

**THE CORPORATION OF THE COUNTY OF LANARK  
BY-LAW NO. 2016-22**

**LANARK COUNTY FOREST CONSERVATION BY-LAW**

**WHEREAS** subsection 135(2) of *the Municipal Act, 2001*, S.O. 2001, c. 25, as amended, hereinafter referred to as the Act, permits the enactment of a By-Law by the Council of the County of Lanark for a Forest Conservation By-Law in the County of Lanark;

**AND WHEREAS** subsection 135(7) of the Act provides that the By-Law may impose conditions on an exemption, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy Trees;

**AND WHEREAS**, Council has determined that it is desirable to enact such a By-Law for the purposes of:

1. Achieving the objectives of the Official Plan by sustaining a healthy natural environment.
2. Conserving and sustaining Woodlands and promoting good forestry practices.
3. Helping to sustain and support the local forest economy.
4. Regulating and controlling the removal, maintenance and protection of Trees and Woodlands.
5. Protecting, promoting and enhancing all values of Woodlands, biodiversity, wildlife habitat and ecosystem services.
6. Contributing to human health and quality of life through the maintenance of Woodlands cover.
7. Enhancing and implementing processes and decisions made with respect to applications made under the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

## **1. INTENT**

This By-Law applies only if Good Forestry Practices **are not** followed during any tree harvesting. If Good Forestry Practices **are not** followed, then this By-Law applies to all tree harvesting of forest products for sale, own use or land use conversions, in woodlands over 2 Hectares, per roll number, within Lanark County.

## **2. APPLICATION**

This By-Law applies to Woodlands that are two (2) hectares or more in an individual Roll Number within the area of the County of Lanark, including lands of all Municipal zoning and lands subject to future land use conversion or municipal Planning Act applications.

Good Forestry Practices will be based on the most up-to-date "Provincial Silvicultural Guide" from the Ministry of Natural Resources and Forestry.

## **3. APPROVED PRACTICES**

- 3.1 Approved Practices under this By-Law does not reduce the need to comply with other Municipal, Provincial or Federal Legislation, including but not limited to the *Endangered Species Act* and the *Planning Act*.
- 3.2 The requirements of this By-Law do not apply to:
- a) The harvesting of Trees by the Owner of Woodlands for the Owner's own use in accordance with Good Forestry Practices or harvesting diseased or infected Trees;
  - b) The injuring or destruction of Trees undertaken as Normal Farm practices, as ruled by the Normal Farm Practices Protection Board for the subject land;
  - c) The injuring or destruction of Trees imposed after December 31, 2002, 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 a site plan agreement or a subdivision agreement entered into under those sections;
  - d) Activities or matters undertaken or authorized by a Municipality or a local Board of a Municipality;
  - e) Activities or matters undertaken under a licence issued under the *Crown Forestry Sustainability Act, 1994* (Crown Lands);

- f) The injuring or destruction of Trees by a person or agent licensed under the *Surveyors Act* to engage in the practice of surveying;
- g) 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 constructing and maintaining a transmission system or a distribution system as those terms as defined in that Section;
- h) The injuring or destruction of Trees undertaken on land described in a licence or permit for a pit, wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
- i) The injuring or destruction of Trees that is required in order to erect any building, structure or thing in respect of which a Building Permit has been issued;
- j) The injuring or destruction of Trees that is reasonably required in order to install and provide utilities, vehicular access, in respect to a building to which a Building Permit has been issued;
- k) The injuring or destruction of Trees that is reasonably required to serve as an outlet for a private agricultural tile drainage system on existing crop or pasture land;
- l) The injuring or destruction of Trees along a property boundary to a maximum width of 2.5 metres for the purposes of installing or maintaining a property boundary fence;
- m) The injury or destruction of Trees for the construction, improvement, maintenance or repair of drainage works authorized under the *Drainage Act*, R.S.O. 1990, c. D.17 as amended; or
- n) The injuring or destruction of Trees that are in a hazardous condition.

#### **4. GENERAL PROHIBITION**

- 4.1 No Person shall harvest, injure, or destroy, cause or permit to be harvested, injured or destroyed any Tree or Trees in Woodlands unless it is an Approved Practice under the Section 2 of this By-Law, or in accordance with an exemption issued under Section 5 of this By-Law.

4.2 No Person shall:

- a) fail to comply with an Order issued under this By-Law;
- b) remove or deface an Order that has been posted pursuant to this By-Law; or
- c) contravene the terms or conditions of an exemption issued under this By-Law.

## **5. GRANTING OF AN EXEMPTION BY COUNCIL**

Notwithstanding any provision contained in this By-Law, an owner may request an exemption to this By-Law from Council.

Council may:

- 1. grant an exemption request;
- 2. grant an exemption request with modifications; or
- 3. refuse an exemption request.

Council, when evaluating a request for an exemption, shall consider if the activity proposed is consistent with the appropriate development or use of the land.

Council, upon granting an exemption, may impose such terms and conditions as it deems appropriate.

An owner requesting an exemption to this By-Law shall give formal notice to the Clerk of the County of Lanark at least six (6) months prior to the commencement date of harvesting.

The Clerk shall circulate, by regular mail, seven (7) days prior to the Council Meeting, Notice that the exemption request will be considered by Council. The Notice shall be circulated to the Applicant and all assessed owners of land that abut the lands subject to the exemption request.

In deciding whether to grant an exemption, Council shall give the Owner and any person opposed to or in favour of the request an opportunity to be heard and may consider such other matters, including the Officer's comments as it deems appropriate. The Clerk shall notify the Owner, in writing, of Council's decision.

## **6. ORDER TO DISCONTINUE ACTIVITY**

6.1 Where an Officer believes that a contravention of this By-Law has occurred, the Officer may issue an Order requiring the Person who contravened the By-Law or who caused or permitted the harvesting, injuring or destroying of Trees in contravention of the By-Law to stop and discontinue the harvesting, injuring or destroying of Trees.

6.2 The Order to discontinue activity shall set out:

- a) the municipal address or the legal description of the land;
- b) reasonable particulars of the contravention; and
- c) the date by which there must be compliance with the Order.

## **7. WORK ORDER**

7.1 Where an Officer believes that a contravention of this By-Law has occurred, the Officer may issue a Work Order requiring the Person to rehabilitate the land or Woodlands, or to plant or replant Trees.

7.2 The Work Order shall set out:

- a) the name and the Owner and the municipal address or the legal description of the land;
- b) reasonable particulars of the contravention;
- c) the work to be done and the date by which the work must be done;
- d) a statement that if the work is not done in compliance with the Order, within a specified time period, the Municipality may have the work done at the expense of the Owner; and
- e) contact information of the Officer.

## **8. REMEDIAL ACTION**

8.1 Where an Owner fails to comply with a Work Order issued under this By-Law, the County may do the work directed or required to be done at the Person's expense.

8.2 The County may recover the costs of doing a matter or thing under this section of the By-Law from the Person directed or required to do it by

action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

8.3 Where the County chooses to do the work directed or required to be done in a Work Order it shall serve Notice to the Person personally or by registered mail sent to the last known address of the Person to whom the Notice is to be given or that Person's Agent for service.

8.4 The Notice shall set out:

- a) the municipal address or the legal description of the land;
- b) reasonable particulars of the contravention;
- c) the date the County will be entering the property to do the work directed or required to be done; and
- d) a Statement that the work being completed will be at the Owner's expense.

8.5 If a Notice is served by registered mail, the service shall be deemed to have been made on the seventh (7<sup>th</sup>) day after the day of mailing.

8.6 The County may enter upon land to complete the work three (3) days after service is affected.

## **9. SERVICE**

9.1 An Order, Work Order or Notice issued under this By-Law may be served personally or served by sending it by regular mail to the last known address of:

- a) the person to whom the Order or Notice is directed;
- b) the Owner of the Woodlands; and
- c) any person injuring or destroying a Tree or Trees.

9.2 Where service of an Order is made by regular mail, service shall be deemed to have been effected on the fifth (5<sup>th</sup>) day after the Order is mailed.

9.3 In addition to serving an Order as per section 10.1 of this By-Law, an Officer may also place a placard containing the terms of the Order in a conspicuous place on the property.

9.4 Where service cannot be carried out under subsection 10.1 of this By-Law, the Officer shall place a placard containing the terms of the Order in a conspicuous place on the property where the Trees are being injured or destroyed and the placing of the placard shall be deemed to be sufficient service of the Order on the person or persons to whom the Order is directed.

## **10. ENFORCEMENT**

10.1 A complaint is received by the County. A County representative makes contact with complainant to discuss the complaint.

10.2 If there is enough information to show that an offence might have occurred, a County representative, who is a Qualified Ontario Professional Foresters Association (OPFA) Member, will investigate via: discussion with the land owner, viewing the property from road allowance, viewing the property through County records and/or Google maps.

10.3 If a closer inspection is required, the County representative (OPFA Member) will request access and only enter property if invited or approval has been given by the property Owner, or their representative.

10.4 If permission to access the property is not granted, the County will retain the services of a local By-Law Officer to investigate. The County representative (OPFA Member) must attend the investigation. If permission to access the property is still not granted, then the County will involve the local Law Enforcement.

10.5 Any person who provides false information to an Officer shall be deemed to have hindered or obstructed the Officer in the execution of their duties.

## **11. PENALTY**

11.1 Any person who contravenes any provision of this By-Law, the terms or conditions of an exemption, or an Order issued under this By-Law or any Court Order is guilty of an offence.

11.2 If a corporation has contravened a provision of this By-Law, including any terms or conditions of any exemption, any Order issued under this By-Law, or any Court Order, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

11.3 Every person who is guilty of an offence under this By-Law shall be subject to the following penalties:

- a) on first conviction, to a fine of not more than \$10,000;

- b) on any subsequent conviction, to a fine of not more than \$25,000; and
  - c) upon conviction for a continuing offence, to a fine of not more than \$10,000 for each day or part of a day that the offence continues.
- 11.4 For the purposes of this By-Law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction has been entered at an earlier date for the same offence.
- 11.5 If an Order has been issued under this By-Law or by the Court, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.
- 11.6 If a person or Corporation is convicted of an offence for contravening this By-Law or an Order issued under this By-Law, 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 and to maintain the replanted Trees as appropriate.

## **12. ADMINISTRATION**

- 12.1 If any section or sections of this By-Law 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 By-Law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found illegal.
- 12.2 In this By-Law, unless the context otherwise requires, words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.
- 12.3 The short title of this By-Law is the "Forest Conservation By-Law".
- 12.4 By-Law #81-34, of the County of Lanark, shall be repealed effective on the coming into force and effect of this By-Law.
- 12.5 Despite subsection 13.4 of this section, By-Law #81-34, of the County of Lanark, shall continue to apply to proceedings in respect of offences that occurred before its repeal.



### 13. DEFINITIONS

#### 13.1 In this By-Law:

- a) "Building Permit" means a Building Permit issued under the *Building Code Act, 1992, S.O. 1992, c. 23, as amended*;
- b) "Clerk" means the Clerk of The Corporation of the County of Lanark or his/her designate;
- c) "Council" means the Council of The Corporation of the County of Lanark;
- d) "Destroy" means any action which causes or results in the irreversible injury or death of a Tree;
- e) "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 detriments to forest values, including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health; Good Forestry Practices will be based on the most up-to-date "Provincial Silvicultural Guide" from the Ministry of Natural Resources and Forestry;
- f) "Harvest" means the injury or destruction of a Tree through cutting or other mechanized means to produce a forest product;
- g) "Injure" means any action that causes physical, biological or chemical damage to a Tree and does not include pruning or removing branches for maintenance purposes;
- h) "Normal Farm Practice" means a practice that is recognized by the Normal Farm Practices Board, which is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or makes use of innovative technology in a manner consistent with proper advanced farm management practices regarding Normal Farm Practice;
- i) "Officer" means a Police Officer, a Municipal By-Law Enforcement Officer or other person appointed by Council for the administration and enforcement of this By-Law;

- j) "Order" means a Work Order or an Order to Discontinue an Activity;
- k) "Owner" means a person having any right, title, interest or equity in land or any such person's authorized representative and includes the person for the time being managing or receiving the rent of the land and includes a lessee or occupant of the land;
- l) "Own Use" means harvesting Trees to produce forest products for the personal use of the forest owner, but does not include any use that includes a sale, exchange or other such disposition of Trees harvested;
- m) "Person" includes an individual, a corporation, and their respective heirs, executors, administrators, or other duly appointed representative;
- n) "Qualified OPFA Member" means a Registered Professional Forester or Associate Member of the Ontario Professional Foresters Association under the *Professional Foresters Act* 2000, c.18, as amended, certified to practice professional forestry, unless a suspension, term, condition or limitation of certification applies which would restrict the Member from carrying out responsibilities under this By-Law;
- o) "Tree" or "Trees" means any species of woody perennial plant, including its root system, which has reached or can reach a height of at least 4.5 meters at physiological maturity; and
- p) "Woodland" or "Woodlands" means land, on one or more properties with at least:
  - i) 1,000 Trees, of any size, per hectare; or
  - ii) 750 Trees, measuring over five (5) centimetres in diameter, per hectare; or
  - iii) 500 Trees, measuring over twelve (12) centimetres in diameter, per hectare; or
  - iv) 250 Trees, measuring over twenty (20) centimetres in diameter, per hectare; or but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas Trees.

This By-Law will come into effect on the day of its passing.

**By-Law read a first and second time this 7<sup>th</sup> day of September, 2016.**

**By-Law read a third time and finally passed this 7<sup>th</sup> day of September, 2016.**

LDrynan  
Leslie Drynan, Deputy Clerk



Gail Code  
Gail Code, Warden