

**CORPORATION OF THE COUNTY OF ELGIN**

**By-Law No.: 21-22**

**“BEING A BY-LAW TO AMEND BY-LAW NO. 05-03, BEING THE  
“WOODLANDS CONSERVATION BY-LAW” FOR THE CORPORATION OF THE  
COUNTY OF ELGIN”**

WHEREAS, pursuant to section 135 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, County Council enacted By-Law No. 05-03, entitled the “Woodlands Conservation By-Law”, for the purposes set forth therein;

AND WHEREAS, from time to time, County Council has amended the provisions of the said Woodlands Conservation By-Law to better achieve the said purposes of the By-Law;

AND WHEREAS County Council has determined that further amendment to the said Woodlands Conservation By-Law is required to improve the effectiveness of the said By-Law and, by such improvements, to continue to achieve the purposes set forth therein;

NOW THEREFORE the Council or the Corporation of the County of Elgin enacts as follows:

Amendments to By-law

1. By-Law No. 05-03, being the Woodlands Conservation By-Law, shall be amended as follows:
  - 1.1 In section 1(e), the words “Family Day” be added to the list of days not included as a “Business Day”, specifically between “New Year’s Day” and “Good Friday”.
  - 1.2 Section 1(f) shall be deleted and the following text substituted therefor:

“‘Clerk’ means the Chief Administrative Officer for the Corporation of the County of Elgin, any Deputy Clerk thereof, or any other person so designated by the said Chief Administrative Officer”.
  - 1.3 Section 1(m) shall be deleted and the following text substituted therefor:

“m) “Corridor” means a strip of vegetation, including but not necessarily limited to trees, which does not satisfy the definition of Woodlands as set forth herein but which connects two or more Woodlands or parts of Woodlands and thereby facilitates the movement, spread, and/or relocation of plant and/or animal species.”
  - 1.4 Section 1(s) shall be deleted and the following text substituted therefor:

“‘Fuelwood’ means trees or parts thereof that are of a sufficient size and quality to yield firewood;”.
  - 1.5 In section 1(z), reference to “Dutton-Dunwich” shall be deleted and the text “Dutton Dunwich” substituted therefor.
  - 1.6 Section 1(bb) shall be deleted and the following text substituted therefor:

“Officer’ means an individual or individuals appointed by Council or contracted by the Corporation of the County of Elgin to administer and enforce this By-Law, including but not limited to the Elgin County Tree Commissioner;”.

1.7 In section 1(ff), add “,” between the words “firm” and “trust”.

1.8 Section 1(ii) shall be deleted and the following text substituted therefor:

“ii) ‘Point of Measurement’ means, for the purposes of Schedule “A” hereto, the point on the tree trunk measured above the highest point on the tree where the undisturbed ground meets the base of the stem or trunk of the tree. For coppice growth and for purposes of Schedule “A” hereto, the point of measurement means that point on each individual stem or trunk of tree measured above the point on the tree trunk where the tree stems separate, provided that such point of separation is less than or equal to the height of the lowest point of measurement as set forth on Schedule “A” hereto.”

1.9 In section 1(mm)(iii),

1.9.1 the words “or any successor entity thereto” shall be added after the word “following” in the preamble clause therein; and,

1.9.2 reference to “Lower Thames River Conservation Authority” shall be deleted and the title “Lower Thames Valley Conservation Authority” substituted therefor.

1.10 In section 2(b)(v)2, the word “forest” shall be deleted and the word “woodlands” substituted therefor.

1.11 In section 2(b)(vi), the word “woodlots” shall be deleted and the word “woodlands” substituted therefor.

1.12 In section 2(c)(ii), the words “or decision made” shall be added between the words “issued” and “pursuant”.

1.13 In section 3(h)(ii), the letters, words, numbers, and punctuation marks following the word “Act” shall be deleted, save and except for the semi-colon at the end of the subsection.

1.14 Section 5(a) shall be deleted and the following text substituted therefor:

“(a) (i) Every owner of woodlands or person acting on behalf of the owner who intends to harvest, destroy, or injure trees personally or through another person under Section 2(a)(i) or Section 2(a)(ii) of this By-Law shall submit to the Officer a complete application to harvest, destroy, or injure trees as prescribed in Schedule “F” hereto not less than thirty (30) days prior to the commencement of such harvest, destruction, or injury; provided at all times that the Officer possesses the unfettered discretion to determine if any one or more such application(s) is complete;

(ii) Within twenty-one (21) business days of receipt of the said complete application to harvest, destroy, or injure trees as set forth in subsection 5(a)(i) above, the Officer shall either approve or deny the application and, in the event of approval, shall impose reasonable terms and/or conditions to achieve and as are consistent with the purposes and intent of this By-Law; provided at all times that the Officer shall communicate any such decision to the owner of the woodlands or any person acting on behalf of such owner, including but not limited to through endorsement of the detail of such decision on the application submitted pursuant to section 5(a)(i) above; and,

(iii) The owner of woodlands or any person acting on behalf of such owner may appeal either a failure of the Officer to make a decision in respect of an application to harvest, destroy, or injure trees within twenty-one (21) days of submission thereof to the Officer or any decision made in respect of such application, including as to the terms and conditions imposed in relation thereto, to Council and, in respect of such appeal:

1. Council shall arrange for a date and time for consideration of the said appeal and written notice of such date and time shall be delivered to the Officer and owner of the woodlands or any person acting on behalf of such owner.
2. Council shall consider any written submissions by the Officer and owner of woodlands or person acting on behalf of such owner in respect of the application to harvest, destroy, or injure trees and any decision made by the Officer in respect thereof or failure on the part of the Officer to make any such decision in respect thereof.
3. On the date and at the time scheduled for consideration of the said appeal, or as soon after that date and/or time that the appeal can be heard, Council shall hear and consider any further oral representations by the owner of the woodlands or person acting on behalf of such owner and answers to questions posed by Council or any designate thereof and thereafter make an appeal decision to either confirm, reverse, or vary the decision of the Officer or, where the officer has not made a decision, to approve or deny the application and, in the event of approval, to impose reasonable terms and/or conditions to achieve and as are consistent with the purposes and intent of this By-Law; provided that Council shall have the discretion to defer its decision to a subsequent date, in which case, the owner of the woodlands or the person acting on behalf of the owner shall be advised of the date, time, and place when Council shall make and announce that appeal decision.
4. In the event that the application to harvest, destroy, or injure trees is denied on appeal, Council, in writing, shall notify the owner of the woodlands or the person acting on behalf of the owner of such denial and the reasons therefor within ten (10) days of the date of such decision.
5. Subject to any decision of a court of competent jurisdiction in the Province of Ontario, the appeal decision of Council shall be final.

1.15 Section 7 shall be deleted.

1.16 In section 9(a)(i), reference to "\$10,000.00" shall be deleted and the figure "\$50,000.00" substituted therefor.

1.17 In section 9(a)(ii), reference to "\$25,000.00" shall be deleted in the figure "\$100,000.00" substituted therefor.

1.18 In section 9(b), the words "civil cultural" shall be deleted and the word "silvicultural" substituted therefor.

1.19 In section 11, the following subsections shall be added following section 1(e):

"(f) For purposes of this By-Law,

- (i) Unless otherwise indicated, any reference to a statute, regulation, or other enactment shall mean the statute, regulation, or other enactment made, passed, enacted, or filed by or on behalf of the Province of Ontario and is deemed to include its proper citation

and shall be considered as the version thereof, as amended, and in effect on that relevant date;

- (ii) Unless otherwise indicated, delivery or submission of any application, notice, decision, communication, or other document may be effected personally at the intended recipient's last known address according to any municipal record, registered or prepaid mail addressed to the intended recipient's last known address according to any municipal record, or by facsimile transmission or electronic mail in accordance with contact information provided by the intended recipient or as set forth in any municipal record; provided that the date of receipt shall be the date of actual delivery save and except for registered or prepaid mail, which shall be deemed to be delivered on the fifth day following posting; and,
- (iii) Unless otherwise indicated, any reference to a number of days in any section hereof shall be deemed to mean "business days".

- 1.20 In Schedule "A" hereto, the words "Measure" in the headings in the chart for Current Size shall be deleted and the word "Measurement" substituted therefor;
- 1.21 In Schedule "A" hereto, the word "measure" in the last sentence thereof shall be deleted and the word "measurement" substituted therefor;
- 1.22 In Schedule "D" hereto, the telephone number "(519)631-1460" as referenced in the last sentence thereof shall be deleted and the telephone number "(519)631-1270 ext. 231" submitted thereto;
- 1.23 In Schedule "F" hereto, the reference to "five (5) working days" in the first sentence thereof shall be deleted and the words "thirty (30) business days" substituted therefor;
- 1.24 In Schedule "F" hereto, the information line referencing "Telephone No.: \_\_\_\_\_" for the Property Owner shall be deleted and the information line "Telephone No.: \_\_\_\_\_ Email: \_\_\_\_\_" substituted therefor;
- 1.25 In Schedules "F" and "M" hereto, the sentence providing "Further, I agree to contact the Officer by telephone (519)631-1270 ext. 231, twenty-four (24) hours prior to the start of cutting shall be deleted and the following sentence substituted therefor:

"Further, I agree to notify the Officer of the intention to commence harvest, destruction, or injury of trees as contemplated by this Application at least twenty-four (24) hours prior to the commencement of such works and by any one of the following methods:


Telephone:	(519)631-1270 ext. 231
Email:	treebylaw@elgin.ca
Writing:	Delivered or mailed to, Elgin County Tree Commissioner c/o Kettle Creek Conservation Authority R. R. # 8 44015 Ferguson Line St. Thomas, Ontario N5P 3T3"


1.26 In Schedule "H" hereto, the words "As Elgin County Tree Commissioner," shall be added to the beginning of the last item set forth therein.

1.27 In Schedule "A" hereto, the sentence "The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) shall be consulted for the most recent list of Rare, Threatened or Endangered trees." shall be deleted and the following text substituted therefor:

"Note: Any permission to harvest, destroy, or injure tree or trees as provided for or contemplated by this By-Law, including pursuant to this Schedule "A", whether express or implied, is at all times subject to any prohibition or prohibitions as provided for in federal or provincial statute or regulation, including but not limited to as relating to rare, threatened, or endangered trees and furthermore as provided pursuant or in relation to the Species at Risk Act, S.C. 2002, c. 29, as amended, and/or the Endangered Species Act, 2007, S.O. 2007, c. 6, as amended. To this end, consultation to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and the Committee on the Status of Species at Risk in Ontario (COSSARO) as well as review of the Species at Risk Public Registry and the Species at Risk in Ontario List is and will be required in respect of any Application to Harvest, Destroy, or Injure Trees as contemplated by this By-Law."

READ A FIRST, SECOND, THIRD TIME and finally passed on this 11th day of May 2021.

  
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Julie Gonyou  
Chief Administrative Officer

  
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Tom Marks  
Warden