



## **Minor Exception**

### **Guidelines for the Haldimand County Forest Conservation By-law 2204/20**

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## **1. Introduction**

The purpose of Haldimand County's Forest Conservation By-law is to regulate the injury or destruction of trees in Woodlands and promote the sustainable use of forest resources. It is Council's objective to enact a Forest Conservation By-law for the purposes of:

- Achieving the objectives of the Haldimand County Official Plan to preserve and improve Woodlands through the application of Good Forestry Practices;
- The production of wood, wood products and sustaining the local forest economy;
- Minimizing the injury and destruction of trees in Woodlands; and
- Contributing to ecosystem health, human health, recreation, enjoyment and improving quality of life through the conservation of Woodlands.

The intention of the by-law is not to prohibit the cutting of every single tree, but to regulate tree cutting so that existing Woodlands are not destroyed and they can continue to provide important social, economic and environmental benefits for all landowners and residents.

It is the position of Haldimand County that the injury or destruction of trees can be achieved through the application of Good Forestry Practices which are conducted in a way that enables the forest to maintain its health, ecological processes, wildlife habitats and provide a continuous supply of forest products that provide both short-term and long-term economic benefits to landowners.

Haldimand County recognizes that there are a limited number of unique circumstances where clear cutting trees may be required or the injury or destruction of trees that cannot be accommodated through Good Forestry Practices and by-law provides the Minor Exception process to accommodate these unique situations.

## **2. Guideline Application**

These guidelines are not law and do not constitute an official part of the Forest Conservation By-law. They have been developed to assist Municipal Law Enforcement Officers when considering Minor Exception Applications and for landowners who are contemplating applying for a Minor Exception.

These guidelines are not intended to be all encompassing or represent an exhaustive list of all the possible scenarios where a Minor Exception may be applicable. These guidelines may be amended from time to time to accommodate the changing threats to forests and as unique forest management circumstances are discovered.

For the purpose of administering and enforcing the by-law, the approval or denial of a Minor Exception Application is solely at the discretion of the Municipal Law Enforcement Officer when the application impacts an area of Woodlands under one (1) hectare in size and Haldimand County Council for applications impacting Woodland areas equal to or greater than one (1) hectare in size.

### **3. Minor Exceptions**

It is the position of Haldimand County that Minor Exception Applications should only be submitted in a limited number of unique circumstances where there are no other options to conserve existing Woodlands or the injury or destruction of trees cannot be accomplished through Good Forestry Practices. Listed below are some examples of situations where a Minor Exemption Application may be considered.

#### Removal of Hedgerows (Fencerows)

- Rows of trees that are attached to Woodlands or isolated rows of tree that meet the size and tree stocking requirements in the definition of a Woodlands are regulated pursuant to the Forest Conservation By-law. Minor Exception Applications may be considered for the clear cutting and removal of these hedgerows for the improvement of Agricultural Operations.

#### Private Drains

- Work undertaken by Haldimand County's Drainage Department for the installation and maintenance of municipal drains is permitted pursuant to the Forest Conservation By-law. In situations where drainage of private lands cannot be accommodated through the municipal drainage program, a Minor Exception Application may be considered for the clear cutting of trees to provide for the installation or improvement of a private drain.

#### Insect or Pathogen Infestations

- A Minor Exception Application may be considered for the injury or destruction of trees in a Woodlands where a significant number of the trees are infested by a fatal pest or pathogen and where the damage cannot be mitigate through Good Forestry Practices or the act of mitigating the damage will reduce the number of trees below the minimum number of trees required to constitute a Woodlands.

#### Cultivation of Fallow Fields

- In situations where a fallow field has been colonized by young, early successional tree species such that the area colonized and number of trees is regulated pursuant to the Forest Conservation By-law, a Minor Exception Application may be considered to clear cut the trees for Agricultural Operations.

#### Access to Agricultural Fields and Operation of Farm Machinery

- The injury or destruction of trees to provide farm machinery access to existing agricultural fields surrounded by Woodlands or where no other reasonable access route exists.

#### **4. Practices not Considered Minor Exceptions**

The following are some common practices that result in the injury, destruction and clear cutting of the trees and will not be permitted as a Minor Exception.

##### Diameter Limit Harvesting

- Under no circumstances is Diameter Limit (also known as Circumference Limit) cutting permitted pursuant to the Forest Conservation By-law. Although this method of regulation has been used in the past for its ease of application and enforcement; the cutting of only the largest trees in a forest has significant negative impacts the long-term health, structure, genetic diversity and sustainability wood products produced in a forest and is no longer considered an acceptable practice in Haldimand County. No Minor Exception Applications will be accepted or considered that would permit a Diameter Limit harvest.

##### Official Plan Circumvention

- No Minor Exception Applications will be accepted or considered that would have the effect of amending or circumventing any part of the Haldimand County Official Plan such as the clear cutting of trees in Natural Environment Areas, Significant Woodlands, Provincially Significant Wetlands, Life Science Areas or Areas of Natural And Scientific Interest.

##### Development Applications

- The provisions of the Forest Conservation By-law do not apply where an approval for a development application has been granted pursuant to the *Planning Act*. In these circumstances the protection of Woodlands is addressed through comprehensive planning policies detailed in Haldimand County's Official Plan, the Provincial Policy Statement and the regulations of other agencies such as Conservation Authorities. No Minor Exception Applications will be accepted or considered for lands that are currently regulated pursuant to a planning application, that would amend or circumvent the requirements of a planning application.

##### Cumulative Woodland Removal

- When reviewing Minor Exception Applications the General Manager will consider the cumulative impact of the current application in conjunction with all previous permits, other exemptions or other regulations that result in the consistent removal of trees or Woodlands over time. Minor Exception Permits are intended to apply to a single specific circumstance and not to be repeatedly used to reduce or fragment Woodlands. The General Manager will not consider multiple applications submitted for Woodland areas under one (1) hectare that have the effect of circumventing the requirement for an Environmental Impact Study and Council approval.

## 5. Afforestation (Tree Planting)

An afforestation condition will be a requirement for all Minor Exception Permits that result in the reduction or loss of Woodland cover in Haldimand County. The preference is that afforestation will occur on the same property where the Woodlands is clear cut so there is no net loss of Woodlands in the immediate area. If there is insufficient area for the afforestation on the subject property then it may be accommodated on other properties owned by the applicant or as a final option, a payment may be made to the County to afforest other lands. The afforested area should be located immediately adjacent to any existing Woodlands or natural areas. If the afforestation area is located on other lands owned by the applicant and located immediately adjacent to the same Woodlands where trees were injured or destroyed then the afforestation rate will be the same as if the afforestation occurred on the subject lands.

The following afforestation rates are based on the understanding that a newly planted forest will take decades to grow before it will start producing the same amount of ecological, economical and social benefits provide by a mature forest. The afforestation rates provide incentives to replant Woodlands back in the same area where Woodlands were lost so there are no net loss of benefits to the local area.

Table 1: Afforestation Rates

<b>Existing Age of Woodland</b>	<b>Area of Woodlands Clear Cut</b>	<b>Afforestation Area Required on Subject Lands</b>	<b>Afforestation Area Required on Owner's Other Lands</b>	<b>Afforestation Area Required Cash-in-Lieu Payment to County</b>
Pioneer	(1) Hectare	(1) Hectare	(2) Hectares	(3) Hectares
Young	(1) Hectare	(2) Hectares	(4) Hectares	(5) Hectares
Mid-aged	(1) Hectare	(3) Hectares	(6) Hectares	(9) Hectares
Mature	(1) Hectare	(4) Hectares	(8) Hectares	(12) Hectares
Climax	(1) Hectare	(5) Hectares	(10) Hectares	(15) Hectares

### Forest Community Definitions

- Pioneer: A community that has invaded disturbed or newly created sites and represents the early stages of either primary or secondary succession.

- Young: A community that has not yet undergone a series of natural thinnings and replacements; plants are essentially growing as independent individuals rather than as members of a phytosociological community.
- Mid-aged: A community that has undergone natural thinning and replacement as a result of species interaction and often contains examples of both early successional and late successional species.
- Mature: A successional maturing community dominated primarily by species that are replacing themselves and are likely to remain an important component of the community if it is not disturbed again; significant remnants of early seral stages may still be present.
- Climax: A self-perpetuating community composed primarily of late seral species that show uneven stand age distribution, including large old trees (generally older than 120 years) without open-grown characteristics.

For the purpose of administering and enforcing the by-law, the determination of the existing Woodland age is solely at the discretion of the Municipal Law Enforcement Officer.

## **6. Environmental Impact Study (EIS)**

An Environmental Impact Study is required to be submitted with the Minor Exception Application when the proposed activity will have an impact on an area of Woodlands equal to or greater than one (1) hectare. An Environmental Impact Study is used to provide a sufficient level of detail to demonstrate that the proposed injury, destruction or clearing of trees will have little or no negative impacts on the natural features or ecological functions of the subject property or surrounding properties.

Haldimand County recognizes that all injury or destruction of trees inevitably causes some ecological impacts and that identifying these impacts does not necessarily result in rejection of the application, provided that the natural heritage features and ecological functions identified are protected from potential threats. It is important that the Environmental Impact Study address the following:

- How the proposal will avoid negative impacts; and/or
- How the proposal will mitigate or compensate for residual impacts on ecologically sensitive features and functions.

Each application is unique in its scope, the impacts that it will have on the landscape and the composition of the Woodlands that will be impact. The following is a general terms of reference outlining the information expected by the County in an Environmental Impact

Study submission. The General Manager will provide the specific terms of reference to the landowner for each Minor Exception Permit Application.

### General Information

- Title page, landowner name, address and contact information, address for the subject property, date, table of contents.

### Authorization

- Must be prepared by a qualified and competent individual with experience in preparing Environmental Impact Studies.
- Name, address and contact information for the individual(s) preparing the Environmental Impact Study.
- Signed by principal author and reviewer.

### Background Review

A review of the relevant background information sources related to the subject property include but not limited to:

- Haldimand County Official Plan
- Provincially Tracked Species Layer from Land Information Ontario (LIO)
- Ontario Breeding Bird Atlas
- Ontario Reptile and Amphibian Atlas
- Natural Heritage Information Centre (NHIC) Data
- Species at Risk range maps.

### Field Investigations

On site investigations must be completed to document the vegetation and wildlife habitat on the subject property to determine if the property supports habitat for threatened or endangered species and should include:

- Flora Surveys (Spring and Summer)
- Breeding Bird Survey
- Mammals including Bats
- Amphibians and Reptiles

### Analysis and Reporting

- Site Map preferably overlaid on a current air photo of the subject property, at an appropriate scale with sufficient legible features to easily locate the site.
- Vegetation community map with proposed tree injury, destruction or clearing overlay.
- Final proposed environmental feature boundaries and buffers.
- Summary of Field Inventories

- Summary of Species of Conservation Concern and Provincially and Regionally Rare and Uncommon Vegetation Communities.
- Summary of Monitoring Reports.

### Conclusions and Recommendations

It is imperative that the Environmental Impact Study conclude with a statement specifying the impacts on natural heritage features and/or ecological functions the proposed development will have and must include the following:

- How the proposal will avoid negative impacts and/or, if impacts cannot be fully avoided;
- How the proposal will mitigate or compensate for residual impacts on ecologically sensitive features and functions.

### Supporting Documentation

- Ecological Land Classification sheets for all vegetation communities.
- Full Plant Species List
- Full Wildlife Species List
- Map showing the location of all Ecological Land Classification plots, breeding bird and amphibian monitoring stations.



## 7. Minor Exception Application Process

