

TOWNSHIP OF NIPIGON

By-Law No. 1699

A By-law to Promote Good Forestry Practices in The Township of Nipigon.

WHEREAS s. 135 of the Municipal Act, R.S.O. 2001, S.O. 2001, c.25, as amended permits the enactment of a By-law by the Council of the Corporation of the Township of Nipigon to prohibit or regulate the destruction or injuring of trees in woodlands.

AND WHEREAS Council desires to enact a by-law for the purpose of promoting good forestry practices that sustain healthy woodlands, minimizing the destruction and injuring of trees, contributing to human health and quality of life through the maintenance of healthy urban and rural woodland cover by protecting the diversity and character of the Township's tree resources because of their cultural, economic and ecological value.

AND WHEREAS Council has considered good forestry practices, which may require the cutting or destruction of trees, and has incorporated recognition of such practices in this by-law.

AND WHEREAS landowners or person acting on behalf of the landowner intending to cut or destroy trees commercially on property within the Township of Nipigon shall notify the Municipality and adjacent landowners prior to carrying out such intentions.

NOW, THEREFORE the Council of the Corporation of the Township of Nipigon enacts as follows:

SECTION 1. Definitions

1. "Building Permit" means a Building Permit issued under the Building Code Act, 1992, S.O., 1992, c23, as amended.
2. "Business day" means any day falling on or between Monday and Friday of each week but not including statutory holidays.
3. "Council" means the Council for the Corporation of the Township of Nipigon.
4. "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 detriment to forest values including significant ecosystems, fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape.
5. "By-law Enforcement Officer and/or Officer" means an individual appointed by Council for the administration and enforcement of this and other by-laws.
6. "Landowner" means a person having any right, title, interest or equity in land.
7. "Own Use" means use that does not include a sale, exchange or other disposition of trees destroyed or injured.
8. "Tree" means any species of woody perennial plant, including its' root system, which has reached or can reach a height of at least 4.5 metres at physiological maturity.

SECTION 2. General Prohibition

Except in accordance with sections 3 to 6 of this by-law, no person shall, within the boundaries of the Township of Nipigon cut, injure, destroy or permit to be cut, injured or destroyed any tree on a property of 2 ha. or greater.

SECTION 3. Regulations - Cutting

Any person when cutting, injuring or destroying trees on a property 2 ha. or greater shall meet the following conditions:

1. Processing sites (whole tree chipper areas, skid ways, and landings) must be located at least 60 metres from public roadways and all property boundaries.
2. The repair of damage to Township roads or culverts as a result of logging operations will be the responsibility of the landowner.

3. Boundaries shall be cut during daylight hours only (half hour before sunrise to half hour after sunset) to minimize risk of trespasses.
4. All water crossings require approval in writing from MNR.

SECTION 4. Notice of Intent to Destroy Trees

1. Every landowner or person acting on behalf of the landowner intending to cut or destroy trees within the Township of Nipigon on property 2 ha. or greater, that do not satisfy the exemptions in sections 5 or 6, shall notify the Municipality and all adjacent landowners prior to carrying out any such intentions. An information package of good forestry practices for consideration by the proponent and the required form for giving notification is found in schedules A and B, Forms 1 and 2, of this by-law. The completed Notification shall be mailed, faxed or delivered to the Township of Nipigon office at PO Box 160, 25 Second Street, Nipigon, ON P0T 2J0, Fax: 1-807-887-3564 and adjacent land owners at the last known address in the property assessment roll not less than thirty (30) days prior to the commencement of the harvest or destruction of the trees.

SECTION 5. General Exemptions from Application of By-law

The following are exempt from the application of this by-law:

1. activities or matters undertaken by a Township or a local board of a Township; or
2. activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act, 1994; or
3. the injuring or destruction of trees by a person licenced under the Surveyors Act to engage in the practice of cadastral surveying or his or her agent, while making a survey; or
4. 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 as a requirement of an agreement entered into under the regulation; or
5. 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; or
6. 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 construction and maintenance of a transmission system, as those terms are defined in that Section; or
7. the injuring or destruction of trees undertaken on land described in a licence for a pit or a quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act; or
8. the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land that has not been designated under the “Aggregate Resources Act” or a predecessor of that Act, and on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the Planning Act

SECTION 6. Specific Exemption from Requirements

1. Notwithstanding section 2, the following are exempt from the regulations and requirements of sections 3 and 4 of this by-law;
 - I. Lands on which the landowner intends to cut or destroy trees for his or her own use.(Note: Stream crossing authorization is still required from MNR).
 - ii. Trees which are to be cut or destroyed in order to construct any building, structure or thing in respect of which a Building Permit has been issued in accordance with the provisions of the Building Code Act.
 - iii. Trees that pose an imminent threat to persons or property.

SECT SECTION 7. Orders to Discontinue Activity

1. Where an Officer is satisfied that a contravention of this bylaw has occurred, the officer may make an Order requiring the person who contravened the bylaw or who caused or permitted the injuring or destruction of trees in contravention of the bylaw to stop the injuring or destruction of trees. The Order shall set out the

- information contained in Schedule B.
2. 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 property and
 - ii) the person identified as having injured, destroyed or harvested a tree or trees
 3. 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.
 4. Where service cannot be carried out under Section 7 subsection (2) 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 whom the Order is directed.
 5. If the person to whom the Order is directed is not satisfied with the terms of the Order, the person may appeal to Council by filing a Notice of Appeal by personal service or certified mail to the Clerk within 30 days of the date of the Order.
 6. Where an appeal has been filed, Council shall hear the appeal and shall have all powers and functions of the Officer.
 7. Before conducting a hearing under this Section, the Clerk shall give notice to such persons as the Clerk considers should receive notice and in the manner directed by the Clerk.
 8. After hearing an Appeal, Council may confirm or revoke any Order issued under this bylaw, provided that, in the opinion of the Council, the general intent and purpose of this bylaw has been maintained.
 9. The proceedings at the hearing held by the Council shall be in accordance with the provisions of the Statutory Power Procedures Act, R.S.O., 1990, c.22. The decision of the Council under this Section is final.

SECTION 8. Compliance with / Removal of Order

1. No person shall fail to comply with an Order issued under this bylaw, or remove or deface any Order that has been posted pursuant to this bylaw, or cause a failure to comply with an Order or the removal or defacing of any Order posted pursuant to this bylaw.

SECTION 9. Penalty

1. Any person who contravenes any provision of this bylaw, including any Order issued under Section 7, is guilty of an offence and is liable;
 - I) on first conviction, to a fine of not more than \$10,000, or \$1,000 per tree whichever is greater and
 - ii) on any subsequent conviction, to a fine of not more than \$25,000 or \$2,500 per tree whichever is greater
2. Despite Subsection (1) above, where the person convicted is a corporation,
 - I) the maximum fines in clause (1) (I) are \$50,000 or \$5,000 per tree and
 - ii) the maximum fines in clause (1) (ii) are \$100,000 or \$10,000 per tree
3. If a person is convicted of an offence for contravening this bylaw or an Order issued under section (7), 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.

SECTION 10. Enforcement

1. Council for the Corporation of the Township of Nipigon appoints the By-law Officer to enforce the provisions of this bylaw for such terms and on such conditions as Council considers appropriate.
2. Any Officer may, at any reasonable time, enter and inspect any land to determine whether this bylaw is being complied with.
3. Any person who obstructs or interferes with an Officer in the discharge of his or her duties under this bylaw shall be considered as being in violation of this bylaw.

SECTION 11. Administration

1. Sections 1 through to and including 11, and schedules A, B, C shall form part of this bylaw.
2. If any section or sections of this bylaw 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 bylaw shall be deemed to be separate and independent there from and will continue in full force and effect unless and until similarly found to be illegal.
3. This bylaw shall become effective on the day it is adopted by Council. Read a first time and a second and third time.

Enacted and passed this 23rd day of March, 2010.

_____MAYOR

_____CLERK

**FORM 1
NOTICE OF INTENT**

Pursuant to By-law no. _____ (Township of Nipigon Good Forestry Practices bylaw)

(Please print clearly)

Property Owner:	Telephone No.
Postal Address	E-mail address
Civic Address:	Postal Code:

Property Description:

Lot:	Concession:		Total Size of Woodlands:
Expected Start Date:	Expected Completion Date:		

Person in charge of cutting (ie. Contractor – if different from property owner):

Name:	Telephone No.
Address:	
Postal Code:	
Species of trees to be cut:	
Total Size Cut: Comments:	

I agree that all tree cutting operations will be conducted in accordance with the Township of Nipigon Good Forestry Practices By-law and that I am familiar with the contents and requirements of that By-law and acknowledge having received a copy of the By-law including Schedule B.

Signature of Property Owner _____

Date _____

In signing this Notice, I am acting with the full authority and permission of the property owner on his/her behalf.

Signature of Person in Charge of Cutting (If applicable) _____

Date _____

This notice is required to be mailed, faxed or delivered not less than 30 days prior to the commencement of the cutting or destroying of trees to:

The Corporation of the Township of Nipigon, PO Box 160, 25 Second Street, Nipigon, ON, P0T 2J0, Phone: 807-887-3135, Fax: 807-887-3564 and all adjacent landowners as per section 4.1 of this By-law.

THIS DOCUMENT IS DEEMED TO BE A PUBLIC DOCUMENT IN ACCORDANCE WITH THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT, R.S.O., 1990.

Schedule B
FORM 2
Good Forestry Practices Package

Pursuant to By-law no. _____ (Township of Nipigon Good Forestry Practices By-law)

Guidelines for **Good Forestry Practices In The Township of Nipigon**

Corporation of the Township of Nipigon
Phone: 807 887 3135
Fax: 807 887 3564
E-mail: info@nipigon.net
Website: www.nipigon.net

Guidelines for Good Forestry Practices

Good Forestry Practices

In Section 1.4 of the Township of Nipigon Tree By-law, *Good Forestry Practices* is defined as follows:

“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 detriment to forest values including significant ecosystems, fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape.

In other words, good forestry practices will ensure that no forest values are diminished by protecting key stand components and by minimizing environmental damage during tree harvesting. Properly managed tree harvest activities assure the maintenance of all forest values and a continuous flow of forest products that provide for both short and long-term economic benefits to landowners.

Application of these Guidelines

These guidelines do not constitute an official part of the Tree By-law but are intended to complement the definition of “Good Forestry Practices”. They identify a series of specific practices during harvesting, maintenance or renewal of forest resources that are conventionally accepted as “good forestry practice”. The guidelines are designed as a reference for landowners who are contemplating forestry and serve as a reference for specific activities that constitute good forestry practices. In administering the Tree By-law, the determination of good forestry practice is solely at the discretion of the By-law Officer.

Key Components of Good Forestry Practices

Careful planning for all stages of forest management is perhaps the most important component of good forestry practices. Establishing both short and long-term management objectives of the forest based on a current forest inventory that assesses biological features such as trees and wildlife as well as physical factors such as site characteristics, land capability and important environmental features is the first and most critical step towards success, and will help identify the degree to which each or all of the following practices should be adopted. Please note that these guidelines generally apply only to tree-removal activity in *Rural* areas of Township of Nipigon.

Practice Description: Consider professional advice

Obtaining professional assistance to develop a forest management plan is highly recommended and will help landowners maximize their harvest yield while maintaining forest values. For smaller scale harvest operations, obtaining the services of a certified tree marker will help identify the appropriate trees to both cut and preserve in order to achieve good forestry objectives. Consultation with the Township’s By-law Officer is recommended.

Choose an appropriate Forest Management Plan

Tree cutting activities such as diameter limit cutting or high-grading are not normally suitable for the forests of the Township of Nipigon. High grading is a type of selective cutting where some or all of the biggest and best trees are cut at the same time, and diameter limit cutting removes all trees over specific diameter limit. These practices may result in reduced genetic quality and diversity of the forest stand,

leaving defective individuals of high-grade species and a much higher proportion of low-grade species. Over time, such stands will look impoverished and will offer less food and shelter to wildlife. Significant restoration effort would be necessary to bring a high-graded forest stand back to an economically viable condition.

Retain a diversity of tree species, ages, sizes and stands.

Retaining healthy representatives of all native tree species present in the forest is important and advantageous for maintaining stand biodiversity. It is equally important to maintain the age-range of individual species which is generally measured by size class. Special consideration should be given to the care and protection of species that are rare or at risk and there may be requirements of other legislation such as the Ontario *Endangered Species Act* that may restrict cutting. The Ministry of Natural Resources Natural Heritage Information Centre website (www.nhic.mnr.gov.on.ca) is an excellent source of information on rare species in the Township of Nipigon and throughout Ontario.

Limit activities to the appropriate season

Plan to harvest during times that are least disruptive to other forest values including soils, wildlife and other vegetation. It is most desirable to harvest in the winter when the ground is frozen and there is snow cover to protect soils and understory vegetation. If winter harvest is not possible, cutting during dry periods in the fall may be the next best option. Avoid harvesting in the early spring or when conditions are wet or during the period between March 20th and August 31st which is usually the time when sensitive wildlife species breed or nest. Certain species are protected under provincial and federal legislation such as the *Migratory Bird Act*.

Practice Description Use directional tree felling

Trees should be felled directionally such that they can be removed in a manner that minimizes disturbance to the forest site and limits damage to residual/remaining trees. Improper tree felling techniques can damage branches and bark on all trees including seedlings on the forest floor.

Roads, skid trails and landings

Wherever possible, minimize the number of and width of roads, skid trails and landings. Roads and trails should follow the natural contours of the land and be located as far away as possible from environmentally sensitive features such as watercourses and wetlands. Skid trails and landings should be located on well drained sites and should avoid being located directly up or down a slope to minimize damage to vegetation.

Avoid stream crossings

Stream crossings for roads and skid trails should be avoided where possible, or where not possible, be restricted to one location where the stream is narrow and has a rocky substrate. Trails and roads should approach at right angles to minimize impacts on stream banks and to prevent stream water from flowing down skid trails. Prior to any stream crossings, landowners must ensure that the requirements of legislation such as the *Fisheries Act* or Regulations under the *Conservation Authorities Act* for watercourse crossings are met.

Avoid harvesting on steep slopes

To minimize erosion and sediment run-off which can damage forest soils and streams, tree cutting on slopes greater than 35% (or approximately 3:1 slope) should be avoided.

Retain edge density

Where interior forest habitat exists, it is desirable to retain an uncut buffer of forest edge. This helps to reduce windthrow and other damage to the forest interior and provides effective protection from the invasion of exotic species. Where an uncut buffer is not possible, planning for a higher density of trees on the outer edge of the forest is the next best option.

Protect wildlife habitat

In addition to cutting outside sensitive time frames, wildlife habitat can be protected by retaining nest, cavity and den trees and by ensuring that some nut-bearing trees remain. When not posing a safety hazard, standing dead trees provide important habitat for forest wildlife that use them for feeding, nesting, denning and escaping from predators. Fallen deadwood may also provide these benefits in addition to returning nutrients to the soil when they decay.

Use appropriate harvesting equipment

Equipment should reflect the scale of the harvesting operation in order to avoid excessive residual damage that heavy machinery may inflict on the forest stand. Large and heavy equipment might not be suitable for removing only a few small trees nor would they be appropriate for use on steep slopes

Other Good Forestry Practices

The above practices apply primarily to the actual harvesting of trees, however, longer-term forest management objectives require consideration of many other good forestry practices that deal with ongoing maintenance and regeneration of forest stands. These may include practices to promote, plant and maintain native species and to control invasive species, to treat infestations or disease or to undertake pruning or selection thinning. A professionally prepared forest management plan will detail the best approaches for maintenance and renewal tailored to the characteristics of the forest and the specific objectives of the landowner.

Additional Information:

There is a wealth of information on a variety of forest management topics available from a number of sources. The Ontario Ministry of Natural Resources publishes the extensive “Extension Notes” series of informative factsheets on a diverse number of topics including agroforestry, forest stewardship, insects and pests, water and wetlands and wildlife and the financial aspects of forest management. The full series of over 50 factsheets is available from the Ontario Landowner Resource Centre at www.lrconline.com. Landowners considering using the services of a contractor are highly encouraged to carefully research and select reputable companies to conduct harvesting operations. The Ontario Woodlot Association publishes an excellent reference guide entitled *A Landowner’s Guide to Selling Standing Timber* which is available to download at www.ont-woodlot-assoc.org. A number of additional information sources covering a wide range of topics are also available from the Ontario Woodlot Association (OWA). The comprehensive book *A silvicultural guide to managing southern Ontario forests* (OMNR 2000) is also available from the OWA.

**Schedule C
FORM 3**

STOP WORK ORDER

Pursuant to By-law no. _____ (Township of Nipigon Good Forestry Practices By-law)

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 Section 7, subsection (5) 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 services or certified mail to the Clerk within 30 days after the date of the Order.

Contact: