

**THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER**

**BY-LAW 2005-37**

**BEING A BY-LAW TO ENSURE PROPER COMMERCIAL TREE HARVEST  
BUFFERS WITHIN THE MUNICIPALITY**

The purpose of this by-law is to regulate buffer zones to minimize the potential of snow drifting across municipal roads and to maintain esthetics within the Municipality of French River along any municipal roads and watercourses and to protect municipal roads from damage resulting from the transportation of harvested timber and equipment.

**WHEREAS** the Council of the Corporation of the Municipality of French River deems it necessary to regulate tree harvesting commercial buffers in the Municipality of French River.

**AND WHEREAS** the Council of the Corporation of the Municipality of French River deems it necessary to protect its municipal roads from damage caused by the transportation of timber and equipment from the harvesting operations.

**AND WHEREAS** Section 135 of the Municipal Act, 2001, S.O. 2001 c.25, as amended permits Council to regulate the destruction or injuring of trees;

**NOW THEREFORE BE IT RESOLVED THAT** the Council of the Corporation of the Municipality of French River hereby enacts as follows:

**Section 1      Definition:**

- a) “Commercial Harvest” means timber that is harvested for commercial purposes
- b) “Corporation” or “Municipality” means the Corporation of the Municipality of French River;
- c) “Council” means the Council of the Corporation of the Municipality of French River,
- d) “Landing” means a designated area where harvested timber is to be piled;
- e) “Buffer Zone” means ‘area of concern’ adjacent to municipal and provincial roadways, and designated lakes and rivers. A distance of 30 meters ‘no cut’ with the option of a modified harvest upon municipal approval;
- f) “Entrance” means a roadway into the area of harvest. Road must be 10 meters in width, with adequate road signs to alert public of the entrance. Such signs are to be the responsibility of the landowner. There is to be one entrance only. (Some exceptions may apply)

- g) “Own Use” shall be deemed not to include any sale, exchange or other disposition of trees that are harvested.
- h) “Tree” means and includes any live, deciduous or coniferous tree that has a minimum height of 2.0 meters (6.5 feet) and a minimum diameter of 4.5 millimeters (1.7 inch) at a point of one meter above ground.
- i) “Destroy” means 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
- j) “Injuring” means to harm, damage or impair and includes the injury of trees by changing grades around trees, compacting soil over root areas, severing roots, the improper application of chemicals, improper pruning or removal of bark.
- k) “By-law Enforcement Officer” means anyone appointed by the Municipality of French River to enforce the provisions of this by-law.
- l) “Roads” means any public road within the Municipality of French River.
- m) “Sensitive natural areas” means ravine, valley, river, and stream corridors; shorelines of lakes, rivers and streams.

## **Section 2      Restrictions:**

- a) No person, firm, corporation, contractor or others shall, save and except for any exemption provided for herein, remove timber harvested for commercial use from any property within the municipality, without first obtaining a permit and adhering to the regulations stipulated within this By-law.
- b) There will be 30 meters buffer “no cut” reserves on both sides of any municipal or provincial roadways, property line and major watercourses. Under special circumstances and upon written application, council may modify this buffer zone. No person, firm, corporation, contractor or others shall so conduct his operations as to unnecessarily injure or damage any other tree within the buffer zone or outside the abutting property.
- c) The designated area for the landing where harvested timber must be beyond or behind the 30 meter buffer zone. The landing cannot be located in the buffer zone.
- d) No person, firm, corporation, contractor or others shall injure, destroy or cut any tree on municipal property without first getting approval from the municipality.

- e) No person, firm, corporation, contractor or others shall operate a vehicle, machinery and equipment or conduct operations resulting in damage to municipal roads. If any roads within the municipality are damaged, the person, firm, corporation, contractor or owner shall repair and bring back to previous condition at their expense.
- f) No person, firm, corporation, contractor or others shall operate a vehicle, machinery and equipment or conduct operations resulting in the leaving of any part of a tree in the buffer zone including any trees that have not been cut, but have been pushed or knocked over.
- g) No person, firm, corporation, contractor or others shall fail to comply with an Order issued under this by-law.
- h) No person, firm, corporation, contractor or others shall remove or deface any Order issued under this by-law.

**Section 3      Application:**

- a) Every owner, person, firm, corporation or contractor acting for the commercial purpose of the owner who intends to destroy, injure or harvest trees personally or through another person shall complete and submit an application to the clerk no less than 10 days prior to the start of destruction or injury, all the information prescribed in schedule "A".
- b) The registered landowner will provide a cheque of \$300.00 deposit a time of application for permit. A fee of \$50.00 will be for the administrating fee and an amount of \$250.00 will be reimbursed upon completion of an expectable final inspection done by the By-law Enforcement Officer.
- c) Applications for a permit will not be processed if;
  - i. Applications have not been completed in full; and
  - ii. Applications are not keeping with the general purpose and intent of this By-law; and
  - iii. The prescribed application fee of \$300.00 has not been paid in full.

**Section 4      Stop work order:**

- a) Where the By-law Enforcement Officer is satisfied that a contravention of this by-law has occurred, the officer may apply a STOP WORK ORDER requiring the person who contravened the by-law or who caused or permitted the injuring or destruction of trees in contravention of the by-law, to stop the injuring or destruction of trees. The order shall set out the information contained in Schedule "B"
- b) The order issued under this section may be served personally to;

- i. The owner of the property where the trees are being harvested;
  - ii. The person identified as injuring, destroying or harvesting or trees.
- c) Where service of an order is made personally, the order shall take effect that same day.
- d) Where service cannot be carried out under Section 4 (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.

**Section 5      The provisions of this By-law shall not apply to the following:**

- a) Interfering with the right of a person who is the registered owner of the land to cut trees thereon for the person's own use as long as the Buffer Zone is respected.
- b) Interfering with the right of a person who is the registered owner of the land to cut trees thereon for the use of clearing a lot to build a residential dwelling. Before entering a lot to cut trees, the registered land owner must check with the Director of Planning of the Municipality of French River for the zoning approval.
- c) Activities or matters undertaken by the Municipality of French River, however the Municipality will make every effort to minimize the impact of its activities on the forest;
- d) Activities or matters undertaken under a license issued under the *Crown Forest Sustainability Act*, 1994;
- e) 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;
- f) 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 section 41, 51, or 53, respectively of the *Planning Act* or a requirement of a site plan agreement or subdivision agreement entered into under those section;
- g) The injuring or destruction of trees imposed 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;
- h) 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 system, as those terms are defined in that section;

- i) 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*; or
  
- j) 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 permitted land use under a By-law passed under section 34 of the *Planning Act*.

**Section 6 Power of entry:**

- a) Section 137 (1) *Power of Entry* of the Municipal Act gives the municipality, at any reasonable time, enter and inspect any land to determine whether a by-law, order or a condition to a permit is being complied with.

**Section 7 Penalty:**

- a) Any person who contravenes any provision of this by-law, or an order issued under section 5 is guilty of an offence and is liable under section 138 (1) of the Ontario Municipal Act:
  - i. On first conviction, to a fine not more than \$10,000.00 or \$1,000.00 per tree, whichever is greater; and
  - ii. On any subsequent conviction, to a fine of not more than \$25,000.00 or \$2,500.00 per tree, whichever is greater.
  
- b) If a person convicted of an offence for contravening this by-law or an order issued under section 5, 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) Any costs and expenses for services provided by or on behalf of the Municipality of French River or for which the municipality is liable in endeavoring to fix damaged roads or land caused by or resulting from a person, firm, corporation, contractor or others contravening or failing to comply with any provision of this By-law shall be charged pursuant to Section 425 (1) of the Municipal Act 2001 and shall constitute a debt of such person to the Municipality. Service charges pursuant to this By-law shall be as follows:

- i. \$400.00 minimum charge, \$75.00/hour or whichever is the greater amount plus materials and equipment, for work involved to fix damaged roads or land;
  - ii. Any service charge imposed pursuant to this By-law shall be payable within fifteen (15) days after the Municipality has delivered or sent by prepaid registered post an invoice to the person responsible, and interest shall accrued and be added to the amount at the rate interest of 1.25% per month shall be used to calculate interest on unpaid service charges.
- d) Any person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine set by the Chief Justice of the Ontario Court of Justice for the purpose of proceedings commenced under Part I

**Section 8      By-law # 2005-14 is hereby repealed.**

**Section 9      This By-law shall come into force and take effect upon third and final reading.**

**READ A FIRST, SECOND AND THIRD TIME THIS 20<sup>th</sup> DAY OF JULY, 2005**

**SCHEDULE "A"**

**APPLICATION TO HARVEST TIMBER FOR BY-LAW 2005-37**

1. Name of Land Owner \_\_\_\_\_(please print)

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Land Affected by Application \_\_\_\_\_

Lot

Concession

Township

Number of Acres \_\_\_\_\_

Species of Timber to be harvested and Removed \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Harvesting Schedule (max 3 years) \_\_\_\_\_

(Harvesting must be limited during wet periods of the year, to reduce soil damage and rutting)

List Types of Equipment to be used, as well as Harvesting Method:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Location of the Landing, Entrance off Roadway, and Buffer Zone Description (accurate diagram to be provided).

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Current Use of Land \_\_\_\_\_

Outline Township Roads to be used by Vehicles Transporting Harvested Timber:

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An acceptable final inspection from the By-law Enforcement Officer upon completion of the harvesting before the \$250.00 can be refunded to the owner of the property.

I certify that I am the Owner named in the application and the information in the said application and the site plan and specifications submitted herein is true and correct in every respect and no relevant information has been withheld. ***I certify that if any roads within the municipality are damaged due to the harvesting of timber off of my property, I shall repair and bring back to previous condition at my expense.***

Declared before me at the \_\_\_\_\_ of \_\_\_\_\_ on the \_\_\_ day  
of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Owner



**SCHEDULE "B"**

**BY-LAW # 2005-37**

**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

LOT: \_\_\_\_\_ CONSESSION: \_\_\_\_\_ TOWNSHIP \_\_\_\_\_

PARCEL \_\_\_\_\_ IN THE MUNICIPALITY OF FRENCH RIVER

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

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DESCRIPTION OF INFRACTION:

DATE OF INSPECTION: \_\_\_\_\_

TO: \_\_\_\_\_

EFFECTIVE ORDER DATE: \_\_\_\_\_

SIGNATURE OF OFFICER: \_\_\_\_\_

DATE: \_\_\_\_\_

**Part 1 Provincial Offences Act**

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ITEM	COLUMN 1 Short form wording	COLUMN 2 Provision creating or Defining Offence	COLUMN 3 Set fines
1.	Remove or harvest trees without first obtaining a permit.	Section 2 (a)	\$ 400.00
2.	Injure or damage any trees within the 30 meter buffer zone.	Section 2 (b)	\$ 400.00
3.	Having the landing within the 30 meter buffer zone.	Section 2 (c)	\$ 400.00
4.	Injure, destroy or cut any trees on municipal property without approval.	Section 2 (d)	\$ 400.00
5.	Operate a vehicle, machinery and equipment or conduct operations resulting in damage to municipal roads.	Section 2 (e)	\$ 400.00
6.	Operate a vehicle, machinery and equipment or conduct operations resulting in leaving of any part of a tree in the buffer zone that have not been cut, but have been pushed, knocked over.	Section 2 (f)	\$ 400.00
7.	Fail to comply with an order issued under this by-law.	Section 2 (g)	\$ 400.00
8.	Remove or deface any order issued under this by-law.	Section 2 (f)	\$ 400.00

**“NOTE: the general penalty provision for the offences listed in Section 7 of By-law 2005-37, a certified copy of which has been filed.”**