

By-law Number 171 - 2002

of

The Corporation of the City of Brantford

*Being a By-law to protect trees pursuant to
section 135 of the Municipal Act, 2001*

Whereas the municipal Council of the Corporation of the City of Brantford wishes to pass a By-law to protect trees from injury or destruction on privately-owned lands within the municipality;

**THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD
HEREBY ENACTS AS FOLLOWS:**

1. Definitions

In this By-law,

"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.

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

"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, the improper application of chemicals, improper pruning, or the removal of bark;

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

"Woodlot" means a group of trees, not necessarily located on or within a single separately assessed parcel of land, as identified on the attached Schedule "B".

2. Prohibition

(a) No person shall injure or destroy any living tree within or upon any of the following lands within the municipality:

(i) A woodlot;

(ii) Lands upon which there is pending an application for any of the following development approvals:

(1) A plan of Subdivision;

(2) A description under the Condominium Act; or,

(iii) Lands depicted on Schedule 3-1 of the City of Brantford Official Plan as within an Environmental Protection Policy Area or within an Environmental Control Policy Area.

(b) No person shall injure or destroy any living tree of the species set forth in Schedule "A" to this By-law at any location within the municipality.

3. Exceptions

The prohibitions in section 2 of this By-law do not apply in the following circumstances:

- (a) activities or matters undertaken by the City or a local board of the City;
- (b) activities or matters undertaken under a licence issued under the Crown Forest Sustainability Act;
- (c) 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;
- (d) 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;
- (e) 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 the Regulation;
- (f) 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;
- (g) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the Aggregate Resources Act;
- (h) 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 a permitted land use under a By-law passed under the Planning Act;
- (i) Where a permit has been issued by the Commissioner of Engineering, Public Works, Parks & Recreation allowing the injury or destruction of a tree or trees, provided any conditions imposed within any such permit have been observed. Requests for a permit shall be made in writing to the City Clerk in a format which may from time to time be prescribed by the Commissioner of Engineering, Public Works, Parks & Recreation. Permits shall include the following information:
 - (i) 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;
 - (ii) 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,
 - (iii) any other supporting information or documents in respect of the application for a permit,

provided that the Commissioner of Engineering, Public Works, Parks & Recreation shall be authorized to exempt applicants from the requirement that they provide any

or all of the items in (i), (ii), or (iii) where he or she has determined that the information is unnecessary in the circumstances of the particular application;

- (j) Where the tree is located on lands owned by The Corporation of the City of Brantford, or the Crown in right of Ontario or Canada;
- (k) Where the injury or destruction of a tree is authorized by a Provincial or Federal Statute, regulation, licence, or approval;
- (l) the injuring or destruction of Manitoba Maples; or,
- (m) Where the tree is located within a commercial orchard or tree farm.

4. Consideration of Permit Applications

(a) Permit applications pursuant to section 3(i) of this By-law 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.

(b) After having been received by the City Clerk, permit applications made pursuant to section 3(i) of this By-law shall be forthwith forwarded to the Commissioner of Engineering, Public Works, Parks & Recreation for disposition.

(c) Council may overrule a decision of the Commissioner of Engineering, Public Works, Parks & Recreation in respect of a permit application made pursuant to section 3(i) of this By-law, and may substitute its disposition for that of the Commissioner of Engineering, Public Works, Parks & Recreation.

(d) The remedy in (c) above 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.

5. Officers

(a) The following persons are appointed Officers for the enforcement of this By-law:

- (i) The Commissioner of Engineering, Public Works, Parks & Recreation; and,
- (ii) The Urban Forestry Co-ordinator.

(b) For all purposes of this By-law, the Urban Forestry Co-ordinator shall be subject to the direction and supervision of the Commissioner of Engineering, Public Works, Parks & Recreation.

6. Penalties

Any person who contravenes this By-law or who contravenes an Order made by an Officer appointed under section 5 of this By-law, 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.

7. Repeal of Previous By-law

By-law 115-2001, as amended, is repealed in its entirety.

8. Effective Date

This By-law shall come into effect on January 1, 2003.

READ A FIRST TIME:
READ A SECOND TIME:
PASSED:

Mayor

Clerk

Schedule "A"

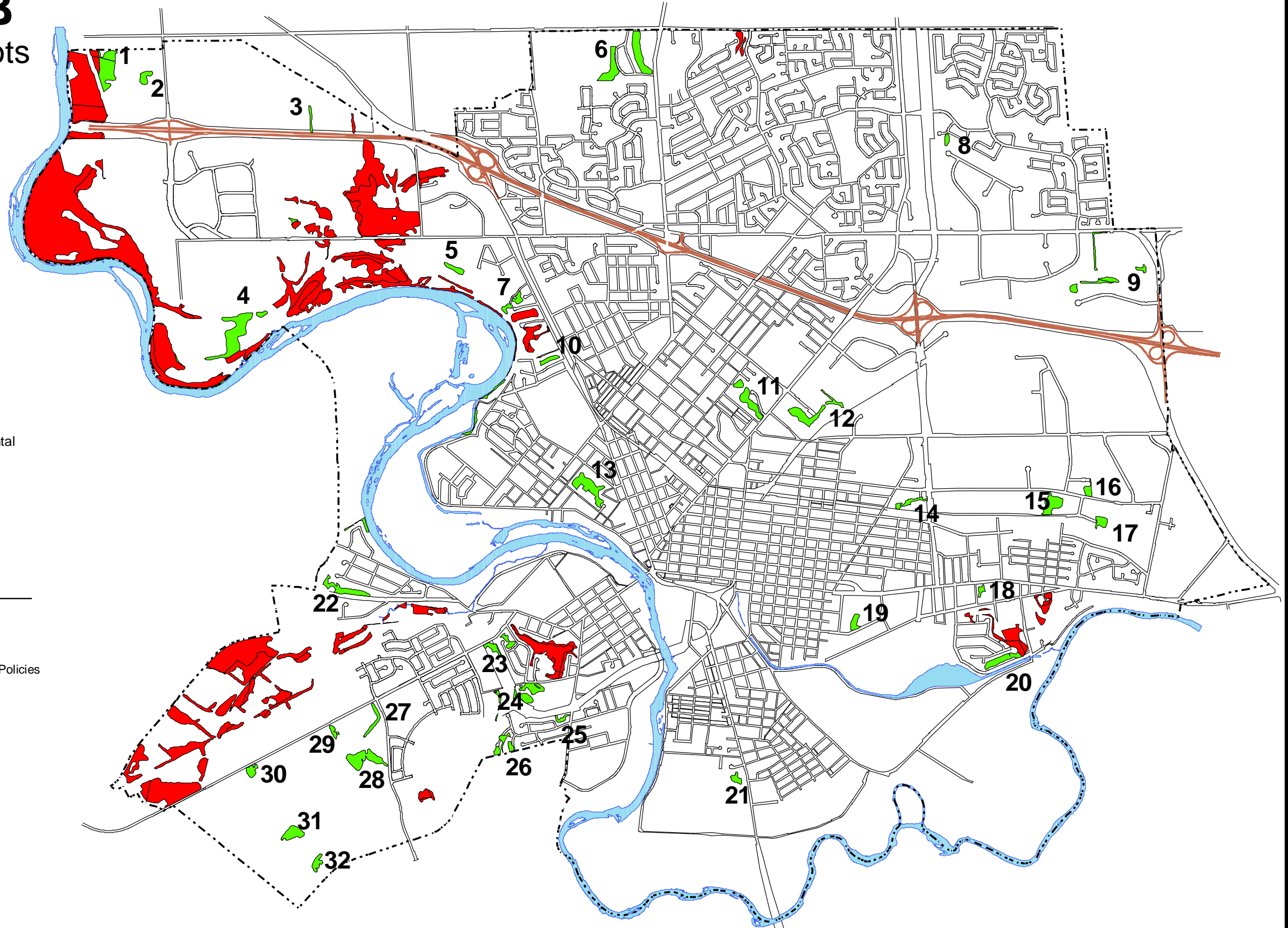
The following tree species in naturally occurring populations are protected.

- | | | |
|-----|------------------------|----------------------|
| 1. | Castanea dentata | American chestnut |
| 2. | Celtis tenuifolia | Dwarf hackberry |
| 3. | Gymnocladus dioica | Kentucky coffee |
| 4. | Fraxinus quadrangulata | Blue ash |
| 5. | Quercus prinoides | Dwarf Chinquapin Oak |
| 6. | Quercus ellipsoidalis | Hills Oak |
| 7. | Quercus shumardii | Schumard Oak |
| 8. | Carya glabra | Sweet Pignut hickory |
| 9. | Magnolia acurminata | Cucumber tree |
| 10. | Morus rubra | Red Mulberry |
| 11. | Phelea trifoliata | Hop tree |

Schedule B

Schedule B

One Acre Woodlots

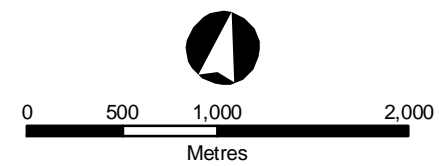


Woodlots contained within Environmental Policies of the Official Plan::
92 woodlots
667 acres

Remaining woodlots:
51 woodlots
181 acres

Legend

- Woodlots contained by Environmental Policies
- Woodlots
- Water
- Municipal boundary
- Highway 403
- Streets



BYLAW NUMBER 95-2004
OF
THE CORPORATION OF THE CITY OF BRANTFORD

BEING A BYLAW TO AMEND BY-LAW 171-2002,
BEING A BY-LAW TO PROTECT TREES
PURSUANT TO SECTION 135 OF THE
MUNICIPAL ACT, 2001

WHEREAS the Council of the Corporation of the City of Brantford has on October 7th, 2002 passed By-law 171-2002, being a By-law to protect trees pursuant to Section 135 of the Municipal Act, 2001.

AND WHEREAS it is deemed advisable to amend By-law 171-2002 to remove one of the exceptions currently provided for in the By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD HEREBY ENACTS AS FOLLOWS:

1. That Section 3(k) of By-law 171-2002 be amended by the inclusion of the word 'or' after the word approval, to read as follows:

(k) Where the injury or destruction of a tree is authorized by a Provincial or Federal Statute, regulation, licence, or approval, **or**
2. That Section 3(l) as outlined below, be deleted from By-law 171-2002;

(l) the injury or destruction of Manitoba Maples; or,
3. That the former Section 3(m) of By-law 171-2002, be re-numbered as 3(l).
4. This Bylaw shall come into full force and effect from and after the date of passing thereof.

READ A FIRST TIME:


May 17-2004


READ A SECOND TIME:

May 17-2004

PASSED:

May 17-2004


MAYOR


CITY CLERK