trees, compacting soils over root areas, severing roots, the improper application of chemicals, improper pruning or removal of bark.
4. **“Tree”** shall mean any live deciduous or coniferous tree that has a minimum height of 2.0 meters (6.5 feet) and a minimum diameter of 45 (1.7 inches) millimeters at a point of one meter above ground level.

Section II Prohibition:

1. That it shall be an offence to injure or destroy any tree on municipally owned property in the Municipality of Callander without prior written approval from the municipally appointed Certified Arborist.

Section III Exceptions:

1. This by-law shall not interfere with any right or power of the Provincial, Federal or Municipal Governments or their agents, licensed Ontario Land Surveyors, or utilities to carry out their day to day operations. However, all employees and contractors shall exercise reasonable care and diligence and shall endeavour to preserve and protect trees where possible. Council must approve, in writing, any work that is to be carried out before commencement of work.

Section IV Enforcement

1. Any provincial offences officer or employee of the Corporation of Municipality of Callander whose duties include the enforcement of this by-law is authorized to enforce this by-law pursuant to the provisions hereof, the Municipal Act, 2001, S.O. 2001, c.25, as amended or any successor thereof, and of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, or any successor thereof.

Section V Penalties:

1. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for under the Provincial Offences Act, R.S.O. 1990 c. 35 amended or any successor thereof.
2. Any person who injures or destroys any tree on municipal lands must replace the tree with a "Red Maple" tree (official municipal tree) or a replacement tree of the same type and be responsible for the costs associated with the Certified Arborist for replacement.

Section VI Validity:

1. If a court of competent jurisdiction declares any provisions or part of this by-law to be invalid or of no force or effect, it is the intention of the Council in enacting this by-law that each and every other provision of this authorized by-law be applied and enforced in accordance with its terms to the extent possible according to law.

Section VII Effective Date:

1. That this by-law shall come into effect on the date of passing.

READ A FIRST TIME THIS 16TH DAY OF MAY, 2006.

READ A SECOND TIME THIS 16TH DAY OF MAY, 2006.

READ A THIRD TIME AND FINALLY PASSED THIS 16TH DAY OF MAY, 2006.

MAYOR, Bill Brazeau

CLERK, Judith A. Gauthier