



The Corporation of the City of Cornwall
Regular Meeting of Council
By-law 2024-012

Department: Corporate Services
Division: Environment
By-law Number: 2024-012
Report Number 2024-11-Infrastructure and Municipal Works
Meeting Date: February 13, 2024
Subject: Temporary Tree Protection Bylaw

Whereas the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended provides in section 135 that a municipality may prohibit or regulate the destruction or injuring of trees; and

Whereas the Official Plan supports sustainable development and the promotion of land use patterns that conserve biodiversity; and

Whereas implementing measures to prevent clear cutting in advance of development approvals conforms to the policies of the Official Plan.

Now Therefore the Council of the Corporation of the City of Cornwall hereby enacts as follows:

1. Definitions

1.1 In this By-law:

- a. “Building Permit” means a building permit issued by the Municipality under the *Building Code Act*, 1992, S.O. 1992, c.23, as amended;
- b. “City” means the Corporation of the City of Cornwall;

- c. “Conservation Authority” and “Conservation Authorities” means a conservation authority established under the *Conservation Authorities Act*, R.S.O 1990 c. 27;
- d. “Fence Row” means a narrow linear strip of Trees that defines a laneway or boundary between fields or properties;
- e. “Normal farm practices” means normal farm practices as defined in the *Farming and Food Production Protection Act*, S.O. 1998 c. 1;
- f. “Officer” means a By-law Enforcement Officer appointed by the “appointed by the City”;
- g. “Order” means an Order issued under Section 5 of this By-law;
- h. “Owner” means the Person who is the registered owner on title to the land;
- i. “Person” means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- j. “Tree” or “Trees” means any living 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;
- k. “Tree Clearing” means the removal of ten percent (10%) or more of the Trees within a Woodlot;
- l. “Woodlot” means contiguous land in a single ownership which is at least 0.45 hectares (1 Acre) in area with a tree canopy cover of at least 40% as measured by the City’s aerial imagery but does not include:
 - i. a cultivated fruit or nut orchard;
 - ii. a plantation established for the purpose of producing Christmas Trees, and which is being actively managed and harvested for the purposes for which it was planted, except that this does not refer to plantations that have

ceased being managed or harvested for their intended purpose for a period of 15 years or more;

- iii. a bona fide tree nursery that is being actively managed and harvested for the purposes for which it was planted; or
- iv. a Fence Row.

2. Application of the By-law

2.1 This By-law shall apply to all Woodlots within the geographic limits of the City.

3. General Prohibitions

3.1 No Person shall undertake Tree Clearing or cause or permit any Person to undertake Tree Clearing.

3.2 No Person shall and no person shall cause or permit any other Person to:

- a. Fail to comply with an Order issued under Section 5 of this By-law; or
- b. Remove or deface any Order that has been posted pursuant to Section 5 of this By-Law.

4. Exemptions

4.1 This by-law shall not apply in the following circumstances:

- a. activities or matters are undertaken by the City or a local board of the City;
- b. activities or matters are undertaken by a license issued under the *Crown Forest Sustainability Act, 1994*, S.O. 1994, c. 25, as amended;
- c. trees are injured or destroyed by a person licensed under the *Surveyors Act*, R.S.O. 1990, c. S.29, as amended, to engage in the practice of cadastral surveying, or his or her agent while making a survey;

- d. the injury or destruction of trees is imposed after December 31, 2002 as a condition of approval of a site plan, a plan of subdivision, or a consent, under Sections 41, 51 or 53 respectively, of the *Planning Act* or as a requirement of an agreement of a site plan agreement or subdivision agreement entered into under those sections;
- e. the injuring or destruction of trees is imposed after December 31, 2002 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;
- f. trees are injured or destroyed by a transmitter or distributor, as those terms are defined in Section 2 of the *Electricity Act*, 1998, S.O. 1998, c. 15, Sch. A., as amended, for the purpose of constructing and maintaining a transmission system or a distribution system, as defined in that Act;
- g. the injury or destruction of trees is undertaken on land described in a license for a pit or quarry or a permit for a wayside pit or a wayside quarry issued under the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended;
- h. the injury or destruction of trees is 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 Section 34 of the *Planning Act*;
- i. activities or matters undertaken by Conservation Authorities on lands owned by the Conservation Authorities;
- j. the injury or destruction of trees is undertaken as part of any normal farm practice carried out in accordance with the *Farming and Food Production and Protection Act*, 1998, S.O. 1998, c.1;

- k. the injury or destruction of Trees is required in order to erect any building, structure or thing, including yard areas, in respect of which a Building Permit has been issued, provided that no Tree is removed that is located more than 5 metres from the outer edge of the building, structure or things and that only those Trees necessary to accommodate the building, structure or thing, including yard areas, are removed;
- l. the injury or destruction of Trees is required in order to install and provide utilities to the construction or use of the building, structure or thing, including the installation of a primary septic bed, in respect of which a Building Permit has been issued; or
- m. the injury or destruction of Trees is required in order to install, provide or maintain a single lane driveway for vehicular access to the building, structure or thing in respect of which a Building Permit has been issued.

5. Enforcement and Stop Work Orders

- 5.1 An Officer, or any person authorized by an Officer, may at all reasonable times enter upon and inspect any land comprising a Woodlot or suspected to comprise a Woodlot for the purposes of enforcing this By-law, determining compliance with this By-law, or laying charges under this By-law.
- 5.2 Where an Officer has determined that a contravention of this By-law has occurred, the Officer may make an Order requiring the Person who contravened this By-law to stop the contravention. The Order shall set out:
 - a. the municipal address or the legal description of the property;
 - b. reasonable particulars of the contravention; and
 - c. the period within which there must be compliance with the Order.
- 5.3 No person shall hinder or obstruct or attempt to hinder or obstruct any Person who is exercising a power or performing a duty under this By-law.

- 5.4 An Order may be may be served personally by the Officer, may be sent by email, may be posted in a conspicuous place on the property where the contravention occurred or may be sent by registered mail to the person contravening the by-law.
- 5.5 Where an Order under this by-law is served personally by the Officer, it shall be deemed to have been served on the date of delivery to the person or persons named.
- 5.6 The posting of an Order on any part of the Woodlot to which the Order relates shall be deemed to be sufficient service of the Order on the person or corporation to whom the Order is directed on the date it is posted.
- 5.7 Where an Order issued under this by-law is sent by registered mail, it shall be sent to the last known address of,
 - a. the applicant;
 - b. the owner; or
 - c. the person or company retained to undertake the injury or destruction of the tree,
 - d. and shall be deemed to have been served on the fifth day after the stop work order is mailed.

6. Penalty

- 6.1 Any Person who contravenes any provision of this By-law, or fails to Comply with an Order within the period for compliance stipulated in the Order, is guilty of an offence and upon conviction is liable to a fine of not more than \$100,000.
- 6.2 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.
- 6.3 A director or officer of a corporation who knowingly concurs in a contravention of this By-law, or a failure to comply with an Order within the period for compliance stipulated in the Order, 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*, R.S.O 1990, c. P.33.

- 6.4 If a Person is convicted of an offence for contravening 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 Woodlot where the contravention occurred or to plant or replant Trees in such a manner and within such period as the Court considers appropriate.

7. Administration

- 7.1 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of the City to enact, such section or part 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 to be enacted as such.

- 7.2 The short title of this By-law is the “The Tree Protection By-law.”

Read, signed and sealed in open Council this 13th day of February, 2024.

Manon L. Levesque
City Clerk

Justin Towndale
Mayor