

THE CORPORATION OF THE TOWNSHIP OF NORTH GLENGARRY BY-LAW NO. _____

DRAFT CLEAR CUTTING BY-LAW

WHEREAS Section 135(1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, permits the enactment of a By-Law by the Council of a local municipality to prohibit or regulate the destruction or injuring of trees;

AND WHEREAS Section 135(7) of the Municipal Act, S.O. 2001, c. 25, as amended, permits Council to require that a permit be obtained to injure or destroy trees in woodlands specified in the By-law and impose conditions on a permit, including conditions relating to the manner in which destruction occurs and the qualification of persons authorized to injure or destroy trees;

AND WHEREAS Section 15 of the Police Services Act, R.S.O.1990, c.P.15 as amended, permits the Council of the municipality to appoint Municipal Law Enforcement Officers who shall be Peace Officers for the purpose of enforcing by-laws of the municipality;

AND WHEREAS Section 445 and 446 of the Municipal Act authorizes a municipality, where it has directed that a matter or thing be done under a by-law to be done at the person's expense should the person fail to do so, and to recover the costs of doing the thing or matter by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

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

1. Regulating clear cutting and controlling the associated nuisance.
2. 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.
3. Complying with Bill 68 "Modernizing Ontario's Municipal Legislation Act, 2016," requiring all municipalities to adopt and maintain policies to protect and enhance the tree canopy and natural vegetation within their jurisdiction.
4. Complying with United Counties of Stormont, Dundas and Glengarry By-law 5190 to implement best practices related to the management of the tree canopy and natural vegetation.
5. Complying with Best Management Practices for farming from the Ministry of Agriculture, Food and Rural Affairs.

1. INTENT

This By-Law applies only to woodlands over 1.0 hectares (2.47 acres) or more in one calendar year in an individual Roll Number within the area of the Township of North Glengarry, located on a property within the Township of North Glengarry. The intent of this by-law is to regulate the nuisance associated with clear cutting.

This by-law does not supersede any provincial legislation and regulations, including normal farm practices as defined in the Farming and Food Production Protection Act, 1998.

2. DEFINITIONS

In this By-Law:

- 2.1 **“Clerk”** means the Clerk of The Corporation of the Township of North Glengarry or his/her designate;
- 2.2 **“Clear Cutting”** means any action which causes or results in the irreversible injury or death of the majority of trees in an area of 1.0 ha (2.47 acres) or more, including harvesting of Woodlands. Selective tree cutting and Good Forestry Practices are exempt.
- 2.3 **“Council”** means the Council of the Corporation of the Township of North Glengarry;
- 2.4 **“Good Forestry Practices”** means the proper implementation of harvest, renewal and maintenance activities (i.e. selective tree cutting practices), 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 informed by and defined with reference to the most up-to-date “Provincial Silvicultural Guide” from the Ministry of Natural Resources and Forestry;
- 2.5 **“Harvest”** means the injury or destruction of a tree through cutting or other mechanized means to produce a forest product; including all harvesting practices such as harvesting for forestry products or otherwise.
- 2.6 **“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;
- 2.7 **“Normal Farm Practice”** means an agricultural practice 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; as defined within the Farming and Food Production Protection Act (FFPPA).
- 2.8 **“Officer”** means a Police Officer, a Municipal By-Law Enforcement Officer or their designate, or other person appointed by Council for the administration and enforcement of this By-Law;
- 2.9 **“Order”** means a Stop Work Order or a Work Order (Rehabilitation or Replanting);
- 2.10 **“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;
- 2.11 **“Own Use”** means harvesting trees to produce forest products for the personal use of the forest owner.
- 2.12 **“Permit”** means a Permit issued under this By-law;

- 2.13** “**Person**” includes an individual, a corporation, and their respective heirs, executors, administrators, or other duly appointed representative;
- 2.14** “**Registered Professional Forester**” as defined in the Professional Foresters Act, 2000, S.O. 2000, c. 18 as amended.
- 2.15** “**Tree**” a woody perennial plant having a single usually elongate main stem generally with few or no branches on its lower part;
- 2.16** “**Watercourse or waterbody**” means a stream, river, creek or lake. This does not include a municipal drain, as referenced within the United Counties of Stormont, Dundas and Glengarry Map, and the Drainage Act, 1990.
- 2.17** “**Woodland**” means land with the majority of the area covered with trees regardless of the species, size or density.

3. APPLICATION

- 3.1** This By-Law applies to the clear cutting of woodlands with an area of 1.0 hectare (2.47 acres) or more in one calendar year in an individual Roll Number within the area of the Township of North Glengarry.

4. GENERAL PROHIBITION

- 4.1** Except as provided in this By-law, no person through their own actions or through any other person, may conduct operations to harvest woodlands larger than 1.0 hectare (2.47 acres) or more in one calendar year in an individual Roll Number unless a permit has been obtained in accordance with this By-law. Harvesting includes practices such as harvesting for forestry products or otherwise.
- 4.2** No person through their own actions or through any other person shall:
- a) fail to comply with an Order issued under this By-Law;
 - b) remove or deface any Order that has been posted pursuant to this By-Law;
 - c) contravene the terms or conditions of a Permit issued under this By-Law.
- 4.3** A person through their own actions or through any other person shall not harvest trees within 15 meters of a watercourse or a Provincially Significant Wetland (PSW) unless approval to do so is granted.
- 4.4** A person shall not:
- a) harvest any tree that is to remain standing after the completion of tree harvesting as authorized through the permit;
 - b) operate a vehicle, machinery or equipment or conduct operations in a manner or at a time, that results in the leaving of any part of a tree in a watercourse, including any trees that have not been harvested, but have been pushed, knocked over or otherwise ended up in a watercourse.
 - c) Dispose of wood piles, stones, or any other harvested material into a watercourse, water

body, county road, municipal road, including unopened and unmaintained road allowances.

4.5 Storage of stone/rocks/wood piles or debris will not be permitted unless authorized by the permit/application.

- a) The location of stone/rocks/wood piles or debris will be regulated through the application sketch.
- b) The permitted storage of stone/rocks/wood piles or debris must be placed/located responsibly to prevent nuisance to any neighboring property, including any county road, municipal road, or any unopened and unmaintained road allowances.
- c) The permitted storage of stone/rocks/wood piles or debris must be placed/located in a manner to that would not create a health and safety hazard to the public.

4.6 Piles of stone/rocks/wood piles and debris must be removed from the property, or relocated to the location as indicated on the application sketch, prior to the expiration of the permit.

5. APPLICATION OF BY-LAW

5.1 Every owner of woodlands, or person acting on behalf of the owner, who intends to harvest an area of 1.0 ha (2.47 acres) or more of woodlands, personally or through another person, under Section 4.1 of this By-Law shall complete and submit to the Officer or their designate prior to the start of harvesting, all the application information, along with technical agency comments (if required) as prescribed by the Township in Schedule "B", along with the applicable fee(s) as set out in Schedule "D". The information shall be submitted to the Planning Department (defined in Section 2.8) or their designate no less than 30 business days prior to the start of harvesting. The complete application must include:

- i) neighboring properties and buildings
- ii) entrance and access
- iii) the locations of all trees presently on the property to be harvested
- iv) the location of all abutting streets and lanes;
- v) dimensions of the property;
- vi) location of all existing trees;
- vii) disposal method: location of burning piles, shredding, and describe how it will be removed.
- viii) location of all burning piles, rubble piles, and any other material left after harvesting
- ix) location of watercourses and drains, setbacks from watercourses and drains
- x) location of any known Provincially Significant Wetlands (PSW), or Areas of Natural and Scientific Interest (ANSI);
- xi) directional markings showing north.

6. PERMIT APPLICATION PROCESS

6.1 The Township Planning Department will contact the following Departments at the Township

for application comments a minimum of two weeks before issuing the clear-cutting permit:

- a) the Township By-law Department
- b) the Township Fire Department
- c) the Township Public Works Department

- d) Transportation Department at the County of Stormont, Dundas and Glengarry for technical written comments if the lands are located adjacent to a County Road as per Schedule "A."

- e) the appropriate local Conservation Authority having jurisdiction; Raisin Region Conservation Authority or South Nation Conservation Authority; (Written screening and/or technical advisory comments), as required.

6.2 Applications for permits will not be processed if:

- a) applications have not been completed in full; or
- b) the substantive requirements that must be submitted with an application have not been included; or
- c) the prescribed application fee, as set forth in Schedule "B" has not been paid in full.

6.3 Piles of wood and debris generated from the clear cutting to be removed from the subject property prior to the expiration of the permit.

6.4 A Permit in the form of Schedule "C" may be:

- a) issued to the applicant for a maximum term of 3 years;
- b) renewed by the officer for a term of 1 (one) year provided an additional prescribed application fee as set forth in Schedule "D" is paid.

6.5 An officer may impose conditions to the Permit that relate to:

- a) the manner and timeline in which harvesting is to occur; and
- b) the surveying of the property (at the applicant's expense)

6.6 When denying a Permit, the Officer must notify the applicant with any reasons for denial in writing.

6.7 The applicant must apply for an Agricultural Burn Permit before burning begins, as per the Open-Air Burning By-law.

7. STOP WORK ORDER (ORDER TO DISCONTINUE ACTIVITY) AND WORK ORDER (REHABILITATION OR REPLANTING)

7.1 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 of trees in contravention of the By-Law to:

- a) stop and discontinue the harvesting, and/or;
- b) revoke a permit for the harvesting of trees, and/or;
- c) rehabilitate the land or Woodlands and/or;
- d) plant or replant trees according to Best Forestry Practices

7.2 The Order to shall set out:

- e) the name and the Owner and the municipal address or the legal description of the land;
- f) reasonable particulars of the contravention;
- g) the work to be done and the date by which the work must be done;
- h) 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
- i) contact information of the Officer.

8. REMEDIAL ACTION

8.1 Where an Owner fails to comply with an Order issued under this By- Law, the Township may do the work directed or required to be done at the Owner’s or Applicant’s expense.

8.2 The Township may recover the costs of doing a matter 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 An Order issued under this By-Law may be served personally by posting on subject lands and served by sending it by registered 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 harvesting a tree or trees.

9. ENTRY ON LAND & INSPECTIONS

9.1 An officer, peace officer or any other person appointed for the purpose of enforcing this By-law,

- a) has the power to enter upon and examine any lands, yards, vacant lots, grounds at any

reasonable time or times, and

- b) may be accompanied by such other person or persons as they deem necessary to properly carry out their duties under this By-law.

9.2 Notwithstanding Section 9.1, no person, including an officer, shall exercise a power of entry under this By-law to enter a place or part of a place that is actually being used as a dwelling unless:

- a) the occupier of the dwelling, having been informed that the right of entry may be refused, consents to the entry; or
- b) if the occupier refuses to consent, an order is issued pursuant to the Municipal Act, 2001 or a warrant is obtained from the court.

9.3 A person exercising a power of entry on behalf of the Township, under this By-law must on request, display or produce proper identification.

9.4 No person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, any officer, peace officer or any person appointed for the purpose of enforcing this By-law, including any person who may be accompanying such persons, in the lawful exercise of any powers or duties under this By-law.

9.5 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.

10. ENFORCEMENT

10.1 This By-law shall be enforced by an officer or peace officer or any other person or officer appointed by the Township for the purposes of enforcing this By-law.

10.2 If compliance herewith would be impractical, the provisions of this By-law shall not apply to ambulance, police and fire department vehicles and any vehicles while actually engaged in works undertaken for on behalf of the Township, the United Counties, federal or provincial government or any utility.

10.3 The Township may recover its costs of remedying a violation of this By-law by invoicing the owner, by instituting court proceedings or by adding the cost, including interest, to the tax roll in the same manner as municipal taxes in accordance with section 446 of the Municipal Act, 2001 and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

11. OFFENCES & PENALTIES

11.1 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act R.S.O. 1990, c. P. 33.

11.2 Every person who contravenes any provision of this By-law, including an order issued under this by-law, is guilty of an offence.

11.3 Every person who is convicted of an offence under this By-law shall be subject to a fine not

exceeding \$10,000.00 for each offence and such fine shall be recoverable under the Provincial Offences Act.

- 11.4** A director or officer of a corporation who knowingly concurs in a contravention of this By-law by the corporation is guilty of an offence and is liable upon conviction to a fine not exceeding \$100,000.00 for each offence and such fines shall be recoverable under the Provincial Offences Act.
- 11.5** An offence under this By-law constitutes a continuing offence and for each day or part of a day that the offence continues, the fine shall not exceed \$10,000.00.
- 11.6** The conviction of a person under this By-law shall not operate as a bar to a prosecution against the same person upon any continued or subsequent breach of any provision or order under this By-law and the court may convict such person repeatedly for continued or subsequent breaches of this By-law and the provisions of section 431 of the Municipal Act, 2001 shall further apply to any continued or repeated breach of this By-law.
- 11.7** Upon a conviction being entered, the court in which the conviction was entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed in this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.
- 11.8** Every person who is guilty of an offence under this By-law may, if permitted under the Provincial Offences Act, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Schedule 'I' to this By-law.

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

By-Law read a first and second time this _____ day of _____.

By-Law read a third time and finally passed this _____ day of _____.

Clerk

Mayor